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September 24, 2008

OFC. OF THE SECRETARIAT

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 #08.92:
Notification of Amendments to NYMEX Rules 8.03, Settlements, and 8.08,
Settlement by the Adjudication Committee, and of New Rule 8.26,
Compliance Department Appeal to a Hearing Panel of the Board of
Directors.**

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 amendments to NYMEX Rules 8.03, Settlements, and 8.08, Settlement by the Adjudication Committee, and self-certifying new Rule 8.26, Compliance Department Appeal to a Hearing Panel of the Board of Directors.

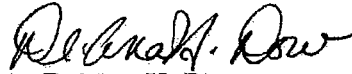
NYMEX Rules 8.03 and 8.08 outline the procedures a Respondent may pursue for settlement of disciplinary actions heard before the Business Conduct Committee ("BCC") and Adjudication Committee, respectively. The amendments to NYMEX Rules 8.03 and 8.08 eliminate the requirement that settlement agreements approved by a Panel of the BCC or Adjudication Committee, respectively, be approved by the Board of Directors ("Board"). The changes are consistent with corresponding provisions of the Chicago Mercantile Exchange and Chicago Board of Trade.

Additionally, in order to harmonize Market Regulation's rights with respect to appeals of disciplinary committee decisions, the Exchange is adopting new NYMEX Rule 8.26. This rule provides Market Regulation with the right to appeal to a hearing panel of the Board, decisions and sanctions which have been imposed by the BCC or Adjudication Committee. This rule also provides Market Regulation with the right to appeal to a hearing panel of the Board when the BCC fails to issue those charges recommended by Market Regulation.

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 and new rule comply with the Act, including regulations under the Act. These changes will be made effective on September 26, 2008.

Should you have any questions concerning the above, please contact Thomas LaSala, Managing Director, NYMEX Chief Regulatory Officer, at (212) 299-2897, Nancy Minett, Vice President, Compliance, at (212) 299-2940, Ronney Rosenberg, Director and Compliance Counsel, at (212) 299-2853, or the undersigned at (202) 715-8517.

Sincerely,



De'Ana H. Dow
Managing Director
Government Relations

Attachment

**NOTIFICATION OF AMENDMENTS TO NYMEX RULES 8.03 and 8.08,
and New NYMEX Rule 8.26**

(Additions are underlined; Deletions are struck through)

8.03 Settlements

[Sections A. through D. are unchanged.]

~~(E) Any settlement agreement approved by, or entered into with a Panel of the Business Conduct Committee is subject to the approval of the Exchange's Board of Directors.~~

8.08 Settlement by the Adjudication Committee

[Section A. is unchanged.]

~~(B) Any settlement offer which the Hearing Panel approves is subject to the approval of the Board.~~

8.26-8.49 Reserved Compliance Department Appeal to a Hearing Panel of the Board of Directors

The Compliance Department may request an appeal to a hearing panel of the Board ("Appellate Panel") regarding any decision of or sanction imposed by the Business Conduct Committee or Adjudication Committee, or any refusal by the Business Conduct Committee to issue those charges requested by the Compliance Department, by filing a request for an appeal with the Exchange Legal Department within 10 business days after receiving notice of such decision, sanction or refusal. Filing of a request for an appeal by the Compliance Department shall stay any decision that is appealed unless the Chairman of the Board or the chairman of the Business Conduct Committee or Adjudication Committee from which the appeal is taken specifically directs that the decision is not stayed pending appeal.

Upon receiving the written request for an appeal, the Appellate Panel, by a majority vote, shall determine whether sufficient grounds exist to hold a hearing on the appeal. The Appellate Panel may only determine that sufficient grounds exist if there is a reasonable basis to conclude that the Compliance Department might be able to meet one of the standards identified below that would permit the Appellate Panel to set aside, modify or amend the appealed decision or the refusal to issue charges. The Appellate Panel's determination shall be based solely upon the written request and, in the case of an appeal of a decision by the Business Conduct Committee (other

than a refusal to issue those charges requested by the Compliance Department) or Adjudication Committee, any written response by the respondent. The Appellate Panel's determination of whether to hold a hearing on an appeal shall be final.

