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November 13, 2008

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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 #08.119: Notification of Various NYMEX Rule Amendments.

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 to harmonize its rules with CME and CBOT rules. Specifically, the proposed changes address NYMEX disciplinary, clearing, clearing-related and electronic trading rules, which are being harmonized to the greatest extent possible with Chicago Mercantile Exchange ("CME") and Chicago Board of Trade ("CBOT") Rules.

A summary of the significant changes is set forth below. The new rule chapters and amendments to existing rules are included as attachments to this letter.

Disciplinary Rules

New NYMEX Chapter 4 (Enforcement of Rules) adopts the majority of the language in existing CME and CBOT Chapter 4 based on NYMEX's planned adoption of existing CME and CBOT disciplinary practices and procedures. The marked modifications in new NYMEX Chapter 4 show how the NYMEX rules will differ from their CME and CBOT counterparts. They are, in large part, based on differences between the Chicago and New York exchanges which have not yet been harmonized. For example, NYMEX has maintained its existing rules with respect to summary proceedings for violations of decorum, attire and pit etiquette and for violations of position limits. Further harmonization is expected to occur in connection with the adoption of harmonized trade practice rules. Rules 446-450 at the end of NYMEX Chapter 4 are NYMEX-only rules which have no counterpart in CME or CBOT Chapter 4. Rule 450 will be in effect from December 2 through December 14. It will be deleted on December 15 concurrent with NYMEX's adoption of new Rule 6.01 and COMEX's adoption of new Rule 104.03. NYMEX's adoption of new Chapter 4 has resulted in the complete elimination of existing NYMEX Chapter 8 (Disciplinary Rules).

In harmonizing the disciplinary rules, we have modified the Chief Regulatory Officers' ability to deny any party access to any or all CME Group markets, electronic trading and clearing platforms and to deny members access to the CME Group trading floors in circumstances where the Chief Regulatory Officer determines such immediate action is necessary to protect the best interests of the exchanges (Rule 413).

With respect to hearings before a hearing panel of the Board of Directors (other than appeal hearings pursuant to Rule 411), we have added a provision giving the Chairman of the Board the authority to determine whether sufficient grounds exist to hold a hearing, and allowing him to decline to appoint a panel if the issues to be addressed at the hearing are not material to or in the best interests of the Exchange (Rule 410).

We have added new Rule 433 (“Failure to Supervise – Strict Liability”) which is based on a comparable provision in the Commodity Exchange Act. The rule allows a disciplinary committee to find, if warranted, that a Member is strictly liable for the acts, omissions or failures of any official, agent or other person acting for the Member within the scope of his employment or office. This provision is in addition to the existing requirement that Members diligently supervise their employees and agents pursuant to Rule 432.W.

We have added new Rule 444 (“Sanctions and Restitution Orders”) which clarifies that, subject to a determination by the sanctioning entity, Members may be liable for the payment of unpaid disciplinary fines and unpaid restitution orders levied against their employees.

Additionally, effective December 15, 2008, NYMEX and COMEX will implement Rules 6.01 and 104.03, respectively, to put in place more comprehensive record retention requirements with regard to all forms of trading floor records including mandatory recordation of all phone lines and retention of all order records, including instant messages and emails. The changes with regard to phone recordation will bring NYMEX and COMEX more in line with CME and CBOT when taking into consideration the existing practices around the use of phones and headsets. Further, the retention of electronic forms of orders (instant messaging and emails) is necessary as use of these forms of orders have become widespread in these markets.

Arbitration Rules

NYMEX and COMEX will adopt with very minor modifications the existing CME and CBOT arbitration rules. Two changes of note for NYMEX will be to harmonize to CME and CBOT practices such that: 1) failure to file an answer to a claim within the required time period will constitute an admission of the facts alleged in the claim (currently at NYMEX a failure to answer is deemed a denial); and 2) NYMEX arbitration panel size will be increased from three to five members.

Delivery Rules

NYMEX delivery rules are currently set forth in each of the product chapters for those contracts which are physically delivered. New NYMEX Chapter 7B (“Delivery Facilities and Procedures”) adopts two rules formerly set forth in NYMEX Chapter 9 which were determined to be necessary for retention.

Clearing Rules

NYMEX will be adopting new Chapters 8 (“Clearing House and Performance Bonds”) and 9 (“Clearing Members”) substantially harmonized with existing language in CBOT Chapters 8 and 9. Material differences will remain due to different operational and technical requirements for NYMEX/COMEX. These differences are explained in more detail below. The harmonization has resulted in the deletion of current NYMEX Chapters 4 (“Margins”) and 9 (“Clearing Rules”).

Rule 800.B. (“Dubai Mercantile Exchange Limited”) has been added to Rule 800 to clarify that the clearing rules apply equally to DME unless otherwise indicated.

CME’s rule provides that when a member buys and sells the same commodity for the same delivery month, the purchases and sales are not automatically offset one against the other unless position change data is provided to the Clearing House. NYMEX Rule 806 (“Offset Process”) differs from the CME rule. It provides that, such purchases and sales are automatically offset one against the other unless contrary instructions are provided.

Rule 808 (“NYMEX ClearPort[®] Clearing; Procedures for Trade Submission”) contains separate procedures for trade submissions that must be made for ClearPort[®] Clearing. Specifically, the rule covers the processing of transactions that are not competitively executed on the Exchange and are submitted for clearing through the ClearPort[®] Clearing trade portal.

Rule 809 (“Trade Data Processing System”) is a modified version of CME and CBOT Rule 809 which adopts only Section C from the CME and CBOT rule. The redaction is based on the current procedures operating at NYMEX and COMEX which are not consistent with the remainder of CME and CBOT Rule 809.

The NYMEX/COMEX settlement rules have been relocated from current NYMEX Chapter 6 and COMEX Chapter 104 into Rule 813. It is anticipated that further amendments will be undertaken as NYMEX and COMEX settlement processes are reviewed and harmonized to the extent possible with those of CME and CBOT.

NYMEX’s existing Exchange Service Fee rule is incorporated into new Rule 850 (“Exchange Service Fees”).

NYMEX will convert to the Brokerage Payment System in the first quarter of 2009 as a means of paying floor brokers for their brokerage activity. Until that time, NYMEX requires that its floor brokers and clearing members utilize the ATOM System and that requirement is set forth in Rule 851 (“Required Use of ATOM by Clearing Members and Floor Brokers”).

Rule 902 (“Clearing Membership Assignment Requirements”) adopts NYMEX’s existing rule which requires that a clearing member own or have conferred upon it two memberships in each division in which it desires clearing member privileges. In addition, the rule maintains the concept that 8,000 CME shares must be owned or pledged if the firm is a clearing member only at NYMEX, 12,000 CME shares if the firm is a clearing member at NYMEX and either CME or CBOT and 16,000 CME shares if the firm is a clearing member at all three exchanges.

Rule 931 (“Customer Margins for Security Futures Positions Held in Futures Accounts”) and Rule 932 (“Acceptable Margin for Security Futures and Treatment of Undermargined Accounts”) will not be adopted by NYMEX as NYMEX does not currently list security futures products for trading.

Rule 972 (“Reductions in Capital”) incorporates an existing NYMEX rule which requires that whenever the working capital of a non-FCM clearing member drops below the minimum required working capital, such clearing member shall provide immediate written notice to the Audit Department of the Exchange.

Rule 984 (“Give-up Trades—Trades Executed by Open Outcry”) sets forth the rights and obligations of the parties to a give-up transaction. The rule is designed to clarify obligations in

various give-up scenarios where the parties to the give-up transaction do not have an executed give-up agreement.

Rules 990-992 concern various capital and clearing requirements applicable to clearing members for various OTC transactions. These rules are unique to NYMEX.

Rule 993 (“Customer Substitution in the Event of Clearing Member Insolvency”) restates a provision from Part 190 of the CFTC regulations and CME/CBOT Rule 718 regarding the substitution of a customer for a defaulting clearing member for delivery purposes. The adoption of this rule into NYMEX Chapter 9 allows for the deletion of current Chapter 10 (Bankruptcy of a Member) and Chapter 110 (COMEX Division – Bankruptcy of a Member) in the NYMEX/COMEX Rulebook. The rule will be able to be relocated to Chapter 7 later in the harmonization project when the delivery rules are addressed in more detail.

Position Rules

Position rules are currently set forth in NYMEX Chapter 9 which is being deleted. The position rules have been temporarily relocated to new NYMEX Chapter 9A (Position Rules). CME and CBOT position rules appear in Chapter 5. The rules in NYMEX Chapter 9A will be relocated to Chapter 5 when the trade practice rules are harmonized.

Electronic Trading Rules

Existing NYMEX Chapter 11G concerns GLOBEX®-specific trading rules. While several existing rules from the Chapter have been maintained, the majority of the rules are being eliminated and replaced with language from the trade practice rules in CME Chapter 5 modified to be specific to GLOBEX®. When the trade practice rules are harmonized next year, Chapter 11G will be eliminated and the necessary provisions will be moved to Chapter 5.

References to NYMEX ACCESS

Numerous rules or rule references in the non-product chapters that are specific to NYMEX ACCESS have been eliminated given that NYMEX ACCESS is no longer operational. References to NYMEX ACCESS in the product chapters will be addressed later in the harmonization process.

