

July 23, 2008

**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 #08.72:  
Notification of Amendments to NYMEX Rule 9.33, Position Reporting.**

Dear Mr. Stawick:

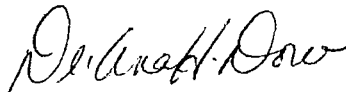
The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying the following amendments to NYMEX Rule 9.33, Position Reporting, as it relates to Dubai Mercantile Exchange ("DME") contracts.

The Exchange is amending Rule 9.33 to incorporate the requirement that was set forth in the CFTC's Order dated April 30, 2008. The requirement states that any futures commission merchant maintaining a reportable position for any contract listed on the DME must report that position to the Commission, consistent with Parts 15 and 17 of the Commission's regulations. This is the current practice at the Exchange. Further, NYMEX is making minor housekeeping changes to the Rule.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached rule amendments comply with the Act, including regulations under the Act. These changes will be made effective on July 25, 2008.

Should you have any questions concerning the above, please contact Thomas LaSala, Chief Regulatory Officer, at (212) 299-2897, Anthony V. Densieski, Vice President, Market Surveillance, at (212) 299-2881, or the undersigned at (202) 715-8517.

Sincerely,



De'Ana H. Dow  
Senior Vice President and  
Chief Legislative Counsel

Attachment

**NOTIFICATION OF AMENDMENTS TO NYMEX RULE 9.33**  
(Bold/strikethrough indicates deletions; bold/underline indicates additions)

9.33 Position Reporting

(A) Each Clearing Member shall submit to the Exchange reports of positions equal to or in excess of the levels established by Rule 9.34. Such reports shall be submitted by no later than 8:00 A.M. in an approved machine readable format unless authorized otherwise in advance by the **Vice President Director** of Market Surveillance or his designee, provided however, that Clearing Members maintaining reportable positions for any contract listed on the Dubai Mercantile Exchange (DME) must submit such reports to the Exchange by no later than 12:00 A.M. (midnight).

(B) Any omnibus account or foreign broker shall submit a signed NYMEX reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department upon becoming reportable. Any reportable omnibus account or foreign broker shall submit to the Exchange separately identifying all proprietary and customer positions equal to or in excess of the levels established by Rule 9.34. Such reports shall be submitted in the form prescribed by the Exchange by no later than 8:00 A.M. unless authorized otherwise in advance by the **Vice President Senior Director** of Market Surveillance or his designee, provided however, that any omnibus account or foreign broker maintaining reportable positions for any contract listed on the Dubai Mercantile Exchange (DME) must submit such reports to the Exchange by no later than 12:00 A.M. (midnight). The failure by an omnibus account or foreign broker to submit a signed NYMEX reporting agreement or properly report positions may result in a hearing by the Business Conduct Committee to limit, condition or deny access to the market.

**(C) Each futures commission merchant (whether a NYMEX Clearing Member or an omnibus firm or foreign broker that has executed a NYMEX reporting agreement) shall submit to the U.S. Commodity Futures Trading Commission ("CFTC") the information described in Part 17 of the CFTC's regulations in the manner described in Parts 15 and 17 of the CFTC's regulations, with respect to all DME transactions in which it participates.**

**(D E)** Interest in or Control of Several Accounts.

(1) If any person holds or has a financial interest in or controls more than one account, all such accounts shall be considered by the clearing member, omnibus account or foreign broker as a single account for reporting purposes.

(i) Accounts of Eligible Entities.

Accounts of Eligible Entities as defined in Rule 9.28(F) of this chapter that are traded by an independent account controller shall, together with other accounts traded by the independent account controller or in which the independent controller has an interest be considered a single account.

(ii) Accounts Controlled by Two or More Persons.

Accounts that are subject to day-to-day trading control by two or more persons shall, together with other accounts subject to control by exactly the same persons, be considered a single account.

(2) For purposes of this Rule 9.33, except for the interest of a limited partner or shareholder (other than the CPO) in a commodity pool, the term financial interest shall mean an interest of 10 percent or more in ownership or equity of an account.

**(E D)** For purposes of sections (A), (B) and (C) above, if a person controls or holds a position equal to or greater than the number of contracts specified in Rule 9.34 long or short in any one month, then all such futures and options on such futures whether above the given level or not, shall be deemed reportable positions.

**(F E)** All Clearing Members, omnibus accounts and foreign brokers for the purposes of sections (A), (B), **(D C)** and **(E D)** above, shall report to the Exchange each account in excess of the levels established in Rule 9.34 by a unique numeric designation. The unique numeric designation shall be established by filing with the Director of Market Surveillance a CFTC Form 102 meeting all the requirements of Section 17.01(b) of the Regulation of the Commission (17 C.F.R. Section 17.01(b)), as it may be amended from time to time, within one business day of when the account becomes reportable for the first time. The Clearing Member, omnibus account or foreign broker, as the case may be, shall file an updated Form 102 with the Exchange within one business day after any material change in the information supplied on the Form 102 occurs.