If the Appellate Panel grants the Compliance Department's request for a hearing, the appeal shall be heard within 60 days of the filing of the request for an appeal, unless the chairman of the Appellate Panel determines that good cause for an extension has been shown.

The appellate hearing shall be limited to the record from the appealed proceeding. The Appellate Panel shall not entertain any new evidence or new legal theory not raised in the prior proceeding except upon a clear showing by the Compliance Department that such new evidence or new legal theory did not exist or was not ascertainable by due diligence at the time of the proceeding, and that there was insufficient time within the intervening period prior to the hearing of the Appellate Panel for the Compliance Department to bring such new evidence or legal theory to the attention of the Business Conduct Committee or Adjudication Committee, as applicable. The chairman of the Appellate Panel shall allow the filing of briefs in connection with the appeal of a decision of the Business Conduct Committee or Adjudication Committee. The Appellate Panel shall review the investigation report in connection with the appeal of a refusal by the Business Conduct Committee to issue those charges requested by the Compliance Department.

No member of the Board may serve on a particular Appellate Panel if he participated on the Business Conduct Committee that issued, or considered issuing, the charges, or on the Business Conduct Committee or Adjudication Committee that issued the decision, or if he has a personal, financial, or other direct interest in the matter under consideration or is a member of the same broker association as the respondent or potential respondent.

The Chairman of the Board shall appoint a director to serve as the Appellate Panel chairman, who shall conduct the hearing, and two additional directors to serve on the Appellate Panel. One of these directors shall be a non-member. Any party to the appeal may request the Chairman of the Board to strike any director for good cause shown. The Chairman of the Board may then excuse such director and shall then select an alternate director from the Board. An Appellate Panel shall consist of directors that possess sufficiently diverse interests so as to ensure fairness.

The Appellate Panel shall not set aside, modify or amend the appealed decision or the refusal to issue charges unless it determines, by a majority vote, that the decision or the refusal to issue charges was:

- A. Arbitrary, capricious, or an abuse of the committee's discretion;
- B. In excess of the committee's authority or jurisdiction; or
- C. Based on a clearly erroneous application or interpretation of Exchange rules.

In the case of an appeal of a disciplinary decision, the Appellate Panel shall issue a written decision which shall include a statement of findings with respect to the decision from which the appeal was taken and the Appellate Panel's determination that such initial decision is affirmed, set aside, modified or amended in whole or in part and, with respect to any initial decision that is

not affirmed in whole, the Appellate Panel's determination of the order or penalty to be imposed, if any, and the effective date. The decision of the Appellate Panel shall be deemed a decision of the Board and shall be a final decision of the Exchange.

In the case of an appeal of a decision by the Business Conduct Committee not to issue those charges requested by the Compliance Department, the Appellate Panel shall either affirm or set aside the decision of the Business Conduct Committee. If the decision is set aside, the Appellate Panel shall remand the matter to the Business Conduct Committee for the issuance of charges. If the decision is affirmed, the Appellate Panel shall direct that no further action be taken and such decision shall be deemed a decision of the Board and shall be a final decision of the Exchange.

In the case of an appeal of a decision by the Adjudication Committee to grant a respondent's motion to dismiss any or all of the charges, the Appellate Panel shall either affirm or set aside the decision of the Adjudication Committee with respect to each dismissed charge. If the decision is set aside with respect to any dismissed charge, such charge shall be deemed to be reinstated and disciplinary proceedings with respect to all of the charges shall be conducted before a special panel of the Adjudication Committee, empanelled by the Chairman of the Adjudication Committee. Notice of the special panel composition and pre-hearing procedures shall be conducted pursuant to the procedures in Rules 8.09 through 8.11. No member of the original panel may serve on the special panel. Members of the special panel shall be selected from the Adjudication Committee for either Division. If the decision is affirmed with respect to any dismissed charge, the Appellate Panel shall direct that no further action be taken with respect to such dismissed charge and such decision shall be deemed a decision of the Board and shall be a final decision of the Exchange.

8.27-8.49 Reserved