

September 24, 2012

VIA E-MAIL

Ms. Sauntia Warfield
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

RE: Regulation 40.6(a) Rule Certification. New York Mercantile Exchange, Inc. Submission # 12-290: Adoption of Rule 525 ("9(B)(iii) Trades") and Issuance of NYMEX Market Regulation Advisory Notice RA1201-6

Dear Ms. Warfield:

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 adoption of new Rule 525 ("9(B)(iii) Trades"). In connection with the adoption of the new rule, the Exchange is releasing NYMEX Market Regulation Advisory Notice RA1201-6 ("RA1201-6").

Overview

Since at least the late 1990's, the Commission has contemplated a trade-type, similar to an Exchange of Futures for Physicals ("EFP"), where market participants could be permitted to execute bilateral transactions, away from the centralized marketplace, and simply report them to the exchange and clearing house.¹ This form of non-competitive transaction, first added to the Commodity Exchange Act ("CEA") through Section 110 of the Commodity Futures Modernization Act of 2000, is what is contemplated in this rule submission. Rule 525 would authorize certain professional, registered market participants to negotiate and execute bilateral futures and options transactions, away from the central marketplace, and report them to the exchange and CME Clearing accomplishing near immediate price reporting, transparency, central counter-party clearing, and simplicity.

These characteristics are core tenets of what NYMEX has offered the energy marketplace for nearly a decade with CME ClearPort. Through the simplicity, soundness, and security of CME ClearPort, Eligible Contract Participants have been able to negotiate and execute energy contracts and transactions under exclusions and exemptions in the CEA (2(g) and 2(h)) and submit such contracts for clearing through CME ClearPort via an Exchange of Futures for Risk ("EFR") transaction. Today, nearly 17,000 energy customers around the world clear more than 700,000 futures contracts per day through CME ClearPort. Indeed, today market participants have established more than 34 million ClearPort contracts with open interest

These same customers have expressed significant concerns and confusion over their regulatory obligations spawning from several Dodd-Frank swaps rules soon to become effective, some arguably on October 12, 2012. The Commission, however, has published a series of Effective Date Orders over the past 15 months that have, in effect, preserved the statutory exclusions and exemptions under which CME ClearPort transactions are now executed and cleared. Based on the Commission's Second Amended

¹ See Regulation of Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market, 63 Fed. Reg. 3708-21 (Jan. 26, 1998).

Effective Date Order, published in the Federal Register on July 13, 2012 (“Effective Date Order”) ClearPort energy transactions are exempt from Dodd-Frank compliance, until, as a practical matter, December 31, 2012. Our energy customers, however, are seeking certainty, not a temporary exemption that requires a seasoned attorney to interpret.

The issue this presents is the possibility that these 17,000 energy customers begin to entirely avoid U.S. energy markets and transplant their energy risk management to a jurisdiction with more certainty. To address the concerns of our customers and minimize disruption and dislocation to our U.S. energy markets, perhaps as early as October 12, we are self-certifying Rule 525, which would allow our customers to negotiate and execute energy transactions off the centralized market but subject to NYMEX rules and submit them for clearing as futures and options transactions, for which the rules and regulations are clear and certain.

Trades executed pursuant to Rule 525, called 9(B)(iii) Trades, will provide enhanced regulatory benefits for the Commission and market participants when compared with the EFR trade used by ClearPort market participants today. Specifically, 9(B)(iii) Trades will be (i) subject to almost immediate price reporting, (ii) subject to the full panoply of the CEA and Commission regulations, as well as NYMEX self-regulatory oversight, (iii) subject to market-based pricing restrictions under NYMEX rules, and (iv) where applicable, intermediated by parties that are appropriately registered by the CFTC and NFA. As discussed in further detail below, 9(B)(iii) Trades will be permitted only in markets where liquid trading in the centralized market has not yet fully developed. Moreover, once a market develops an established level of liquidity in the centralized market, 9(B)(iii) Trades will no longer be a permissible trade type in those markets.

