



New York
Mercantile Exchange

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June 6, 2005

VIA FACSIMILE AND E-MAIL

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

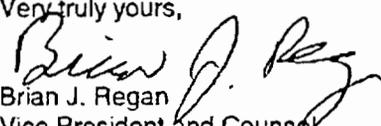
**Re: Rule Certifications. New York Mercantile Exchange, Inc. Submission
#05.103: Amendments Concerning NYMEX Membership Seats Being Held in
Trust**

Dear CFTC Commissioners:

The New York Mercantile Exchange, Inc. ("Exchange") is notifying the Commodity Futures Trading Commission ("Commission") that it is amending NYMEX Rule 2.50 ("Transfer of Membership") and Rule 2.51 (Procedures for Transfer of Memberships). Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached amendments comply with the Act, including regulations under the Act; these rule changes will be implemented effective on June 8, 2005.

Should you have any questions concerning the above, please contact the undersigned at (212) 299-2207.

Very truly yours,


Brian J. Regan
Vice President and Counsel

Att.

New York Mercantile Exchange, Inc.
World Financial Center
One North End Avenue
New York, NY 10282-1101
(212) 299-2000

*The New York Mercantile Exchange, Inc., is composed of two divisions.
The NYMEX Division offers trading in crude oil, heating oil, unleaded gasoline,
natural gas, electricity, coal, propane, platinum, and palladium. The COMEX Division
offers trading in gold, silver, copper, and aluminum.*

RULE AMENDMENTS TO PERMIT SEATS TO BE HELD BY TRUSTS
AND FAMILY LIMITED PARTNERSHIPS

Rule 2.50. TRANSFER OF MEMBERSHIPS

(A) A Member, Member Firm or other entity may transfer ownership of a his membership ~~only to another Member or Member elect in the same Division and shall be permitted upon sale of a membership to another Member, Member Firm or Member-elect as provided in Rule 2.52.~~

(B) A Member may transfer ownership of his membership as a result of a bona fide gift, bequeath or bequest from the Member:

(1) to an eligible family member (i.e., a spouse, parent, child, sibling, grandparent, or grandchild);

(2) to a trust for which the Member is grantor and, if/while living and competent, a trustee of the trust; and with respect to which all beneficiaries are members of the Member's family who would be eligible for a family transfer from the Member pursuant to paragraph (B)(1) of this Rule.

(i) The document(s) establishing and governing the trust shall at all times prohibit assignments of an interest in the trust to any person who is not an eligible family member and state that:

(a) the trust's interest in the membership shall at all times be subject to all of the Rules of the Exchange, as may be amended;

(b) the management of the trust shall be vested exclusively in a trustee (and any successor) who, if not already a Member, shall qualify for membership by satisfying the requirements of Chapter 2 of these Rules;

(c) the Exchange's rights with respect to the membership shall be superior to those of the beneficiaries; and

(d) the Exchange shall have no liability to the beneficiaries for any loss, damage, or expense resulting from any acts or omissions by the trustee.

(ii) The transferor and the trustee (and any successor) shall each provide, in a form acceptable to the Exchange, a certification that the trust shall/has acquire(d) the membership subject to all of the Rules of the Exchange and that the trust is in compliance with the requirements of the Exchange's By-Laws and Rules.

(iii) Transfer of a membership pursuant to this Rule shall not relieve the transferor of any liability to the Exchange or its Members with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership will continue to be treated as the asset of the transferor for the purposes of satisfying any obligations to the Exchange and/or its Members arising out of the transferor's use of the membership prior to the transfer to the trust, including, but not limited to, fines imposed with respect to conduct occurring prior to the transfer to the trust.

(iv) If the transferor, trustee or any subsequent trustee exercises, in his own name, the floor trading privileges associated with said membership, the membership will be treated as the asset of the transferor, trustee or any subsequent trustee for the purposes of satisfying any obligations to the Exchange or its Members arising out of the transferor's, trustee's or subsequent trustee's use of the membership. The trustee shall

have the rights, duties and obligations of a transferor as provided herein except that he shall not be entitled to:

(a) serve on the Board of Directors, except as otherwise provided for in the by-laws or charter; and

(b) receive any benefits (including but not limited to life insurance and/or disability insurance) bestowed upon NYMEX Members unless otherwise eligible therefore.

