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Via E-Mail and US Mail

Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

**Re: Rule Certification. NYMEX Submission 04.160 – Notification of
Amendment to NYMEX Division Rule 2.23.**

Dear Ms. Jean Webb:

The New York Mercantile Exchange, Inc. (“NYMEX” or the “Exchange”) hereby notifies the Commodity Futures Trading Commission (“CFTC”) of an amendment to NYMEX Division Rule 2.23, Financial Requirements of Floor Members.

Effective immediately, the amendment to NYMEX Division Rule 2.23 will require a person who is only a holder of a NYMEX Europe Trading Permit and does not otherwise qualify for membership, must have, and at all times maintain, twenty-five thousand dollar equity value in a trading account with a qualifying clearing member. Pursuant to Section 5c(c) of the Commodity Exchange Act (“Act”) and CFTC Rule 40.6, the Exchange hereby certifies that the new amendments comply with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact the undersigned at 212-299-2940.

Very truly yours,

Nancy M. Minett
Vice President
Compliance Department

Attachments

cc: Thomas LaSala
Brian Regan

(Additions are underlined.)

NYMEX 2.23 Financial Requirements of Floor Members

(A) Except as otherwise provided in this Rule §2.23, each Floor Member must have, and at all times maintain, fifty thousand dollar (\$50,000) equity value in a trading account with the qualifying Clearing Member.

(B) For the purposes of Rule §§2.23, 2.27 and 2.30(B), the account equity value requirement of Subsection A of this Rule §2.23 shall be completely waived, for each membership owned and held by such Member; provided, however, that (i) if the then current membership market value is less than fifty thousand dollars (\$50,000), account equity value requirements shall be partially waived to the extent of eighty percent (80%) of the current market value of each membership owned and held by such member, or (ii) if the membership owned by a Floor Member is security or collateral for an outstanding loan registered with the Membership Secretary, the Floor Member must have and continuously maintain with the qualifying Clearing Member a trading account with an equity value in an amount equal to that required under the terms of the loan.

(C) For the purposes of Rules 2.23, 2.27 and 2.30(B), the account equity value requirements set forth in Subsection (A) of this Rule 2.23 shall be completely waived:

(i) for a Floor Member who holds a membership pursuant to a financing agreement, under Rules 2.60 and 2.61 from a member firm only, on a “fully valued Exchange membership” in form approved by the Exchange and filed with the membership secretary; or

(ii) for a Floor Member who maintains bona fide full time employment with a Member Firm meeting the capital requirements of Rule 2.14, which agrees in form approved by the Exchange and filed with the Membership Secretary, to guarantee any obligations of the employee Floor Member to the Exchange or otherwise arising out of the transaction of business on the Exchange.

(D) For purposes of this Rule §2.23 a “fully valued Exchange Membership” shall be defined as (1) one then valued at fifty thousand dollars (\$50,000) or (2) where the sum of eighty percent (80%) of the then current market value plus the equity value in the holder’s trading account at a qualifying Clearing Member, shall equal or exceed fifty thousand dollars (\$50,000).

(E) For purposes of this Rule 2.23, a person who is only a holder of a NYMEX Europe Trading Permit as provided for in Rule 2.74 and does not otherwise qualify for membership must have, and at all times maintain, twenty-five thousand dollar (\$25,000) equity value in a trading account with the qualifying Clearing Member.