A 9(B)(iii) Trade will be available in all NYMEX energy futures and options products in the following categories: coal, crude oil, electricity, emissions, ethanol, freight, natural gas, petrochemicals and refined products, with the exception of Light Sweet Crude Oil futures (CL), Light Sweet Crude Oil options (LO), Henry Hub Natural Gas futures (NG), Henry Hub Natural Gas options (ON), RBOB Gasoline futures (RB) and New York Harbor ULSD Heating Oil futures (HO), which have sufficient liquidity in the centralized market. All products eligible to trade pursuant to Rule 525 are also available to trade via open outcry and 308 will be available to trade on CME Globex no later than October 15, 2012.

9(B)(iii) Trades Comply with Core Principle 9 (“CP 9”)

Section 5 of the CEA affords DCMs “reasonable discretion” in determining “the manner in which the [DCM] complies with the core principles” unless “otherwise determined by the Commission by rule or regulation.” 7 U.S.C. 7(d)(1)(B). Today, the only Commission rule or regulation adopted to date under CP 9 is Commission Regulation 38.500, which expressly codifies the statutory language of CP 9. That means the Commission adopted as a final regulation the verbatim language of subsection (B)(iii) of CP 9. In relevant part, CP 9 and Commission Regulation 38.500 provide “[t]he rules of the board of trade may authorize, for bona fide business purposes ... (iii) a futures commission merchant, acting as principal or agent, **to enter into or confirm the execution of a contract for the purchase or sale of a commodity for future delivery if the contract is reported, recorded, or cleared in accordance with the rules of the contract market or a derivatives clearing organization.**” 7 U.S.C. 7(d)(9) (emphasis added.). Neither the CEA nor Commission Regulation 38.500 place any limitations on the types of trades permitted under subsection 9(B)(iii), including requiring that the intermediation of such trades be limited to an FCM. Instead, so long as the FCM **confirms** the execution of the order – which happens with all trades executed on CME Group DCMs because all trades are in fact cleared – such 9(B)(iii) Trades are expressly permitted by the CEA and the only Commission regulation adopted under CP 9 to date.

9(B)(iii) Trades also comply with our obligation to “provide a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading in the centralized market.” 7 U.S.C. 7(d)(9). As an initial matter, as Commissioners Sommers and O’Malia noted in their dissent filed with the Commission’s proposed regulations under CP 9, the core principle does not require that every contract listed for trading on a DCM actually trade in the centralized market. Nor does it require that every contract listed for trading serve a price discovery function. Rather, it

requires a mechanism for protecting the price discovery function for those contracts that do trade in the centralized market.

As previously noted, each of the markets eligible for 9(B)(iii) Trades are listed for trading in the pit and therefore may be traded by open outcry – the *original* means of open and competitive trading for futures contracts. Many of the markets eligible for 9(B)(iii) Trades also are listed for trading on Globex. 9(B)(iii) Trades will be permissible only in those energy futures and options markets where there is either no or very little established liquidity in the centralized marketplace offered through pit or Globex trading. Specifically, in order to identify contracts eligible to transact as a 9(B)(iii) Trade, NYMEX employed the following methodology. First, products for which execution volume in the centralized market was less than 50% of the total volume measured over the course of eighteen months (January 1, 2011 – June 30, 2012) were deemed eligible. For any contracts that did not meet this threshold, a subsequent analysis was performed, looking at whether the average daily open interest for the product for that same eighteen month period was less than 50,000 contracts. In the event any such products had average daily open interest of less than 50,000 contracts, the product was also deemed to be 9(B)(iii)-eligible. Thus, 9(B)(iii) Trades are not inconsistent with our obligation to protect “the price discovery process of trading in the centralized market.”

NYMEX energy products will be reviewed in January of each year to determine eligibility for execution as a 9(B)(iii) Trade, with an updated Market Regulation Advisory Notice being issued to the marketplace as soon as the analysis has been completed. In order to be eligible for execution as a 9(B)(iii) Trade, NYMEX will employ the same methodology as described above, with the exception that it will use volume and average daily open interest information from the preceding calendar year as opposed to an eighteen month period, provided that the product has been listed for trading for the full year. New products that are listed during the year will automatically be eligible to transact as a 9(B)(iii) Trade and will be reviewed at the end of the following year.

