

RECEIVED
1777

MAR 10 PM 4:39

March 10, 2006

OFFICE OF THE SECRETARIAT

Via E-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 06.35 – Notification of Amendments to NYMEX Division Rule 9.03, Guaranty Fund.

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 Division Rule 9.03, Guaranty Fund.

The amendments serve to, among other things, increase the value of the Exchange’s Guaranty Fund (“Fund”), allocate Fund contributions based on a hybrid formula of risk and volume, as well as expand the population of acceptable deposits. The following highlights the amendments to Rule 9.03 which are effective on May 1, 2006.

- 1) A minimum Fund balance will be set at \$200 million;
- 2) Contributions to the Fund will be calculated using a hybrid formula of Risk (85%) and Volume (15%). The Exchange will calculate the following on a quarterly basis.
 - Determine each Clearing Member’s overall % of risk margin and volume.
 - Multiply each firm’s risk % by \$170 million (\$200 million @ 85%).
 - Multiply each firm’s volume % by \$30 million (\$200 million @ 15%).
 - Combine totals to determine contribution.
 - Re-compute on a quarterly basis.
- 3) A minimum contribution of \$2 million will be required of each Clearing Member.
- 4) A surcharge will be added to Clearing Members granted position limit exemptions.
- 5) Acceptable deposits will now include shares of approved money market mutual funds.

Please note that each Clearing Member will be formally notified of their new Fund contribution requirement no later than April 15, 2006. The firms will then have until May 1,

2006, to meet the requirement. Thereafter, a re-computation will be performed within two weeks of the end of each calendar quarter with any additional monies required to be posted within two weeks of notification.

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 feel free to contact me at (212) 299-2928.

Very truly yours,

Arthur McCoy
Vice President
Financial Surveillance and Risk Management

Attachments

cc: Thomas LaSala
Nancy Minett
Brian Regan

Changes to NYMEX Rule 9.03

(Additions are **Bold and Underlined**; Deletions have a ~~strike-through~~)

NYMEX 9.03, Guaranty Fund

(A) Contributions

Each Clearing Member shall deposit, and keep deposited, with the Exchange the amount prescribed in Section (B) as a contribution to the Guaranty Fund. The monies, securities, and instruments so deposited shall collectively constitute a fund known as the "Guaranty Fund" and shall be used as provided in the Rules to reimburse the Exchange for any loss sustained by the Exchange as a result of the failure of any Clearing Member to discharge his obligations in accordance with the Rules. **The Board of Directors shall determine the appropriate size of the Guaranty Fund.**

(B) Schedule of Contributions

The amount required to be deposited by each Clearing Member shall be ~~calculated as follows:~~ **determined by a formula as recommended by the Clearing House Committee and approved by the Board of Directors. Such formula will include certain components of risk and volume and will be calculated by the Exchange staff on a quarterly basis, or more frequently if deemed appropriate. At no time will a Clearing Member's minimum contribution be below \$2 million.**

~~(i) Dual Division Members: The aggregate of 10% of the firm's modified capital, calculated independently for each Division, as defined in Rule 9.20(A)(1) and based on the most recent financial statement submitted to the Exchange, with a maximum contribution of \$4 million.~~

~~(ii) Sole Division Members: 10% of the firm's modified capital, as defined in Rule 9.20(A)(1) and based on the most recent financial statement submitted to the Exchange, with a minimum contribution of \$100,000 and a maximum contribution of \$2 million.~~

The amount deposited shall be in the form of ~~each or~~ **any combination of:**

- (1) U.S. Dollars,**
- (2) shares of certain Money Market Mutual Funds as approved by the Board of Directors and subject to the provisions of NYMEX Rule 9.05 (E) (4),**
- (3) securities issued by the Department of the Treasury of the United States maturing within ten (10) years of the date of the deposit and guaranteed as to principal and interest by the United States government valued at ninety-five percent (95%) of par value.**