(y) A membership held in trust may not be used to confer member firm privileges.

(v) Upon official notice to the Exchange that the trust will be or has been revoked, the membership may:

(a) be transferred back to the transferor, if living;

(b) be transferred to the transferor's estate; or

(c) be sold in accordance with and subject to the provisions of Rule 2.52.

(3) to a Family Limited Partnership ("FLP") with respect to which all partners are members of the member's family who would be eligible for a family transfer from the member pursuant to paragraph B(1) of this Rule.

(i) The limited partnership agreement or other document(s) governing the FLP shall at all times prohibit assignments of an interest in the FLP to any person who is not an Eligible Family Member and state that:

(a) the FLP's interest in the membership shall at all times be subject to all of the Rules of the Exchange, as may be amended;

(b) the management of the FLP shall be vested exclusively in a managing general partner, who shall qualify for membership by satisfying the requirements of Chapter 2 of these Rules;

(c) The Exchange's rights with respect to the membership shall be superior to those of the partners; and

(d) the Exchange shall have no liability to the partners for any loss, damage, or expense resulting from any acts or omissions by the managing general partner.

(ii) The transferor and the managing general partner (and any successor) shall each provide, in a form acceptable to the Exchange, a certification that the FLP shall/has acquire(d) the membership subject to all of the Rules of the Exchange and that the FLP is in compliance with the requirements of the Exchange's By-Laws and Rules.

(iii) Transfer of a membership pursuant to this Rule shall not relieve the transferor of any liability to the Exchange or its Members with respect to any claim arising out of an act or omission occurring prior to such transfer, and the membership will continue to be treated as the asset of the transferor for the purposes of satisfying any obligations to the Exchange and/or its Members arising out of the transferor's use of the membership prior to the transfer to the FLP, including, but not limited to, fines imposed with respect to conduct occurring prior to the transfer to the FLP.

(iv) If the transferor, managing general partner or any subsequent managing general partner exercises, in his own name, the floor trading privileges associated with said membership, the membership will be treated as the asset of the transferor, managing general partner or any subsequent managing general partner for the purposes of satisfying any obligations to the Exchange or its Members arising out of the transferor's, managing general partner's or subsequent managing general partner's use of the membership. The managing general partner shall have the rights, duties and obligations of a transferor as provided herein except that he shall not be entitled to:

(a) serve on the Board of Directors, except as otherwise provided for in the by-laws or charter; and

(b) receive any benefits (including but not limited to life insurance and/or disability insurance) bestowed upon NYMEX Members unless otherwise eligible therefore.

(v) A membership held in a FLP may not be used to confer member firm privileges.

(vi) Upon official notice to the Exchange that the FLP will be or has been revoked, the membership may:

(a) be transferred back to the transferor, if living;

(b) be transferred to the transferor's estate; or

(c) be sold in accordance with and subject to the provisions of Rule 2.52.

(C) A Member, Member Firm or other entity may transfer ownership of a membership by operation of law;

(D) A Member may transfer ownership of a membership as a result of a sale where the seller and purchaser are members of the same family (a spouse, parent, child, sibling, grandparent, or grandchild).

(E) The transfer in ownership of a membership shall be effective upon the execution of an assignment of registration to the transferee on the membership records of the Exchange.

(F) A Member may retain ownership of his membership and transfer, via lease or ABC Agreement, those rights and obligations specifically provided for in the

lease or ABC Agreement. The transfer of such rights and obligations shall be concurrent with the effective and/or termination date of the lease or ABC Agreement

(G) The Exchange shall treat the person in whose name a membership is registered on the membership records of the Exchange as the sole owner of the membership, notwithstanding the terms and conditions of an ABC Agreement, Trust Agreement or Family Limited Partnership Agreement pursuant to which the person holds such membership, and, except as otherwise provided in the By-Laws and Rules, shall not be bound to recognize any claim to, or interest in, such membership, by any other person or entity, whether or not the Exchange has notice of such purported claim or interest.