9(B)(iii) Trades may be executed at any time that CME ClearPort is open for operation, and must be executed at a fair and reasonable price. 9(B)(iii) Trade prices must be consistent with the minimum tick increment for the product in question, and each outright 9(B)(iii) Trade and each leg of a 9(B)(iii) spread or combination transaction must be executed at a single price.

All 9(B)(iii) Trades will be price reported upon submission of the trade. There will be three eligible methods of trade submission: CME ClearPort, CME Direct or the CME ClearPort Facilitation Desk. 9(B)(iii) Trades will be required to be submitted without delay upon execution, but in no event later than five minutes after execution. Additionally, as noted in RA1201-6, notwithstanding the not later than five minute requirement, market participants are expected to submit the trade via an eligible submission method as soon as practicable upon execution, and may not delay the submission in reliance on the five-minute window. 9(B)(iii) Trade prices will be published independently of transaction prices in the centralized market and will not be included as part of the daily trading range. Complete records must be created and maintained pursuant to NYMEX Rule 536 and applicable CFTC Regulations.

9(B)(iii) Trades are Not "Novel or Complex"

The trade-type detailed in this rule filing is not novel or complex. As noted in the Overview, a 9(B)(iii) type of trade has been an authorized trade-type since the Commodity Futures Modernization Act of 2000 and had even been considered by the Commission in its 1998 concept release titled “Regulation of Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market.”² 63 Fed. Reg. 3708-21.

² “Finally, market participants could be permitted to execute certain transactions bilaterally, away from the centralized marketplace, and simply report them to the exchange and clearing house. This would be similar to the way EFPs are handled currently.” 63 Fed. Reg. at 3718.

In fact, in 2003 a senior special counsel in the CFTC's Division of Market Oversight – Paul M. Architzel – wrote a law review article explicitly discussing the statutory language in subsection 9(B)(iii) and recognized that indeed it was a permissible trade type under the CEA and Commission regulations. See *Principal-to-Principal Trading and Other Off-Market Transactions Under the CFMA; Opportunity and Challenges for U.S. Futures Markets and Intermediaries*, 22 No. 11 *Futures and Derivatives Law Report* 1, February 2003 (with Peter Malyshev). Specifically, he noted that the language in 9(B)(iii) was broad and empowered markets to authorize alternative trading systems through which orders could be matched at “any size.” This is further evidence that we are not raising a novel concept.

Moreover, a 9(B)(iii) Trade is not complex. The CFTC's 1998 concept release discussed how a bilaterally executed transaction reported to an exchange and clearing house “would be similar to the way EFPs are handled currently.”³ As detailed in the next section, 9(B)(iii) Trades could be transacted only by Eligible Contract Participants in certain exempt commodities. These market participants have traditionally used EFRs to manage their energy risk needs through ClearPort. Therefore, a 9(B)(iii) Trade is not complex to the customer-base as it will allow them to do business almost exactly as they do today.

Further, a 9(B)(iii) Trade is not complex from a regulatory perspective. As with any other futures or options transaction, EFR, or block trade, a 9(B)(iii) Trade will be subject to our robust market surveillance tools and investigative techniques. The rule requires that parties soliciting and accepting orders for such transactions will have appropriate industry registration, and supports pricing restrictions under NYMEX rules. Also, a 9(B)(iii) Trade promotes transparency in that the rule contemplates almost immediate price reporting. All of these concepts underscore the conclusion that this is not “complex.”

As the trade-type is not novel or complex, we plan to make this rule effective on October 12, 2012.

Additional Details Regarding 9(B)(iii) Trades

9(B)(iii) Trades in eligible products will be allowable for privately negotiated transactions for which there are no minimum quantity thresholds. These trades will be allowed to be transacted only by Eligible Contract Participants as that term is defined in Section 1a(18) of the CEA, except that commodity trading advisors and investment advisers who are registered or exempt from registration, and foreign persons performing a similar role and subject to foreign regulation, may participate in 9(B)(iii) Trades on behalf of their customers provided that they have total assets under management exceeding \$25 million and the trade is suitable for their customers. A customer order may only be executed by means of a 9(B)(iii) Trade if the customer has specified that the order is to be executed as such.