Elimination of Rule 9.25

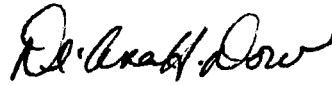
NYMEX is also eliminating Rule 9.25 (Resolution of the Board of Directors to Establish and Maintain a Permanent Retail Customer Protection Mechanism) based on earlier conversations with the Commission. In conjunction with the elimination of Rule 9.25, NYMEX requests that the Commission revoke its former order requiring NYMEX to establish the retail protection mechanism.

Pursuant to Section 5c(c) of the Commodity Exchange Act (“Act”) and CFTC Rule 40.6, the Exchange hereby certifies that the attached NYMEX rule amendments and new rule chapters comply with the Act, including regulations under the Act. These changes will be made effective on December 2, 2008, with the exception of NYMEX division Rule 6.01 and COMEX division Rule 104.03, which will become effective December 15, 2008. In addition, the Exchange will defer implementation of new NYMEX Rules 402 and 406 until certain amendments have been

made to the COMEX Bylaws. Consequently, we will follow up this submission with a later filing providing the text and the effective date for new rules 402 and 406.

Should you have any questions concerning the above, please contact Brian Regan at (212) 299-2207, or the undersigned at (202) 715-8517.

Sincerely,

A handwritten signature in black ink, appearing to read "De'Ana H. Dow". The signature is written in a cursive style with a large initial "D".

De'Ana H. Dow
Managing Director,
Government Relations

Attachments

cc: Ananda Radhakrishnan, Director, CFTC DCIO
Richard Shilts, Director, CFTC DMO

New Chapters Being Added to the NYMEX Rulebook

New NYMEX Chapter 3 is marked to show how it differs from CME Chapter 3.

Chapter 3 Exchange Committees

300. COMMITTEES

300.A. General Provisions

The Board shall establish from time to time Board level committees as defined in the bylaws and non-Board level committees necessary to conduct the business of the Exchange.

Every committee of the Exchange must have a chairman or co-chairmen. For purposes of these Rules, each co-chairman shall have the powers and duties of a chairman if acting in the capacity of a chairman. The chairman or co-chairmen may either be members of the Board, if required by the Rules or applicable committee charter, Exchange members or employees of member firms, or non-members. The Chairman of the Board may appoint vice-chairmen or alternate chairmen to each committee. All meetings shall be called upon request of the chairman of the committee. In the absence of the chairman or a co-chairman, the function of that office shall be performed by a vice-chairman or an alternate chairman and may be performed by the Chairman of the Board.

Meetings shall be conducted according to established procedures of the Exchange, its bylaws or committee charter, as applicable. In the absence of established procedures, or in the case of a dispute, Robert's Rules of Order may be consulted as a guide. Voting by proxy at committee meetings shall not be permitted.

300.B. Board Level Committees

The duties of Board level committees are to establish plans for the strategic direction of the Exchange, develop regulatory policy, advise and assist the Board and perform the specific duties assigned to them elsewhere in these Rules and/or in their charters. The Board may refer to a committee any matter within the committee's jurisdiction, and it shall be the duty of the committee to meet, consider the matter and make a complete report to the Board.

A quorum of a Board level committee shall consist of a majority of the members of the committee. All members of a Board level committee shall be entitled to vote.

300.C. Non-Board Level Committees

The duties of non-Board level committees are to review investigation reports prepared by Exchange staff, conduct hearings and/or advise and assist the Board and perform the specific duties assigned to them elsewhere in these Rules, in their charters or by the Board. The Board may refer to a committee any matter within the committee's jurisdiction and it shall be the duty of the committee to meet, consider the matter and make a complete report to the Board.

The Chairman may appoint Exchange members or employees of member firms and non-members to all non-Board level committees to serve during the Chairman's term of office and until new committees are appointed. The Chairman may at any time remove any member of a committee, with or without cause, and all vacancies shall be filled as in the case of an original appointment.

Unless otherwise provided in the Rules, a quorum of a non-Board level committee shall consist of a majority of the members of a committee or a committee panel, excluding the vice-chairman, if any. The chairman of a non-Board level committee, or another individual acting in the capacity of the chairman, may vote only to make or break a tie vote unless otherwise provided in the Rules.

No more than one member of a single broker association may serve on a panel of an adjudicatory committee.

300.D. Disqualification from Certain Committees and Governing Boards

No person shall serve on the Board of Directors or any Board level committee; the Clearing House Risk Committee; the Business Conduct Committee; the Probable Cause Committee; ~~any Pit Committee;~~ the Floor Conduct Committee; the Settlement Committee; the Delivery Committee; or the Arbitration Committee

1) who is found by a final decision or settlement agreement (or absent a finding in the settlement agreement if any acts charged included a disciplinary offense) to have committed a disciplinary offense, as defined in Section E. below; or

2) whose CFTC registration in any capacity has been revoked or suspended; or

3) who is subject to an agreement with the CFTC or any self-regulatory organization not to apply for registration or membership; or

4) who is subject to a denial, suspension or disqualification from serving on a disciplinary committee, oversight committee, arbitration panel or governing board of any self-regulatory organization as that term is defined in Section 3(a)(26) of the Securities Exchange Act of 1934; or

5) who has been convicted of any felony listed in Section 8a(2)(D)(ii) through (iv) of the Commodity Exchange Act;

for a period of three years from the date of such final decision or for such a time as the person remains subject to any suspension, expulsion or has failed to pay any portion of a fine imposed for committing a disciplinary offense, whichever is longer.

300.E. Disciplinary Offenses Defined

"Disciplinary offense" is defined as a:

(1) Violation of any Exchange rule or the rules of a self-regulatory organization (as defined in CFTC Regulation 1.63(a)(1)), except those violations: (a) that are based solely on (i) decorum or attire, (ii) financial requirements, or (iii) reporting, recordkeeping, or position limit requirements which receive cumulative fines of \$5,000 or less within any twelve-month period; or (b) that receive cumulative fines of \$5,000 or less within any twelve-month period;

(2) Notwithstanding paragraph (1) above, a "disciplinary offense" shall include a violation of any Exchange rule or rule of another self-regulatory organization which: (a) involves fraud, deceit or conversion; or (b) results in an access denial, suspension or expulsion;

(3) Violation of the Commodity Exchange Act or CFTC regulations; or

(4) Failure to exercise supervisory responsibility in violation of the Rules of the Exchange, the rules of other self-regulatory organizations, the Commodity Exchange Act or CFTC regulations with respect to activities that involved fraud, deceit or conversion.

A Member who serves on any of the committees listed in Rule 300.D. shall inform the Exchange if he or she is currently ineligible, and shall immediately inform the Exchange if he or she later becomes ineligible, to serve on such committees under the standards set forth above with respect to disciplinary offenses. Violation of this rule shall be an act detrimental to the interest or welfare of the Exchange.

300.F. Use or Disclosure of Material, Non-Public Information

No member of any committee shall use or disclose, for any purpose other than the performance of such person's official duties as a member of a committee, any material non-public information obtained by such person as a result of such person's participation on any such committee; provided, however, that if any such person who effects any transactions after having received any such material, non-public information so obtained can show that such transaction was effected in the ordinary course of such person's business, such person shall not be deemed to have used such information in violation of this rule, unless it can be shown that such person would not have effected such transaction in the absence of such information. For the purposes of this rule, the terms "material" and "non-public information" shall have the meaning set forth in CFTC Regulation 1.59(a).

(End Chapter 3)

New NYMEX Chapter 4 is marked to show how it differs from CME Chapter 4.

Chapter 4 Enforcement of Rules

400. GENERAL PROVISIONS

The Board has adopted rules, and from time to time adopts amendments and supplements to such rules, to promote a free and open market on the Exchange, to maintain appropriate business conduct and to provide protection to the public in its dealings with the Exchange and its Members. The Board has created committees to which it has delegated responsibility for the investigation, hearing and imposition of penalties for violations of Exchange rules. The Board has also delegated responsibility for the investigation and imposition of penalties for violations of Exchange rules to Exchange staff as set forth in the rules. The delegation of such responsibility and authority shall in no way limit the authority of the Board with respect to all rule violations.

For purposes of Chapter 4, the term "Member" shall mean: 1) members, Commercial Associate Members, member firms and clearing members of the Exchange, ~~including retired members with floor~~

~~access privileges and individuals and entities described in Rule 106;~~ 2) associated persons ("APs") and affiliates of clearing members and member firms of the Exchange; 3) guaranteed introducing brokers of clearing members and member firms of the Exchange and their APs, 4) ~~Exchange permit holders and~~ any person or entity that has been granted cross-exchange trading privileges; 5) employees, authorized representatives, contractors, and agents of any of the above persons or entities, in regard to the Exchange related activities of such employees and agents; 6) ~~regular firms;~~ 7) individuals and entities that have agreed in writing to comply with the rules of the Exchange; and 8) CME Exchange members and other individuals who have access to the ~~combined CBOT and CME~~ trading floors.

