

May 7, 2009

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**VIA E-MAIL**

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

**Re: Rule Certification. New York Mercantile Exchange, Inc. Submission #09.85:  
Notification of Amendment to NYMEX Rule 813.B(B) ("Clearing House and  
Performance Bonds – COMEX Division – Daily Settlement Prices")**

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying an amendment to NYMEX Rule 813.B(B) ("Clearing House and Performance Bonds – COMEX Division – Daily Settlement Prices"). This amendment is intended to explicitly include the E-mini Gold Futures and E-mini Silver Futures contracts (launched April 20, 2009 – see submission 09-58 filed April 15, 2009) to the Daily Settlement Prices, Rule 813.B(B).

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached rule amendment complies with the Act, including regulations under the Act. Additions to the rule are underlined. This change will become effective on Monday, May 11, 2009.

Should you have any questions concerning the above, please contact Robert Levin at (212) 299-2390, or me at (312) 648-5422.

Sincerely,

/s/ Stephen M. Szarmack  
Director and Associate General Counsel

Attachment: Rule Amendment

(bold/underline indicates addition)

### **813.B. COMEX Division**

#### **(A) Settlement Prices for Gold and Silver Contracts**

(1) Active Month. The settlement price of the most active futures contract month shall be the average (rounded to the nearest price tick) of the highest and lowest prices of all outright transactions executed on the trading floor by open outcry for that delivery month during the closing period, except as otherwise provided in this Rule or in Rule 813.(E)("Use of Discretion to Establish Settlement Price").

(2) In All Other Delivery Months. The settlement prices shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Committee with: (a) greater weight given to spreads executed at open outcry later in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded at open outcry in lesser volumes, (ii) spread bids and offers actively represented on the trading floor later in the trading day, and (iii) spread transactions, bids and offers from the trading floor from earlier in the trading day.

#### **(B) Daily Settlement Prices - COMEX miNY Futures Contracts, E-mini Gold Futures Contract, E-mini Silver Futures Contract and COMEX Asian Gold Futures Contract**

This rule shall apply for determination of settlements prices for all trading days of a listed contract month except for the final day of trading. Final settlement for each of these contracts will be determined as provided in the terms and conditions rule chapter for the applicable futures contract.

(1) COMEX miNY Gold Futures and E-mini Gold Futures. The settlement price for each contract month that is also listed for floor trading will be equal to the COMEX Gold futures contract settlement price for the corresponding contract month.

(2) COMEX miNY Silver Futures and E-mini Silver Futures. The settlement price for each contract month that is also listed for floor trading will be equal to the COMEX Silver futures contract settlement price for the corresponding contract month.

(3) COMEX miNY Copper Futures. The settlement price for each contract month that is also listed for floor trading will be equal to the COMEX Copper futures contract settlement price for the corresponding contract month.

(4) COMEX Asian Gold Futures. The settlement price for each contract month that is also listed for floor trading will be equal to the COMEX Gold futures contract settlement price for the corresponding contract month, except that it shall be converted into a dollar value that corresponds to the value of a contract quantity of 1,000 grams.

(5) For each of the above-listed COMEX futures contracts, the settlement price for any contract month of a miNY, and an E-mini futures contract where there is not a corresponding contract month listed for the regular size futures contract shall be determined by the President's designee. For purposes of this rule, the President's designee shall refer to Exchange staff from various Exchange departments assigned to this responsibility (hereafter "Staff") Staff in its sole discretion and judgment shall determine settlement prices for such contract months by considering all relevant market information and data deemed to be appropriate, and such information may include, but is not limited to, consideration of spread relationships among contract months.

[the remainder of this chapter is unchanged]