In order to provide the marketplace information on this new trade type, the Market Regulation Department will issue NYMEX Market Regulation Advisory Notice RA1201-6 on September 26, 2012.

New Rule 525 appears in Exhibit A, with additions underscored. RA1201-6 appears in Exhibit B. Rule 525 and RA1201-6 will become effective on October 12, 2012.

³ Notably, in the Concept Release, the Commission also discussed the value of such non-competitive trades from the standpoint of minimizing market fragmentation and enhancing competition:

Finally, recent legislative proposals contemplate the establishment of separate, professional markets. The Commission wishes to explore whether it is possible to achieve some of the objectives of these proposals by expanding the boundaries of permissible noncompetitive trading on existing contract markets. In contrast to the legislative proposals, a revised structure governing noncompetitive transactions could act as an adjunct rather than as an alternative to existing regulated markets. Such an approach might improve the usefulness and efficiency of existing markets for institutional or professional users but with a reduced risk of market fragmentation. Thus, carefully designed revisions to the regulatory structure governing noncompetitive transactions could have a procompetitive effect. *Id.*

The Market Regulation Department and the Legal Department collectively reviewed the designated contract market core principles (“Core Principles”) as set forth in the CEA. During the review, we have identified that the adoption of Rule 525 and the issuance of RA1201-6 may have some bearing on the following additional Core Principles:

Availability of General Information: As required by this Core Principle, NYMEX is providing market authorities, market participants and the public information concerning a new trade type being introduced on October 12, 2012. The new trade type is codified in new NYMEX Rule 525 and the regulations and mechanisms applicable to the execution of transactions pursuant to Rule 525 are set forth in NYMEX Market Regulation Advisory RA1201-6. Information on Rule 525 will be made available to the marketplace on September 24, 2012 well in advance of the effective date of the new trade type.

Daily Publication of Trading Information: Trades made pursuant to Rule 525 will be separately identified in the price stream disseminated to the marketplace and the volume of 9(B)(iii) Trades will be displayed in the daily bulletin, similar to the manner in which block trade information is disseminated.

Trade Information: As with all other trades in Exchange products, trade information attendant to 9(B)(iii) Trades will be recorded and safely stored by the Exchange. Additionally, the new trade type will be integrated into the Market Regulation Department’s suite of proprietary regulatory systems, and will be uniquely identifiable by their trade type in those systems. 9(B)(iii) Trades will also be included in the Department’s review of daily trading activity to detect any violations of the rules attendant to their execution.

The Exchange certifies that the adoption of Rule 525 and the issuance of RA1201-6 comply with the CEA and regulations thereunder. There were no substantive opposing views to this proposal.

The Exchange certifies that this submission has been concurrently posted on the Exchange’s website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

If you have any questions regarding this submission, please contact Robert Sniegowski, Market Regulation, at 312.341.5991 or via email at Robert.Sniegowski@cmegroup.com. Alternatively, you may contact me at 312.930.8167 or via email at Sean.Downey@cmegroup.com. Please reference NYMEX Submission No. 12-290 in any related correspondence.

Sincerely,

/s/ Sean Downey
Director and Assistant General Counsel

Attachments: Exhibit A – Rule 525 (black-lined)
Exhibit B – Market Regulation Advisory Notice (RA1201-6)

Exhibit A

Rule 525. 9(B)(iii) Trades

The Exchange shall designate the products in which 9(B)(iii) Trades shall be permitted. The following shall govern 9(B)(iii) Trades:

- A. Each party to a 9(B)(iii) Trade must be an Eligible Contract Participant as that term is defined in Section 1a(18) of the Commodity Exchange Act.
- B. A member shall not execute any order by means of a 9(B)(iii) Trade for a customer unless such customer has specified that the order be executed as a 9(B)(iii) Trade.
- C. The price at which a 9(B)(iii) Trade is executed must be fair and reasonable in light of: (i) the size of the 9(B)(iii) Trade; (ii) the prices of other transactions in the same contract at the relevant time; (iii) the prices of transactions in other relevant markets at the relevant time of the 9(B)(iii) Trade, including, without limitation, the futures markets and any related cash or OTC markets; and (iv) the circumstances of the markets or the parties to the 9(B)(iii) Trade.
- D. 9(B)(iii) Trades shall not set off conditional orders (e.g., Stop Orders and MIT Orders) or otherwise affect orders in the regular market.
- E. The buyer and seller must ensure that each 9(B)(iii) Trade is submitted to the Exchange without delay upon execution of the trade, but in no event later than five (5) minutes after execution via an approved submission method. The report must include the contract, contract month, price, quantity of the transaction, time of execution, the respective clearing members and, for options, strike price, put or call and expiration month, as well as any other information that the Exchange may require. The Exchange shall promptly publish price and volume information separately from the reports of transactions in the centralized market.
- F. Clearing members and members involved in the execution of 9(B)(iii) Trades must maintain a record of the transaction in accordance with Rule 536.
- G. A commodity trading advisor ("CTA") registered or exempt from registration under the Act, including, without limitation, any investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, shall be the applicable entity for purposes of Sections A, B and C, provided such advisors have total assets under management exceeding \$25 million and the 9(B)(iii) Trade is suitable for the customers of such advisors.
- H. A foreign Person performing a similar role or function to a CTA or investment adviser as described in Section I, and subject as such to foreign regulation, shall be the applicable entity for purposes of Sections A, B and C, provided such Persons have total assets under management exceeding \$25 million and the 9(B)(iii) Trade is suitable for the customers of such Persons.

Exhibit B

MARKET REGULATION ADVISORY NOTICE

Exchange	NYMEX
Subject	Core Principle 9(B)(iii) Trades
Rule References	Rule 525
Advisory Date	September 26, 2012
Advisory Number	NYMEX RA1201-6
Effective Date	October 12, 2012

Pending all relevant regulatory review periods, effective on October 12, 2012, NYMEX will introduce a new trade type. The new trade type will be called a 9(B)(iii) Trade based on Section 5(d)(9)(B)(iii) of the Commodity Exchange Act. 9(B)(iii) Trades will be governed by NYMEX Rule 525 and the information provided in this Advisory Notice.

9(B)(iii) Trades will be allowed **only** in NYMEX energy futures and options products, including all products in the following categories: coal, crude oil, electricity, emissions, ethanol, freight, natural gas, petrochemicals and refined products, with the **exception** of Light Sweet Crude Oil futures (CL), Light Sweet Crude Oil options (LO), Henry Hub Natural Gas futures (NG), Henry Hub Natural Gas options (ON), RBOB Gasoline futures (RB) and New York Harbor ULSD Heating Oil futures (HO).

Prior to the effective date, the marketplace will be provided additional information concerning the requirements attendant to the submission of 9(B)(iii) Trades to the Exchange, including information on the new trade type indicator applicable to such trades.

1. Definition of 9(B)(iii) Trades

9(B)(iii) Trades are privately negotiated futures, options, or futures and/or options spread or combination transactions which are permitted to be executed apart from the public auction market. All 9(B)(iii) Trades are subject to the conditions set forth in NYMEX Rule 525 and in this Advisory Notice. There are no minimum quantity threshold requirements applicable to 9(B)(iii) Trades.

2. Participation in and Solicitation of 9(B)(iii) Trades

Each party to a 9(B)(iii) Trade must be an Eligible Contract Participant as that term is defined in Section 1a(18) of the Commodity Exchange Act. Eligible Contract Participants generally include exchange members and member firms, broker/dealers, government entities, pension funds, commodity pools, corporations, investment companies, insurance companies, depository institutions and high net-worth individuals.

Commodity trading advisors and investment advisers who are registered or exempt from registration, and foreign persons performing a similar role and subject as such to foreign regulation, may also participate in 9(B)(iii) Trades provided they have total assets under management exceeding \$25 million and the 9(B)(iii) Trade is suitable for their customers.

A customer order may be executed by means of a 9(B)(iii) Trade only if the customer has specified that the order be executed as a 9(B)(iii) Trade.

