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OFC. OF THE SECRETARIAT

**Via E-Mail**

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

**Re: Rule Certification. NYMEX Submission 05.63 – Notification of  
Amendments to NYMEX Division Rule 6.41.**

Dear Ms. Jean Webb:

The New York Mercantile Exchange, Inc. (“NYMEX” or the “Exchange”) hereby notifies the Commodity Futures Trading Commission (“CFTC”) of amendments to NYMEX Rule 6.41, Trading Standards for Floor Brokers.

Effective April 8, 2005, the rule amendments permit a floor member or NYMEX European Permittee having an order from another person to take the opposite side of a NYMEX Northwest Europe Gasoil futures transaction for an account in which he has a proprietary interest, provided such person has received the customer’s prior written consent, and the trade is executed as a crosstrade in accordance with applicable NYMEX rules. Pursuant to Section 5c(c) of the Commodity Exchange Act (“Act”) and CFTC Rule 40.6, the Exchange hereby certifies that the 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

**Amendments to NYMEX Rule 6.41**  
(Underlining in Bold indicates additions.)

**NYMEX Rule 6.41, Trading Standards for Floor Brokers**

(A) No Trading Member shall purchase any commodity for future delivery, purchase any call option, or sell any put option for any commodity options contract, for his own account, or for any account in which he has an interest, while holding an order of another person for the purchase of any future, any call option, or sale of any put option, in the same commodity which is executable at the market price or at the price at which such transaction can be made for the Member's own account or the account in which he has an interest.

(B) No Trading Member shall sell any commodity for future delivery, sell any call option or purchase any put option for his own account, or for any account in which he has an interest, while holding an order of another person for the sale of any future, any call option, or purchase of any put option, in the same commodity which is executable at the market price or at the price at which such transaction can be made for the Member's own account or the account in which he has an interest.

(C) No Trading Member shall execute any transaction or place an order in NYMEX ACCESS® for any account of another person for which buying or selling orders can be placed or originated or for which transactions can be executed by such member, without the prior specific consent of such other person (hereinafter referred as to "discretionary orders") regardless of whether the general authorization for such orders or transactions is pursuant to a written agreement, except that discretionary orders may be placed with another Member for execution.

Within the meaning of this subparagraph, an order which gives the Trading Member discretion only with respect to time and price shall not be deemed to be a discretionary order.

The restrictions set forth in this subparagraph shall not apply to discretionary orders for: (i) member of the Trading Member's immediate family, which is defined to mean a spouse, parent, parent of a spouse, brother, sister, child, or spouse of a child; (ii) a member of the Exchange; (iii) a proprietary account of the Trading Member as that term is defined in CFTC Rule 1.3(y); or (iv) a non-member account provided the Member does not trade for his personal account or any other customer account.

However, a Trading Member shall withhold on the Exchange Trading Floor any order belonging to members of his immediate family, other members, or proprietary accounts until after the execution of executable orders for the accounts of other persons.

(D) No Trading Member shall disclose at any time that he is holding an order of another person or shall divulge any order revealed to him by reason of his relationship to such other person, except to execute an order or at the request of an authorized representative of the Commodity Futures Trading Commission or the Exchange.

(E) No Floor Member on the Floor having an order from another person may take the opposite side of the transaction for himself, directly or indirectly, or for an account of: i) any firm, corporation or other entity of which he is a partner, officer, employee, or otherwise a member of a broker association; or ii) any partner, officer, employee or broker association member of an entity listed in subparagraph (i) of this Rule, nor may he execute a trade on behalf of a customer opposite any broker with whom he is affiliated. For purposes of this Rule, any two persons having the following relationship shall be deemed to be affiliated:

- (1) partners;
- (2) employees of the same employer;
- (3) an employer and his employee;
- (4) any two members temporarily acting in any of the foregoing capacities;
- (5) officers, directors and 10% shareholders of the same corporation; and
- (6) members of a broker association, as defined in Rule 6.43A.
- (7) Temporarily Affiliated Members.

(a) In addition to the other circumstances set forth in (E) above, floor members shall be deemed to be temporarily affiliated and, therefore, subject to the cross-trade prohibition set forth in section (E) of this Rule whenever one floor member assists another floor member with the execution of customer orders for a limited period of time. Such assistance may encompass, but is not limited to, arrangements by which one floor member substitutes for another floor member absent from the ring or who handles overflow customer orders for another floor member who is too busy to handle his customer orders by himself.

(b) Whenever one floor member executes customer orders for another member on a temporary basis, the floor member shall delineate the period of time during which he is assisting the other floor member by drawing a line on his trading card at the point in time he begins to perform services for the other member and at the point in time he ends handling the other floor member's customer orders.

(c) A floor member shall not use or disclose to any other person information regarding another floor member's customer orders which he has obtained in connection with or as the result of a temporary affiliation with the other floor member.

(F) (1) NYMEX Brent Crude Oil **(Brent) and Northwest Europe Gasoil (Gasoil)** Futures. The provisions of Section (E) above shall not be applicable to trading in NYMEX Brent futures, **Gasoil Futures**, nor in options based thereon, by a floor member or NYMEX Europe Permit Holder, trading on the NYMEX Europe floor, with the customer's prior written consent, provided the floor member or NYMEX Europe Permit Holder has bid and offered in accordance with Rule 6.40.

(2) Any member of a broker association who is registered in accordance with the provisions of Rule 6.43A may apply for an exemption from the prohibitions set forth in paragraph (E) this Rule on the grounds that the activity for which registration as a broker association has been required does not occur on a daily basis. Exemptions shall be determined on a case by case basis. If the exemption is granted, the Floor Member will only be prohibited from taking the opposite side of a transaction as proscribed in paragraph (E) during those trading sessions that he is engaging in the activity for which registration as a broker association has been required. Any request for an exemption from the prohibitions of this Rule shall be filed with the President or his designee on a form to be prescribed by the Exchange. A written determination shall then be issued in response to the request for exemption.

(G) No Floor Member on the Floor holding a customer order that was given to him by another floor broker, or having had actual disclosure of a customer order from another floor broker, may use the details of the customer order at any time to take unfair advantage in a transaction for himself, directly or indirectly, or for an account of: i) any firm, corporation or other entity of which he is a partner, officer, employee, or otherwise a member of a broker association; or ii) any partner, officer, employee or broker association member of an entity listed in subparagraph (i) of this Rule.

(H) No Floor Member shall withhold or withdraw from the market any order or part of an order for the convenience of another.