Members are deemed to know, consent to and be bound by all Exchange rules. Former Members shall be subject to the continuing jurisdiction of the Exchange, including, without limitation, the application of Rule 432.L., with respect to any conduct that occurred while a Member.

401. THE CHIEF REGULATORY OFFICER

It shall be the duty of the Chief Regulatory Officer to enforce Exchange rules, and he shall have available to him at all times the resources of the ComplianceMarket Regulation Department and such other Exchange resources as may be necessary to conduct investigations of alleged rule violations and market conditions. The Chief Regulatory Officer shall have the authority to inspect the books and records of all Members and the authority to require any Member to appear before him and produce his or its books and records and answer questions regarding alleged violations of Exchange rules, at the time, place and in the manner he designates. The Chief Regulatory Officer may also delegate such authority to staff of the ComplianceMarket Regulation Department.

402. RESERVED

403. CLEARING HOUSE RISK COMMITTEE

403.A. Jurisdiction and General Provisions

The Clearing House Risk Committee (or any subcommittee thereof) (collectively, "CHRC"), shall determine whether an applicant satisfies the qualifications for status as a Clearing Member. The CHRC decision shall be subject to appeal to the Board by an applicant. The CHRC may adopt regulations regarding qualifications for admission to membership in the Clearing House, which regulations, when approved by the Board, shall have the same effect as rules of the Exchange. The CHRC shall act upon applications for clearing membership and applications for assignment of Class A Shares and ~~membershipsSeries B trading rights~~ for clearing purposes. Applications for clearing membership and for assignment of Class A Shares and ~~membershipsSeries B trading rights~~ for clearing purposes, when approved by the CHRC, shall be effective and thereafter ratified by the Board.

The CHRC shall have at least two co-chairmen, who shall be members of the Board, and at least seven additional individuals, five who shall be Clearing Member representatives and at least one who shall be a non-member.

The CHRC may conduct investigations, issue charges and consider settlement offers on its own initiative or by referral from Exchange staff, the PCC, or the BCC. Hearings on charges issued by the CHRC will be conducted by the BCC pursuant to the provisions of Rule 408.

If the CHRC determines that a Clearing Member is in a financial condition which jeopardizes or may jeopardize the integrity of the Exchange, the CHRC may, by majority vote:

1. Order the Clearing Member or its customers to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
2. Prescribe such additional capital or other financial requirements as it deems appropriate;
3. Impose position limits on Clearing Members based on their regulatory capital and such other criteria as it deems appropriate;
4. Suspend a Clearing Member, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, the Chairman of the CHRC or the Chief Operating Officer; and/or
5. Order the Clearing Member to cease and desist from the conduct found to be contrary to the best interests of the Exchange.

No person shall serve on the CHRC unless he has agreed in writing that he will not publish, divulge, or make known in any manner, any facts or information regarding the business of any person or entity or any other information which may come to his attention in his official capacity as a member of the CHRC, except when reporting to the Board or to a committee concerned with such information or to the Legal Department, Audit Department or ComplianceMarket Regulation Department, when requested by the CFTC or other governmental agency or when compelled to testify in any judicial or administrative proceeding.

All information and documents provided to the CHRC and all deliberations and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

The CHRC shall have jurisdiction to enforce rules pertaining to the following:

1. Financial integrity of Clearing Members; and
2. Business conduct of and compliance with Exchange rules by Clearing Members and by any Member who is an officer or a principal or who has assigned his membership on behalf of a Clearing Member, in connection with such Clearing Member's activities, except insofar as jurisdiction over matters relating to conduct, trading practices, trading ethics and certain sales practices of Members, and market manipulations or other actions that threaten the integrity of the market are within the purview of the BCC.

403.B. Settlement Offers

A respondent that is the subject of an investigation or charges may submit for consideration by the CHRC a written offer of settlement in disposition of such investigation or charges. A respondent may submit a settlement offer without admitting or denying the rule violations upon which the penalty is based; provided, however, that an offer must include a consent to entry of findings by the CHRC regarding the conduct and rule violations at issue and to the penalty to be imposed.

If the Audit or ~~ComplianceMarket Regulation~~ Department does not oppose the respondent's offer of settlement, the respondent's written offer of settlement and the Audit or ~~ComplianceMarket Regulation~~ Department's supporting statement shall be submitted to the CHRC for consideration.

If the Audit or ~~ComplianceMarket Regulation~~ Department opposes an offer of settlement, the Respondent's written offer and the Audit or ~~ComplianceMarket Regulation~~ Department's written opposition shall be submitted to the CHRC. The CHRC's consideration of the offer of settlement shall be based upon the written offer and opposition filings, as well as the evidence presented to the CHRC in determining to issue the charges.

The respondent may withdraw his offer at any time prior to final acceptance of the offer by the CHRC. If the CHRC accepts the offer, a written decision setting forth the CHRC's findings and sanction shall be issued, and written notice of the decision shall be given to the respondent.

If the CHRC rejects the offer, the respondent will be notified of the rejection and the offer will be deemed withdrawn. If an offer is withdrawn or rejected by the CHRC, the respondent shall not be deemed to have made any admissions by reason of the offer and shall not otherwise be prejudiced by having submitted the offer. The CHRC chairman may decline to convene the CHRC to consider a settlement offer.

In submitting a settlement offer, the respondent waives his right to a hearing and to appeal the CHRC's decision if the offer is accepted; the respondent also waives any claim of bias or prejudgment on the part of the CHRC. If a respondent submits an offer within 14 days of a scheduled BCC hearing on the charges, or after the BCC hearing has begun, the offer shall not stay the BCC hearing unless otherwise determined by the chairman of the BCC. Any settlement offer submitted within 14 days of a scheduled BCC hearing will be directed to the BCC in the first instance. The BCC may determine to accept or reject the settlement offer, or the BCC may refer the settlement offer to the CHRC, in which case the CHRC will determine whether to accept or reject the offer.

403.C. Emergency Actions

1. The CHRC is authorized to determine whether an emergency exists and whether emergency action is warranted. The following events and/or conditions may constitute emergencies:
 - a. Any circumstances which may materially affect the performance of contracts traded on the Exchange, including failure of the payment system;
 - b. Any action taken by the United States or any foreign government or any state or local government body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the Exchange;
 - c. The actual or threatened bankruptcy or insolvency of any Member or the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a Member of the Exchange which may affect the ability of that Member to perform on its contracts;
 - d. Any circumstance in which it appears that a Member or any other person or entity has failed to perform contracts, is insolvent, or is in such financial or operational condition or is conducting business in such a manner that such person or entity cannot be permitted to continue in business without jeopardizing the safety of customer funds, Members, and/or the Exchange; and/or
 - e. Any other circumstances which may have a severe, adverse effect upon the functioning of the

Exchange.

2. In the event that the CHRC determines, in the good faith exercise of its sole discretion, that an emergency exists, it may take any of the following emergency actions or any other action that may be appropriate to respond to the emergency:
 - a. Order the Clearing Member or his customer to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;
 - b. Prescribe such additional capital requirements as it deems appropriate;
 - c. Prescribe such position limitations as it deems appropriate;
 - d. Order special or advance performance bond or funds to be deposited with the Clearing House from Members or from longs, shorts or both; and/or
 - e. Order such performance bond changes as it deems appropriate.

All actions taken pursuant to this subsection shall be by majority vote of the committee members present. A Member affected by the action taken shall be notified in writing of such action. As soon as practicable, the Board and the CFTC shall be promptly notified of the emergency action in accordance with CFTC regulations. Nothing in this section shall in any way limit the authority of the Board, other committees, or other appropriate officials to act in an emergency situation as defined by these rules.

403.D. Appeal of Administrative Fines

Appeals of administrative fines in excess of \$25,000, imposed pursuant to Rule 852, shall be heard by a panel comprised of a co-chairman and three members of the CHRC. The panel's decision shall be final. The appellant shall be advised of its right to appear at the hearing and of its right to be represented by legal counsel or a member of the Exchange, other than a member of the CHRC, a member of the Board or an employee of the Exchange. The appellant may present evidence in support of its appeal. The panel shall not set aside, modify or amend the decision appealed from unless the panel determines by a majority vote that the decision was:

1. Arbitrary, capricious, or an abuse of Exchange staff's discretion;
2. In excess of Exchange staff's authority or jurisdiction; or
3. Based on a clearly erroneous application or interpretation of Exchange rules.