As with all other futures and options on futures traded on a U.S. exchange, all parties soliciting or accepting orders from U.S. domiciled persons, or soliciting or accepting orders from a location within the

U.S. with respect to participation in 9(B)(iii) Trades must have appropriate futures industry registration pursuant to existing Exchange, CFTC and NFA Rules.

3. Time and Prices of 9(B)(iii) Trades

9(B)(iii) Trades may be executed at any time when CME ClearPort is open for operation. CME ClearPort is regularly open Sunday – Friday from 6:00 p.m. to 5:15 p.m. Eastern Time (“ET”), with a 45 minute closure from 5:15 p.m. to 6:00 p.m. Monday – Thursday. CME ClearPort is closed from Friday at 5:15 p.m. through Sunday at 6:00 p.m. For holiday hours, please consult the CME Group Holiday Calendar on the CME Group website.

The price at which a 9(B)(iii) Trade is executed must be fair and reasonable in light of: (i) the size of the 9(B)(iii) Trade; (ii) the prices of other transactions in the same contract at the relevant time; (iii) the prices of transactions in other relevant markets at the relevant time of the 9(B)(iii) Trade, including, without limitation, the futures markets and any related cash or OTC markets; and (iv) the circumstances of the markets or the parties to the 9(B)(iii) Trade.

The 9(B)(iii) Trade price must be consistent with the minimum tick increment for the product in question.

Additionally, each outright 9(B)(iii) Trade and each leg of any 9(B)(iii) Trade executed as a spread or combination transaction must be executed at a single price.

9(B)(iii) Trade prices will be reported independently of transaction prices in the regular market and will not be included as part of the daily trading range. 9(B)(iii) Trade prices will not elect conditional orders (e.g., stop orders) or otherwise affect orders in the regular market.

4. 9(B)(iii) Trade Reporting Requirements

a) Price Reporting

The Exchange will price report 9(B)(iii) Trades upon receipt by the Exchange of the submission of the trades by the counterparties. Accordingly, market participants have no additional price reporting requirements to the Exchange with respect to participation in 9(B)(iii) Trades.

b) Trade Submission Methods

9(B)(iii) Trades **must** be submitted to the Exchange solely via one of the three methods described below.

i) CME ClearPort

9(B)(iii) Trades may be electronically submitted directly to CME Clearing via CME ClearPort. For information on reporting 9(B)(iii) Trades through CME ClearPort, please contact customer service at 1.800.438.8616 or via email at ClearPort@cmegroup.com.

ii) CME Direct

9(B)(iii) Trades may be electronically submitted to CME Clearing via entry on the CME Direct platform. The CME Direct platform is directly connected to CME ClearPort. For information on reporting 9(B)(iii) Trades through CME Direct, please contact CME Direct Support at CMEDirectSupport@cmegroup.com.

iii) CME ClearPort Facilitation Desk

9(B)(iii) Trades may also be submitted to the CME ClearPort Facilitation Desk by calling 866.246.9639. Regardless of the method of trade submission, appropriate CME ClearPort registration is required of all principal counterparties to a 9(B)(iii) Trade as well as by any intermediary facilitating the execution and submission of the 9(B)(iii) Trade.

c) Time Requirements

Regardless of whether the 9(B)(iii) Trade is intermediated or negotiated bilaterally directly between the counterparties, trade submission to the Exchange **must occur without delay upon consummation of the trade, but in no event later than five minutes after being executed. Notwithstanding the foregoing, market participants are expected to submit the trade via an eligible submission method as soon as practicable upon execution, and may not delay the submission in reliance on the five-minute window.** Failure to comply with this requirement will be the basis for disciplinary action.

d) Information Required when Reporting 9(B)(iii) Trades

When reporting a 9(B)(iii) Trade, the following information will be required:

- Contract, contract month and contract year for futures, and, additionally for options, strike price and put or call designation;
- Quantity of the trade or, for spreads and combinations, the quantity of each leg of the trade;
- Price of the trade or, for spreads and combinations, the price of each leg of the trade;
- Time of execution of the trade (to the nearest minute);
- Buyer's clearing firm and seller's clearing firm; and
- Any other information that CME ClearPort may require when submitting the trade

5. 9(B)(iii) Trade Recordkeeping

Complete order records for 9(B)(iii) Trades must be created and maintained pursuant to NYMEX Rule 536 and applicable CFTC regulations.