Rule 2.51. PROCEDURE FOR TRANSFER OF MEMBERSHIPS

(A) If the owner of record of a membership ~~a Member~~ desires to transfer ownership of a membership, the transferor shall deliver to the Membership Department notification of intention to transfer, executed by the transferor or his/its legal representative. The notice of intention to transfer shall include the seat identification number, the date on which the transfer is intended to become effective and the name of the proposed transferee. The Membership Department, upon receipt of a ~~Member's~~ notice of intention to transfer a membership, shall promptly notify the membership of the Exchange, by posting for a period of ten (10) days the notice of intention to transfer.

(B) No Member may transfer ownership of a membership or lease to another the trading privileges associated therewith unless and until the following conditions have been met:

(i) All dues, assessments, fines, penalties and any other monies (including, but not limited to, booth fees, office rent and phone charges) due and payable to the Exchange shall have been paid:

(ii) All claims of Members that: (1) arise out of, or in connection with,

the transaction of business on the Exchange, and (2) are filed with the Membership Department within ten (10) days after the Exchange gave the membership notice of intention to transfer have been settled or discharged.

(iii) Payment by the transferee to the Exchange of a transfer fee in an amount to be fixed, from time to time, by the Board; provided, however, that a Member who purchases a membership in order to transfer it to another Member or to Member-elect and files a notice of intention to transfer the membership to such other Member or to such Member-elect shall not be required to pay a transfer fee upon transfer to such other Member or Member-elect.

(C) A transfer of ownership of a membership may be affected, notwithstanding the provisions of Sections (A) and (B) hereof provided that:

(i) the transferor owns and holds more than one full membership in the Division of the transferred membership; provided, however, that the claim shall be less than the then current value of a membership; or,

(ii) the transferor deposits with the Exchange a certified check, payable to the Exchange, in an amount equal to the amount of the claim, including a reasonable amount for costs and attorney fees, for liquidated claims or such amount as may be determined by the Exchange for unliquidated claims provided that such amount shall be no higher of than the price at which a membership last sold or at which a membership was bid. The Exchange shall retain such deposit until the earlier of ten (10) days after receipt of a notice of intention to transfer or all claims filed within ten (10) days of posting such notice have been resolved, or until the transferor, as specified above, has deposited with the Exchange an amount equal to the total of all claims filed within ten (10) days notice of such notice.

(D) A Member and/or Member firm that is the subject of any disciplinary proceeding or investigation by the Exchange may transfer the ownership and/or rights and obligations granted pursuant to the lease or A-B-C Agreement notwithstanding the existence of the disciplinary action however:

(i) Such Member and/or Member firm shall remain subject to Exchange jurisdiction and be personally liable for any fines assessed in connection with the proceeding or investigation;

(ii) the Member and/or Member firm shall be deemed to have consented to the jurisdiction of the courts of the State of New York in New York County for the purpose of any action brought by the Exchange to enforce its rights against such Member and/or Member firm;

(iii) in the event that the lessee satisfied the financial requirements of Rule 2.23 by maintaining the required trading account equity such funds: (1) shall be frozen until the investigation is closed or proceeding concluded; (2) shall be paid to the

Exchange in full or partial satisfaction of any fine; and (3) shall be released only upon written approval to the lessee's PCM from the Exchange's Compliance Department.

(F) Notwithstanding Section (D), the lessee may receive all of the funds in his trading account at the time of the seat transfer, provided that he deposits in the Membership Department a certified check, or a check drawn on a Clearing Member's account, payable to the Exchange in the amount of \$50,000 for NYMEX Division lessees and \$25,000 for COMEX Division lessees.

(G) A membership that has been sold in accordance with Rule 2.52 may be transferred to the purchaser free from any claims notwithstanding that a claim may have been made under Section (B) hereof. The portion of the proceeds required in accordance with Subsection (C)(ii) of this Rule shall not be distributed until resolution of any claim as provided in By-Law §858.

Rule 2.52. PROCEDURES FOR PURCHASE AND SALE OF MEMBERSHIP

(A) All purchases and sales of memberships, except for purchases and sales pursuant to Rule 2.50(C) (D), must be made through the Membership Department which shall maintain a file of bids and offers for memberships. A person desiring to buy or sell a membership shall submit a written bid or offer to the Membership Department.

(B) The cost of purchasing a membership from the Exchange may be fixed by the Board from time to time.

(C) The proceeds of any sale of a membership shall be distributed as set forth in By-Law § 861.