404. PIT COMMITTEE [RESERVED]

~~The Pit Committee shall have the authority to: 1) participate in the determination of opening and closing ranges in accordance with Rule 546; 2) oversee and enforce changes in prices in accordance with Rule 528; 3) resolve pit space disputes; 4) remove unauthorized persons from the pit; 5) resolve, by immediate action, all grievances arising from price infractions pursuant to Rule 514 during pit trading; and 6) issue charges for alleged violations of Rule 514.~~

~~To the extent that Pit Committee members participate in the creation of settlement prices, they agree to assign and transfer to the Exchange any and all right, title and interest in and to the settlement prices, including, but not limited to, all copyrights in the settlement prices.~~

~~A Pit Committee member shall not exercise his authority if he or any person, firm, or broker association with which he is affiliated has a personal, financial, or other direct interest in the matter under consideration. A Pit Committee member shall be deemed to have a financial interest if the decision is likely to have an immediate financial impact on a transaction for his account or an account in which he has an interest or if the decision is likely to impact on liability for filling an order for which he or a person with whom he has a financial or business relationship was responsible.~~

405. FLOOR CONDUCT COMMITTEE

~~The Floor Conduct Committee shall be responsible for resolving pit space disputes that are not resolved by the Pit Committee, and The committee shall have jurisdiction to conduct summary proceedings for alleged violations of, and assess penalties in accordance with, this Rule 514. Floor Conduct Committee members shall participate in the resolution of quotation change requests pursuant to the Quotation Change Procedures set forth in the Appendix to Chapter 5. The Floor Conduct Committee shall have jurisdiction to conduct summary proceedings for violations of, and assess penalties in accordance with, Exchange rules. The procedures contained in Rule 409 shall govern summary proceedings.~~

405.A. Authority to Issue Letters of Warning and/or Summary Fines for Violations of Decorum or Attire Rules

The Floor Committee, or its designees, may impose summarily, on any Member a Letter of Warning

and/or fine of not more than five thousand dollars (\$5,000) for each violation of any rule relating to decorum or attire on the trading floor or on any part of the Exchange premises.

405.B. Authority to Issue Letters of Warning and/or Summary Fines for Other Floor Offenses

The Floor Committee, or its designees, may impose summarily, on any Member a Letter of Warning and/or a fine of not more than five thousand dollars (\$5,000) for:

1. violating any rule relating to clerk registration, any rule regarding the untimely or inaccurate submission of trade data, reports, records or similar matters for clearing or for verifying each day's transactions;
2. a failure by qualified floor traders and/or their authorized representatives to attend any option's expirations; or
3. a failure by a Member to attend a mandatory training course offered by Exchange staff.

With respect to any NYMEX Member, a Letter of Warning and/or a fine of not more than five thousand dollars (\$5,000) may be summarily imposed for each violation of NYMEX Rules 6.37 or 6.06. With respect to any COMEX Member, a Letter of Warning and/or a fine of not more than five thousand dollars (\$5,000) may be summarily imposed for each violation of COMEX Rules 104.14; 104.25; 104.09; 104.05(a); or 104.70; or for any interference or attempt to interfere with an employee of the Exchange in the performance of his duties under COMEX Rules 104.04, 104.05 and 104.07. In the event that either: j) the official citing the alleged infraction was involved in the incident in question; and/or ii) the facts of the alleged infraction are challenged by a disinterested third party, then the party charged shall be entitled to an adjudication in accordance with the provisions of Rule 405.D, prior to the imposition of any fine. In no event shall the issuance of a Letter of Warning entitle a Member to a hearing. Letters of Warning may be appealed in accordance with the provisions set forth in Rule 405.E, below.

405.C. Notice of Fine

The official imposing the fine shall issue a "Notice of Fine" in a form to be prescribed by the Exchange, which shall notify the respondent of the offense committed and the fine to be imposed. The form shall notify the respondent of the right to request a hearing whenever the provisions of Rule 405.A, or 405.B, are applicable. Failure to request a hearing, unless good cause is shown, shall be deemed a consent to the fine, which shall then be imposed in the amount set forth in the Notice of Fine, or in such amount as may be determined by the Floor Committee in the event that the Notice of Fine does not specify an amount.

A Member who claims that he is entitled to a hearing in accordance with the provisions of Rule 405.A, or 405.B, shall be entitled to file a written request for a hearing with the Compliance Department within seven (7) business days after mailing of such notice by the Compliance Department, subject to the following:

1. The Compliance Department shall review the request for a hearing and prepare a written statement which shall set forth the reason that the investigation was initiated, the relevant facts, the conclusions of the Compliance Department and, if the Compliance Department concludes that there is a reasonable basis to believe that a rule violation occurred, a recommendation of the Compliance Department to a Panel comprised of three members of the Floor Committee (the "Review Panel") whether the matter requires a hearing in accordance with Rule 405.A, and 405.B. The Review Panel shall determine if a hearing is required. The Compliance Department may also refer a matter to the Probable Cause Committee in accordance with Rule 406.
2. The respondent shall file an Answer within five (5) business days after receiving the written statement prepared by the Compliance Department referred to in the previous paragraph. Any charges not denied in the answer shall be deemed admitted and if no answer is filed within the time period specified in the rule, unless good cause is shown, all the charges will be deemed to have been admitted.
3. A party who files a request for a hearing shall be required to appear at the hearing unless a written withdrawal of the request for a hearing has been filed with the Compliance Department at least one week prior to the scheduled hearing date. The Panel (composed as set forth in paragraph (D) of this rule) may in its discretion enter a penalty for non-appearance in an amount not to exceed \$250 against a party who has not filed a withdrawal of his request for a hearing and who has not appeared at the scheduled time and place. Such penalty shall become effective ten (10) days after it has been issued unless the respondent shows good cause for the non-appearance prior to the effective date of the penalty.

405.D. Floor Committee Hearings

A hearing required pursuant to Rule 405.A, or 405.B, shall be scheduled no earlier than ten (10) business days following the incident in question and shall be conducted before a Panel comprised of no

fewer than three members of the Floor Committee, provided that none of the Panel members shall have served on the Review Panel for the incident in question. The Panel shall meet at such times as it deems appropriate. The personal appearance of the respondent and the Compliance Department shall be required. Where the respondent fails to appear at a requested hearing at the time and place scheduled, without good cause shown, in addition to the sanctions which may be imposed under Rule 405.C.3., he shall be deemed in default, and the proceeding shall be determined against the respondent upon consideration of the Notice of Fine, the allegations of which shall be deemed to have been admitted. The Panel may determine the procedures to be applied in any hearing before it; provided, however, that the following procedures shall apply in every case:

1. The prosecution shall be conducted by the Compliance Department;
2. The respondent shall be permitted to present witnesses or other evidence and may cross-examine witnesses;
3. Unless good cause is shown, the Compliance Department and the respondent shall be limited to a presentation not to exceed fifteen (15) minutes;
4. The formal rules of evidence shall not apply and the Panel shall have the authority to decide all procedural and evidentiary matters;
5. The Notice of Fine, any documentary evidence or other material presented to the Panel by either party shall constitute the record of the hearing;
6. The Compliance Department shall have the burden of proof; and
7. A finding of a Rules violation may be made on a preponderance of the evidence contained in the record of the proceeding.

In advance of the hearing, the respondent shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that (i) are to be relied upon by the Compliance Department in prosecuting the matter; or (ii) which are relevant to the charges. Respondent shall be required to produce such discovery as the Compliance Department shall request which is relevant to the charges and respondent's defense. This does not include materials that are privileged or subject to any work product protections.

Any person within the jurisdiction of the Exchange who is called at any hearing shall appear at such hearing and give testimony or produce evidence. The Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of the hearing.

405.E. Floor Committee Decisions and Sanctions

The Panel shall render a written decision within two (2) business days of the hearing date, receipt of notice that the respondent has waived his right to a hearing, or the entry of default, whichever is applicable. The written decision shall include: (i) the specific rule violation which the respondent was found to have committed; (ii) an order which may impose the penalty recommended in the Notice of Fine, increase or decrease the recommended amount; and (iii) notice that the decision constitutes a final decision of the Exchange which is appealable to the Commission.

Any Letter of Warning imposed in accordance with Rule 405.A. or 405.B. and/or any fine that does not require a hearing, may be appealed to the Floor Committee by filing a typewritten request with the Compliance Department within five (5) business days after mailing of such notice by the Compliance Department. In its sole discretion, the Floor Committee may affirm, reverse, or modify any penalty imposed pursuant to Rule 405.A. or 405.B., and its decision shall be final. A modification of any fine may include, among other things, an increase in any fine imposed.

Any fine imposed in accordance with Rule 405.A. or 405.B. shall be due and payable within ten (10) days after notice of such action is given to the Member. Where a determination has been made either by a Panel of the Floor Committee following a hearing or by the Floor Committee following an appeal, such action shall be final ten (10) days after notice is given to the Member and shall not be subject to appeal, and any fine imposed as a result of such determination shall be due and payable within ten (10) days after notice of the determination is given to the Member.

405.F. Referrals to the Probable Cause Committee

The Floor Committee may refer any matter within its jurisdiction to the Probable Cause Committee under Rule 406 or to the Compliance Department for further action under this Chapter 4.

405.G. Maintenance of Health and Safety in Exchange Trading Rings

No member may stand on the top step, second step (or as necessary lower steps) of a trading ring unless such member is presently authorized to occupy such step of the applicable trading ring by Exchange staff. For each trading ring, Exchange staff, in its sole discretion, shall initially determine the

maximum number of actual members who can reasonably and safely occupy the top step, second step and as necessary any other step of that ring.

Based upon such safety calculations, Exchange staff then will determine those members who may stand on the applicable rings based solely upon the following criteria (reviewing, on a monthly basis, trading volume (including TAS transactions but not including any non-competitive transactions such as EFP or EFS) data for the immediately preceding three-month period or such other period as may be set by Exchange staff):

for the top step, total customer volume executed by a member except that no member firm and no billing entity may have more than three affiliated members on either of the two sides of a ring;
for the second step, total trading volume executed by a floor member; and
as necessary, for lower steps in the applicable ring, total trading volume executed by a member.