6. Dissemination of 9(B)(iii) Trade Information

In addition to the prices and times of 9(B)(iii) Trades being distributed by the Exchange via normal market data distribution methods, including to various price reporting vendors, the date, execution time, contract month, price and quantity of 9(B)(iii) Trades will be displayed on the CME Group website.

9(B)(iii) Trade volume will also be published separately in the daily volume reports provided by the Exchange.

7. Pre-Execution Communications

The prohibition on prearranged trading and the requirements related to pre-execution communications with respect to certain Globex trades as set forth in Rule 539 do not apply to 9(B)(iii) Trades.

8. Eligible Products:

9(B)(iii) Trades may be executed in any NYMEX Energy futures or options product, including all products in the following categories: coal, crude oil, electricity, emissions, ethanol, freight, natural gas, petrochemicals and refined products, with the **exception** of:

- Light Sweet Crude Oil futures (CL) and options (LO)
- Henry Hub Natural Gas futures (NG) and options (ON)
- RBOB Gasoline futures (RB)
- New York Harbor ULSD Heating Oil futures (HO)

9. Contact Information

Questions regarding this advisory may be directed to the following individuals:

Market Regulation: Robert Sniegowski, Senior Director, 312.341.5991

CME Clearing: CME Clearing Support 312.207.2525

For media inquiries concerning this Advisory Notice, please contact CME Group Corporate Communications at 312.930.3434 or news@cmegroup.com.

10. Text of NYMEX Rule 525

Rule 525. 9(B)(iii) Trades

The Exchange shall designate the products in which 9(B)(iii) Trades shall be permitted. The following shall govern 9(B)(iii) Trades:

- A. Each party to a 9(B)(iii) Trade must be an Eligible Contract Participant as that term is defined in Section 1a(18) of the Commodity Exchange Act.
- B. A member shall not execute any order by means of a 9(B)(iii) Trade for a customer unless such customer has specified that the order be executed as a 9(B)(iii) Trade.
- C. The price at which a 9(B)(iii) Trade is executed must be fair and reasonable in light of: (i) the size of the 9(B)(iii) Trade; (ii) the prices of other transactions in the same contract at the relevant time; (iii) the prices of transactions in other relevant markets at the relevant time of the 9(B)(iii) Trade, including, without limitation, the futures markets and any related cash or OTC markets; and (iv) the circumstances of the markets or the parties to the 9(B)(iii) Trade.
- D. 9(B)(iii) Trades shall not set off conditional orders (e.g., Stop Orders and MIT Orders) or otherwise affect orders in the regular market.
- E. The buyer and seller must ensure that each 9(B)(iii) Trade is submitted to the Exchange without delay upon execution of the trade, but in no event later than five (5) minutes after execution via an approved submission method. The report must include the contract, contract month, price, quantity of the transaction, time of execution, the respective clearing members and, for options, strike price, put or call and expiration month, as well as any other information that the Exchange may require. The Exchange shall promptly publish price and volume information separately from the reports of transactions in the centralized market.
- F. Clearing members and members involved in the execution of 9(B)(iii) Trades must maintain a record of the transaction in accordance with Rule 536.
- G. A commodity trading advisor ("CTA") registered or exempt from registration under the Act, including, without limitation, any investment adviser registered or exempt from registration under the Investment Advisers Act of 1940, shall be the applicable entity for purposes of Sections A., B. and C, provided such advisers have total assets under management exceeding \$25 million and the 9(B)(iii) Trade is suitable for the customers of such advisers.
- H. A foreign Person performing a similar role or function to a CTA or investment adviser as described in Section I, and subject as such to foreign regulation, shall be the applicable entity for purposes of Sections A., B. and C., provided such Persons have total assets under management exceeding \$25 million and the 9(B)(iii) Trade is suitable for the customers of such Persons.