In relation to the top step, for any ring where the Exchange has implemented the provisions of this rule, no member thus will be authorized to stand on the top step if such member's trading is limited to trading solely for his own proprietary account.

While the calculation for top step volume will be made on the basis of customer volume executed by individual brokers, the Exchange will permit reasonable substitutions for a broker by a member or billing entity with whom the broker is affiliated, provided that either the broker or the member or billing entity has for purposes of this rule given notice to the Exchange of such affiliation.

Members shall have the right to request a further review or reconsideration by Exchange staff of any determination affecting them or their member or billing entity, and any such requests must be submitted in the form and manner as provided by the Exchange, provided, however, that the filing of any such request for reconsideration will not excuse or justify any noncompliance with this rule.

No member may stand on a step after being notified by the Floor Committee that the member is not authorized to stand on that step.

The Floor Committee may impose summarily on any member in violation of this rule a Letter of Warning and/or a fine of not less than \$1,000 dollars but not more than \$2,500 for each violation of this rule, and violation of Rule 405.G for each new trading session shall constitute a separate violation, provided that in the event of repeated violations by a member, the Floor Committee may determine to refer such member to the Probable Cause Committee for further action. Any fines issued pursuant to this rule may be appealed in the same manner and under the same procedures set forth in Rule 405.E.

405.H. Floor Committee Rules

Action taken by the Floor Committee or its designee pursuant to this rule shall not be subject to the provisions of this Chapter respecting procedures for disciplinary proceedings, except for those provisions established in this Rule 405.

406. RESERVED

407. INITIAL INVESTIGATION, ASSIGNMENT FOR HEARING AND NOTICE OF CHARGES

The ~~ComplianceMarket Regulation~~ Department shall investigate alleged rule violations. Investigations and all information and documents obtained during the course of an investigation shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law. The ~~ComplianceMarket Regulation~~ Department is authorized to take recorded interviews of Members pursuant to an Exchange investigation.

The ~~ComplianceMarket Regulation~~ Department may take oral depositions of witnesses during an investigation. The Member under investigation shall be given at least five days written notice of the time of the deposition and place where the witness will be deposed, which may be at any location within the United States. The Member under investigation shall have the right to be present in person or by representative at the oral deposition, with right of cross-examination. All oral depositions of witnesses shall be taken under oath, before an officer qualified in the place of the deposition to administer oaths, and the complete testimony of the witnesses shall be transcribed by such officer or by a person under his supervision. Oral depositions taken in accordance with this rule shall be admissible in evidence at any hearing of the Board of Directors or a committee, reserving to the Member under investigation the right to object at the hearing to the relevancy or materiality of the testimony contained therein.

Upon conclusion of an investigation, the ~~ComplianceMarket Regulation~~ Department may issue a warning letter to the Member under investigation. Such letter shall not constitute either the finding of a rule violation or a penalty.

If the ~~ComplianceMarket Regulation~~ Department has reasonable cause to believe an offense has occurred which should be dealt with by a panel of the BCC ("BCC Panel"), it shall request a panel of the

PCC ("PCC Panel") to convene to consider its recommendation for charges. The ~~ComplianceMarket Regulation~~ Department's presentation to the PCC Panel shall not constitute an ex parte communication as described in Rule 417.

407.A. Investigation File

The ~~ComplianceMarket Regulation~~ Department shall maintain a file once an investigation is initiated. The file shall include any materials in the possession of the ~~ComplianceMarket Regulation~~ Department that may be relevant to the conduct being investigated. In any matter in which a PCC Panel issues charges, the investigation file shall include an investigation report prepared by the ~~ComplianceMarket Regulation~~ Department. A member charged with a violation of the rules shall have the right to review the evidence in the investigation file relevant to the issued charges, provided, however, that protected attorney work product, attorney-client communications and investigative work product, including, but not limited to, the investigation report and any exception reports, are neither discoverable by a respondent in disciplinary proceedings nor subject to review by a respondent as part of the investigation file. Production of the investigation report to a PCC Panel shall not constitute a waiver of the protected and/or privileged nature of such report.

407.B. Notice of Charges; Opportunity for Hearing

The notice of charges shall set forth the alleged misconduct and the rule(s) alleged to have been violated, and shall advise the respondent regarding the submission of a responsive answer to each charge in accordance with Rule 407.C. Further, the notice shall advise the respondent that the matter will be heard by a BCC Panel and of the time and place for the hearing, if known. The respondent shall also be advised of his right to appear personally at the hearing and of his right to be represented by legal counsel or a member of the Exchange, other than a member of the charging or hearing committee, a member of the Board or an employee of the Exchange. A respondent may waive his right to a hearing within 10 days of receipt of the notice of charges.

A respondent who elects to waive his right to a hearing on the charges will be notified of the date on which the BCC Panel will render its decision. Upon a finding of guilt on any charge, the BCC Panel will promptly determine what penalties, if any, are to be imposed and their effective date. A respondent who has waived his right to a hearing and/or admitted the charges against him will be advised of his right to participate in the hearing solely with respect to the penalty.

407.C. Answer to Charges

The respondent shall have 21 days after notice to submit a written answer to the charges. Upon a showing of good cause, the BCC Panel chairman may extend the period of time in which the respondent is required to submit his answer. The answer must state that the respondent admits, denies, or lacks sufficient knowledge to admit or deny each charge. A statement of lack of sufficient knowledge shall be deemed a denial. Any charge not denied in whole or in part shall be deemed admitted, and the failure to file a timely answer may be deemed an admission to the charges. If all the charges are admitted, the respondent shall be deemed to waive his right to a hearing on the charges and the BCC Panel shall find that the violations alleged in the notice have been committed. The BCC Panel will determine the penalty, if any, to be imposed at a hearing, due notice of which will be provided to the respondent. The respondent shall be advised of his right to appear personally at the penalty hearing and advised of his right to be represented by legal counsel or another member of the Exchange, other than a member of the charging or hearing committee, a member of the Board or an employee of the Exchange.

If an answer contains both an admission to one or more charges and a denial of one or more charges, the BCC Panel will consider the penalties which may be imposed for the admitted charges at the same time as the charges denied by the respondent are considered.

408. CONDUCT OF HEARINGS

408.A. General

All disciplinary proceedings conducted before a panel of the BCC or before a hearing panel of the Board of Directors (collectively, "Panel") shall be conducted in accordance with the following procedures. Hearings shall be fair. The respondent shall have the right to appear personally at the hearing and to be represented by legal counsel or a member of the Exchange, other than a member of the charging or hearing committee, a member of the Board, a potential respondent or witness or an employee of the Exchange. The Panel or its chairman shall have the power to compel any Member to attend, testify and/or produce evidence in connection with the hearing.

The BCC's counsel shall, in writing, notify the respondent of the names of the persons on the Panel at least seven days in advance of the originally scheduled hearing date. Parties to the hearing may request the Panel chairman to strike any panelist for good cause shown. The Panel chairman may then excuse such panelist and direct that an alternate panelist be appointed.

408.B. Pre-Hearing

1. Procedural and Evidentiary Matters

The Panel chairman may require a pre-hearing conference.

The Panel chairman shall have the authority to decide all procedural and evidentiary matters and all pre-hearing motions, and the chairman's decision shall be final. Notwithstanding the preceding sentence, a motion to dismiss any or all of the charges may be granted only by the Panel. The ~~ComplianceMarket Regulation~~ Department may appeal to the Board any decision of the Panel to grant such a motion. If such an appeal is requested, the Board shall conduct a hearing on the matter in accordance with the procedures in Rule 411.

Pre-hearing motions must be submitted in writing to the BCC's counsel and a copy shall also be provided to the ~~ComplianceMarket Regulation~~ Department. Motions to dismiss any or all of the charges must be submitted at least 21 days in advance of the originally scheduled hearing date and a copy shall also be provided to the ~~ComplianceMarket Regulation~~ Department. Upon receipt, the ~~ComplianceMarket Regulation~~ Department shall have seven days to submit a written response to the BCC's counsel, and shall provide a copy to the respondent.

Any pre-hearing motions not specifically covered by these rules must be filed at least five business days in advance of the hearing date.

Prior to the hearing, the respondent may examine all evidence which is to be relied upon by the ~~ComplianceMarket Regulation~~ Department during the hearing, or which is relevant to the charges. However, the respondent shall not be entitled to examine protected attorney work product, attorney-client communications or investigative work product, including, but not limited to, the investigation report and any exceptions reports. The respondent may obtain a copy of all such evidence, and any copying costs shall be the sole responsibility of the respondent. A respondent who seeks documents that are not in the possession of the ~~ComplianceMarket Regulation~~ Department may request the documents from their custodian. The ~~ComplianceMarket Regulation~~ Department is not required to produce or obtain any documents that are not in its possession. Upon a showing of good cause, the respondent may petition the Panel chairman to compel the production of documents by a custodian, provided that the custodian is subject to the jurisdiction of the Exchange, the custodian has refused voluntarily to provide the documents, and the documents are relevant to the charges. The ~~ComplianceMarket Regulation~~ Department may object, in whole or in part, to any such petition.

The issuance of charges shall not restrict the ~~ComplianceMarket Regulation~~ Department from further investigating the activity underlying the charges or investigating other potential violations by the respondent.

2. Submission of Documents and Identification of Witnesses by Respondent

At least 10 days in advance of the hearing, the respondent shall submit to the ~~ComplianceMarket Regulation~~ Department copies of all documents and records upon which the respondent plans to rely at the hearing, and provide a list of, and make available for inspection by the ~~ComplianceMarket Regulation~~ Department, all books, records, names of witnesses and other tangible evidence upon which the respondent plans to rely at the hearing. The Panel may refuse to consider any books, records, documents or other tangible evidence which was not made available to, or witnesses whose names were not submitted to, the ~~ComplianceMarket Regulation~~ Department pursuant to this section.

408.C. Settlement Offers

A respondent that is the subject of an investigation or charges may submit for consideration by the Panel a written offer of settlement in disposition of such investigation or charges. However, the CHRC will determine whether to accept or reject any settlement offer with respect to charges issued by the CHRC submitted more than 14 days before a scheduled BCC hearing, pursuant to Rule 403.B.

A respondent may submit a settlement offer without admitting or denying the rule violations upon which the penalty is based; provided, however, that an offer must include a consent to entry of findings by the Panel regarding the conduct and rule violations at issue and to the penalty to be imposed.

If the ~~ComplianceMarket Regulation~~ Department does not oppose the respondent's offer of settlement, the respondent's written offer of settlement and the ~~ComplianceMarket Regulation~~ Department's supporting statement shall be submitted to the Panel for consideration.

If the ~~ComplianceMarket Regulation~~ Department opposes the respondent's offer of settlement, then following the issuance of any charges by the PCC, the respondent may submit a written offer of settlement for consideration by the Panel no less than 14 days in advance of the originally scheduled hearing date. If a respondent submits an offer less than 14 days before a scheduled hearing, or after the hearing has commenced, the offer shall not be considered unless agreed to by the parties. In considering whether to accept the respondent's offer, the Panel shall examine the respondent's written offer of settlement and the ~~ComplianceMarket Regulation~~ Department's written opposition thereto.

The respondent may withdraw his offer at any time prior to final acceptance of the offer by the Panel. If the Panel accepts the offer, a written decision setting forth the Panel's findings and sanction shall be issued, and written notice of the decision shall be given to the respondent.

If the Panel rejects the offer, the respondent will be notified of the rejection and the offer will be deemed withdrawn. If an offer is withdrawn or rejected by the Panel, the respondent shall not be deemed to have made any admissions by reason of the offer and shall not otherwise be prejudiced by having submitted the offer.

The Panel chairman may decline to convene the Panel to consider a settlement offer. Upon consent by the respondent, any hearing that follows a rejected settlement offer will be heard by the same Panel.

In submitting a settlement offer, the respondent waives his right to a hearing and to appeal the Panel's decision if the offer is accepted; the respondent also waives any claim of bias or prejudgment on the part of the Panel.

408.D. Hearings

The ~~ComplianceMarket Regulation~~ Department shall be a party to the hearing and shall present evidence on the charges. The ~~ComplianceMarket Regulation~~ Department and the members of the Panel may question any witness and examine all the evidence stipulated to or presented at the hearing. The respondent shall be entitled to appear personally, testify, produce evidence, call witnesses on his own behalf and cross-examine any witness. The ~~ComplianceMarket Regulation~~ Department bears the burden of establishing the basis for a finding of guilt on any charge by a preponderance of the evidence. Formal rules of evidence shall not apply.

All testimony and documents produced in connection with a disciplinary hearing shall be deemed non-public and confidential and shall not be disclosed except in connection with proceedings resulting from that hearing or as required by law. A recording or other substantially verbatim record of the hearing shall be made and become part of the record of the proceeding. If a respondent requests a transcript, he shall be solely responsible for the cost of producing the transcript.

A majority vote of the Panel is required for a finding of guilt. A respondent that is found not guilty shall not again be charged with or tried for the same underlying conduct. In the event of a finding of guilt, the Panel may request additional information or argument from the parties as to the appropriate nature and amount of a sanction prior to determining such sanction. In the absence of exceptional circumstances, as determined by the Panel chairman, such argument shall proceed immediately upon the conclusion of the evidence and determination of the committee.

408.E. Decisions

Promptly following a hearing, the respondent shall be issued a written decision of the Panel's findings, which shall include: the notice of charges (or a summary thereof); the answer to the charges, if any (or a summary thereof); a brief summary of the evidence produced at the hearing; a statement of findings and conclusions with respect to each charge, including the specific rules which the respondent is found to have violated; a declaration of any penalty imposed and the effective date of such penalty; and the availability, if any, of an appeal of the decision within the Exchange or to the Commodity Futures Trading Commission.

409. ~~[RESERVED] SUMMARY PROCEEDINGS BEFORE THE FLOOR CONDUCT COMMITTEE~~

~~409.A. Jurisdiction~~

~~A member of the Pit Committee, a member of the Floor Conduct Committee, or a designated representative of the Market Regulation Department shall have the authority to issue charges against an individual with respect to trading infractions as set forth in Rule 514. A panel of the Floor Conduct Committee shall have authority to conduct summary proceedings with respect to charges under Rule 514.~~

~~Charges against an individual shall be issued by filing the appropriate forms with the Market Regulation Department and by giving a copy to the respondent.~~

~~409.B. Selection of the Panel~~

~~For proceedings before the Floor Conduct Committee, the Chief Regulatory Officer or his designee, in consultation with a Floor Conduct Committee Co-Chairman, shall select a panel consisting of three additional members of the Floor Conduct Committee, which may include other Co-Chairmen of the committee. The Chief Regulatory Officer shall endeavor to rotate the members serving on the panels.~~

~~No panelist may serve on the particular panel if he or any person, firm, or broker association~~

with which he is affiliated has a personal, financial, or other direct interest in the matter under consideration.

409.C. — Conduct of Summary Proceedings

A summary proceeding before the Floor Conduct Committee shall be conducted in a fair and impartial manner.

~~A summary proceeding before the Floor Conduct Committee shall take place as soon as practicable after the issuance of charges. The proceeding will not be recorded. The respondent shall be entitled to appear personally and answer the charges issued. Respondents and witnesses may not be represented by counsel at a summary proceeding. However, an employee without membership privileges who is a respondent may be represented by a single representative of his employer. A panel shall decide by a majority vote whether the individual is guilty of the violation or offense charged. If the accused individual is found guilty, a panel may impose fines in accordance with Exchange rules. A witness who fails to appear at a summary proceeding after being directed to do so by the Chairman of the panel or by staff may be charged with a violation of Rule 432.~~

~~If a panel of the Floor Conduct Committee, by a majority vote, decides that the matter is of major importance or might warrant a penalty in excess of its own authority, the Chairman of the Panel shall refer the matter to the PCC and shall inform the individual of this referral in writing.~~

409.D. — Appeals

~~An individual found guilty of an offense who receives a fine greater than \$1,000 may, within 10 days of the decision, file a written appeal of the decision with the Market Regulation Department. A written appeal that fails to specify the grounds for the appeal and the specific error or impropriety of the original decision shall be dismissed by the Chief Regulatory Officer. The appeal shall be heard by a Panel of the BCC ("BCC Panel") whose decision shall be final. The appellant shall be entitled to be represented by counsel, appear personally before the BCC Panel and present evidence that he may have in support of his appeal. The BCC Panel shall not set aside, modify or amend the appealed decision unless it determines, by majority vote, that the decision was:~~

- ~~1. Arbitrary, capricious, or an abuse of the committee's discretion;~~
- ~~2. In excess of the committee's authority or jurisdiction; or~~
- ~~3. Based on a clearly erroneous application or interpretation of Exchange rules.~~

410. HEARINGS BEFORE A HEARING PANEL OF THE BOARD OF DIRECTORS

Whenever a hearing is scheduled to be held before a hearing panel of the Board ("Panel"), the Chairman of the Board shall appoint a director to serve as the Panel chairman, who shall conduct the hearing, and two additional directors to serve on the Panel. One of these directors shall be a non-member. A majority decision by the Panel shall be considered the action of the Board as a whole.

Each Panel that conducts a hearing or proceeding shall consist of directors that possess sufficiently diverse interests so as to ensure fairness. In a disciplinary matter, the hearing shall be conducted in accordance with the provisions of Rule 408.

No member of the Board may serve on a particular Panel if he participated on the charging committee or 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.

411. APPEAL TO A HEARING PANEL OF THE BOARD OF DIRECTORS

The ~~ComplianceMarket Regulation~~ Department may request an appeal to a hearing panel of the Board ("Appellate Panel") regarding a final decision of or sanction imposed by the BCC, or any refusal by the PCC to issue those charges requested by the ~~ComplianceMarket Regulation~~ 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 ~~ComplianceMarket Regulation~~ Department shall stay any decision that is appealed unless the Chairman of the Board or the chairman of the BCC Panel from which the appeal is taken specifically directs that the decision is not stayed pending appeal.

A Member found guilty of an offense or otherwise aggrieved by a final decision of the BCC, may, within 10 business days of being provided notice of any such decision, unless specifically prohibited, request an appeal to an Appellate Panel provided that the decision assesses a monetary sanction greater than \$10,000 and/or an access denial or suspension of any membership privileges for greater than five business days against the Member. Filing of a request for an appeal by a Member shall stay the decision appealed unless the ~~ComplianceMarket Regulation~~ Department objects to such a stay and the Chairman of the Board or the chairman of the BCC Panel 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 appellant 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 BCC decision, any written response by the opposing party. The Appellate Panel's determination of whether to hold a hearing on an appeal shall be final.

If the Appellate Panel grants the appellant'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 appellant 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 appellant to bring such new evidence or legal theory to the attention of the BCC or the PCC, as applicable. The chairman of the Appellate Panel shall allow the filing of briefs in connection with the appeal of a decision of the BCC. The Appellate Panel shall review the investigation report in connection with the appeal of a refusal by the PCC to issue those charges requested by the ~~ComplianceMarket Regulation~~ Department.

No member of the Board may serve on a particular Appellate Panel if he participated on the PCC Panel that issued, or considered issuing, the charges, or on the BCC Panel 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 by the ~~ComplianceMarket Regulation~~ Department of a decision by the PCC not to issue those charges requested by the ~~ComplianceMarket Regulation~~ Department, the Appellate Panel shall either affirm or set aside the decision of the PCC. If the decision is set aside, the Appellate Panel shall remand the matter to the PCC 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 by the ~~ComplianceMarket Regulation~~ Department of a decision by the BCC 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 BCC 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 different panel of the BCC pursuant to the procedures in Rule 408. If the decision is affirmed with respect to any dismissed charge, the 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.

This rule shall not apply to appeals of Arbitration Committee decisions, which shall be governed by the rules contained in Chapter 6A.

412. SUMMARY ACTION

In cases of action taken against a Member pursuant to Rules 976 or 977, the Member affected shall be notified in writing of such action. The notice shall state: the action taken; the reason for action; and the effective time, date and duration thereof.

The Member may, within two business days following receipt of notice of action taken, request a hearing before a hearing panel of the Board ("Panel") pursuant to Rule 410. The hearing shall be conducted within 60 days of such request, in accordance with the requirements of Rule 408, unless the chairman of the Panel determines that good cause for an extension has been shown, but shall not stay any action taken pursuant to Rules 976 or 977.

Following the hearing, if any, the Panel shall cause to be prepared a written decision containing: a description of the summary action; the reasons for such action; a description of the evidence produced at the hearing; findings and conclusions; a determination that the summary action should be affirmed, set aside, modified or amended and the reasons therefor; and the effective date and duration, if any, of subsequent or continuing actions. The Panel shall not set aside, modify or amend the summary action taken against a Member unless it determines, by a majority vote, that the summary action taken was:

- A. Arbitrary, capricious, or an abuse of the committee's discretion; or
- B. In excess of the committee's authority or jurisdiction.

413. SUMMARY ACCESS DENIAL ACTIONS

413.A. Authority to Deny Access

Members may be: (1) denied access to any or all CME Group markets; (2) denied access to the Globex platform; (3) denied access to any other electronic trading or clearing platform owned or controlled by CME Group; or (4) be immediately removed from any trading floors owned or controlled by CME Group, by the Chief Regulatory Officer or his delegate upon a good faith determination that there are substantial reasons to believe that such immediate action is necessary to protect the best interests of the Exchange.

Non-members may be denied access to any or all CME Group markets or be denied access to the Globex platform or any other electronic trading or clearing platform owned or controlled by CME Group by the Chief Regulatory Officer or his delegate upon a good faith determination that there are substantial reasons to believe that such immediate action is necessary to protect the best interests of the Exchange.

413.B. Notice

Promptly after an action is taken pursuant to Rule 413.A., the Member shall be informed of the action taken, the reasons for the action, and the effective date, time and the duration of the action taken. The Member shall be advised of his right to a hearing before a panel of the BCC ("Panel") by filing notice of intent with the ~~Compliance~~ Market Regulation Department within 10 business days of the Notice date.

413.C. Hearing

The Member shall have the right to be represented by legal counsel or a member of the Exchange, other than a member of the BCC, a member of the PCC, a member of the Board or an employee of the Exchange. The Panel shall conduct a de novo hearing solely on the issue of the denial of access in accordance with the procedures in Rule 408. Filing of a notice of intent pursuant to Rule 413.B. shall not stay the Chief Regulatory Officer's decision to deny access.

413.D. Duration of Access Denial

Any decision to deny access pursuant to Rule 413.A. or Rule 413.C. shall not remain in effect for more than 60 days unless the Chief Regulatory Officer or his delegate, upon further consideration of the circumstances that resulted in a prior access denial action, provides written Notice to the Member advising that the Member's access will be denied for an additional period of time not to exceed 60 days. Such Notice shall comport with the provisions of Rule 413.B. At any time, a Member may petition the BCC to reconsider the access denial based upon materially changed circumstances.

414. INVESTIGATIONS BY OTHER SELF-REGULATORY ORGANIZATIONS

If a self-regulatory organization that is a party to an information sharing agreement with the Exchange

requests assistance in connection with an investigation, the Chief Regulatory Officer may direct a Member to submit to an examination by the requesting self-regulatory organization and to produce information pertinent to that investigation. The request for assistance shall describe the investigation, explain why Exchange assistance is necessary and describe the scope of assistance sought. An order directing a Member to submit to an examination shall be issued unless the Chief Regulatory Officer determines that such order would not be in the best interests of the Exchange. An examination pursuant to such order shall be conducted according to Exchange rules and shall be conducted on Exchange premises under the direction of Exchange staff. At the discretion of the Chief Regulatory Officer, representatives of the requesting self-regulatory organization may observe and participate in the examination. Failure to comply with an order issued under this rule shall be an offense against the Exchange.

415. COOPERATION WITH OTHER EXCHANGES AND CLEARING ORGANIZATIONS

The Chief Executive Officer or the President, or their delegates, are authorized to provide information to an exchange or clearing organization that is a party to an information sharing agreement with the Exchange, in accordance with the terms and conditions of such agreement.

416. CONFLICTS OF INTEREST

416.A. Abstention Requirements

A member of a charging, adjudicating, or appeal committee or panel must abstain from participating in any matter where such member:

1. Is a witness, potential witness, or a party;
2. Is an employer, employee, or co-worker of a witness, potential witness, or a party;
3. Is associated with a witness, potential witness, or a party through a broker association as defined in Exchange rules;
4. Has any significant personal or business relationship with a witness, potential witness, or a party, not including relationships limited to (a) executing futures or options transactions opposite each other, or (b) clearing futures or option transactions through the same clearing member; or
5. Has a familial relationship to a witness, potential witness, or a party.

416.B. Disclosure of Relationship

1. Prior to the consideration of any matter involving a subject, each member of a charging, adjudicating, or appeal committee or panel must disclose to the appropriate Exchange staff whether he or she has one of the relationships listed in Rule 416.A. above with the subject.
2. In its sole discretion, Exchange staff shall determine whether any member of the committee or panel is required to abstain in any matter.

417. PROHIBITED COMMUNICATIONS

417.A. Ex Parte Communications

Unless on notice and opportunity for all parties to participate:

1. No subject or respondent (or any counsel to or representative of a subject or respondent) or the ~~ComplianceMarket-Regulation~~ Department (or any counsel to or representative of the ~~ComplianceMarket-Regulation~~ Department) shall knowingly make or cause to be made an ex parte communication relevant to the merits (which shall not include scheduling and procedural matters) of an investigation or a proceeding to a member of a charging, adjudicatory, or appeal committee or panel with respect to that matter or proceeding.
2. No member of a charging, adjudicating, or appeal committee or panel that is participating in a decision with respect to an investigation or a proceeding shall knowingly make or cause to be made to a subject or respondent (or any counsel to or representative of a subject or respondent) or the ~~ComplianceMarket-Regulation~~ Department (or any counsel to or representative of the ~~ComplianceMarket-Regulation~~ Department) an ex parte communication relevant to the merits (which shall not include scheduling and procedural matters) of that matter or proceeding.

417.B. Communications with Panelists

No member shall attempt to influence disciplinary matters pending before a charging, adjudicatory, or appeal committee by discussing, or attempting to discuss, such pending matters with a member of such committee or any member of the Board.

417.C. Disclosure

Any person who receives, makes or learns of any communication which is prohibited by this rule shall promptly give notice of such communication and any response thereto to the ~~ComplianceMarket~~

Regulation Department and all parties to the proceeding to which the communication relates. A person shall not be deemed to have violated this rule if the person refuses an attempted communication concerning the merits of an investigation or proceeding as soon as it becomes apparent that the communication concerns the merits.

418.-431. [RESERVED]

432. GENERAL OFFENSES

It shall be an offense:

- A. to have an interest in, operate or knowingly act on behalf of a bucket-shop, or knowingly make any transaction with a bucket-shop;
- B. to engage in fraud, bad faith or in conduct or proceedings inconsistent with just and equitable principles of trade;
- C. to engage in dishonest conduct;
- D. to create or report a false or fictitious trade;
- E. to extort or attempt extortion;
- F. to buy or sell any Exchange futures or options contract with the intent to default on such purchase or sale;
- G. to act as both buyer and seller in the same transaction;
- H. to engage in, or attempt to engage in, the manipulation of prices of Exchange futures or options contracts; to corner or squeeze, or attempt to corner or squeeze, the underlying cash market; or to purchase or sell, or offer to purchase or sell Exchange futures or options contracts, or any underlying commodities or securities, for the purpose of upsetting the equilibrium of the market or creating a condition in which prices do not or will not reflect fair market values;
- I. to make a verbal or written material misstatement to the Board, a committee, or Exchange employees;
- J. to knowingly disseminate false, misleading or inaccurate information concerning crop or market information or conditions that affect or may affect the price of any Exchange futures or options contract or spot transaction in the underlying commodity;
- K. to trade or accept performance bonds after insolvency;
- L.
 - 1. to fail to appear before the Board, Exchange staff or any investigative or hearing committee at a duly convened hearing or in connection with any investigation;
 - 2. to fail to fully answer all questions and produce all books and records at such hearing or in connection with any investigation, or to make false statements;
 - 3. to fail to produce any books or records requested by Exchange staff in connection with an investigation within 10 days after such request is made or such shorter period of time as determined by the ~~Compliance~~Market Regulation Department in exigent circumstances or to fail to appear at a scheduled staff interview;
- M. to use or disclose, for any purpose other than the performance of an individual's official duties as a member of any committee or the Board of Directors, any non-public information obtained by reason of participating in any Board of Directors or committee meeting or hearing;
- N. to knowingly accept, directly or indirectly, a trade on the Exchange for the account of a non-member employed on the floor of the Exchange;
- O. for a Member to permit the use of its facilities or membership privileges in a manner that is detrimental to the interest or welfare of the Exchange or results in a violation of Exchange Rules or the Commodity Exchange Act;
- P. for a Clearing Member to fail to maintain minimum financial requirements;
- Q. to commit an act which is detrimental to the interest or welfare of the Exchange or to engage in any conduct which tends to impair the dignity or good name of the Exchange;
- R. to fail to submit to arbitration any dispute which Exchange staff, an arbitration panel or the Board decides should be arbitrated pursuant to Chapter 6A; or to fail to comply with a final arbitration award;
- S. to fail, after hearing, to comply with an order of the Board, Exchange staff or any hearing committee;
- T. to engage in dishonorable or uncommercial conduct;
- U. except where a power of attorney or similar document has been executed pursuant to Rule 956, for a Member to accept or transmit a customer order which has not been specifically authorized, i.e.,

- the customer has not specified commodity, contract month, quantity, time and price;
- V. to be expelled from a U.S. or foreign designated commodities or securities exchange;
- W. for a Member to fail to diligently supervise its employees and agents in the conduct of their business relating to the Exchange;
- X. for a Member to aid or abet the commission of any offense against the Exchange;
- Y. to improperly use the Globex platform or any electronic trading or clearing platform owned or controlled by CME Group or permit the unauthorized use of such platforms; and/or
- Z. for a Member to fail to disclose to the Exchange and his qualifying Clearing Member that an involuntary bankruptcy petition has been filed against him or, in the case of a voluntary bankruptcy proceeding, that he has filed or has formed a definite intention to file for bankruptcy.

433. FAILURE TO SUPERVISE – STRICT LIABILITY

Pursuant to Section 2(a)(1)(B) of the Commodity Exchange Act, and notwithstanding Rule 432.W., the act, omission, or failure of any official, agent, or other person acting for any Member within the scope of his employment or office shall be deemed the act, omission or failure of the Member, as well as of the official, agent or other person who committed the act.

434. [RESERVED]

435. EFFECT OF SUSPENSION OR EXPULSION

The effects of a suspension or expulsion from membership shall apply to all CME Group markets in which the suspended or expelled member has membership privileges.

Unless otherwise determined by the committee with jurisdiction over such matters, a suspended or expelled Member shall not be entitled to any of the privileges of membership during the period of such suspension or expulsion, including, but not limited to, the right to:

- A. access to any trading floor owned or controlled by CME Group;
- B. access the Globex platform or any other electronic trading or clearing platform owned or controlled by CME Group;
- C. obtain member rates;
- D. any applicable cross-exchange trading privileges; and
- E. lease out an owned membership.

436. [RESERVED]

437. NOTICE OF DISCIPLINE

Notice, in accordance with Section 8c(a)(2) of the Commodity Exchange Act, shall be made available to an internet accessible computer database at the National Futures Association and shall be provided to any Member who is suspended, expelled, disciplined or denied access to the Exchange within 30 days after the decision becomes final. Additionally, a written notice shall be posted on the floor of the Exchange for five business days promptly after the disciplinary action becomes effective. The notice shall include the Member's name, the rule(s) violated, the reason for the Exchange's action, and the action taken or penalty imposed.

438. [RESERVED]

439. MEMBER'S INDEMNIFICATION LIABILITY

A Member or former Member shall indemnify and hold harmless the Exchange and CME Group, Inc., including each of their respective subsidiaries and affiliates (collectively, the indemnified parties) and their officers, directors, employees, and agents, for any and all losses, damages, costs and expenses (including attorneys' fees) incurred by the indemnified parties as a result (directly or indirectly) of such Member's violation or alleged violation of Exchange rules or state or federal law.

Any charges arising out of this rule shall be subject to liens as provided in Rule 440(a)~~2.69B(1)~~.

440. CLAIMS BY MEMBERS

A Member who commences a legal action against the Exchange, its directors, officers, employees, or agents, or another Member of the Exchange without first resorting to and exhausting the ~~procedures established by Rule 110 and the mandatory arbitration provisions of Chapter 6A~~ (including appeals to the Board), or any other rules relating to settlement of disputes arising out of transactions or matters pertaining to the Exchange, shall be deemed to have committed an act detrimental to the interest or welfare of the Exchange. This rule shall not abrogate an individual's right to reparations pursuant to

Section 14 of the Commodity Exchange Act.

A Member who commences a legal action against the Exchange, its directors, officers, employees, or agents, after he has exhausted all of the procedures established by the Exchange, may be found to have committed an act detrimental to the interest or welfare of the Exchange in the event that at hearing the Board or the BCC determines that the Member's action was not meritorious or warranted.

441. COMMUNICATIONS WITH THE PUBLIC AND PROMOTIONAL MATERIAL

Promotional material and similar information issued by Members shall comply with the requirements of National Futures Association Rule 2-29, as amended.

442. NOTIFICATION OF SIGNIFICANT EVENTS

Each Member shall immediately notify the ~~Compliance~~Market Regulation Department in writing upon becoming aware of any of the following events relating to such Member:

1. any suspension, expulsion, revocation or restriction of such Member's trading privileges or any fine in excess of \$25,000, through an adverse determination, voluntary settlement or otherwise, by any court, commodity or securities exchange or related clearing organization, the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, the National Futures Association, the National Association of Securities Dealers, Inc., or any self-regulatory or regulatory organization;
2. any indictment of the Member or any of its officers for, any conviction of the Member or any of its officers of, or any confession of guilt or plea of guilty or nolo contendere by the Member or any of its officers to 1) any felony or 2) any misdemeanor involving, arising from, or related to the purchase or sale of any commodity, security, futures contract, option or other financial instrument or involving or arising from fraud or moral turpitude; and/or
3. any involuntary bankruptcy petition that has been filed against such Member, or in the case of a voluntary bankruptcy proceeding, when such Member has filed or has formed a definite intention to file for bankruptcy.

Nothing in this rule shall limit or negate any other reporting obligations that any member may have to the Exchange or any other regulator or person.

443. RESERVED POSITION LIMIT VIOLATIONS

~~The Market Regulation Department and the BCC shall have the authority to enforce the position limit rules of the Exchange. For purposes of this rule, any positions in excess of those permitted under the rules of the Exchange shall be deemed position limit violations. Additionally, any person making a bid or offer that would, if accepted, cause such person to exceed the applicable position limits shall be in violation of this rule.~~

~~A customer who exceeds the position limits as a result of maintaining positions at more than one clearing member shall be deemed to have waived confidentiality regarding his position and the identity of the clearing members at which they are maintained.~~

~~A clearing member will not be in violation of this rule if it carries positions for its customers in excess of the applicable position limits for such reasonable period of time as the firm may require to discover and liquidate the excess positions or, if applicable, to file the appropriate hedge or exemption statements for the customer accounts in question. For the purposes of this rule, a reasonable period of time shall generally not exceed one business day.~~

~~In addition to any other sanctions imposed pursuant to this rule, the failure to reduce any positions as instructed by the Market Regulation Department shall result in the imposition of automatic fines in accordance with the fine schedule maintained by the Market Regulation Department. Sanctions issued pursuant to this rule may be appealed to the BCC which may modify or overturn the sanction for good cause shown.~~

443.A. First Violation

~~The first violation of a position limit may result in a warning letter to be issued by the Market Regulation Department to the customers and Members, including the associated persons and/or clearing firms involved.~~

443.B. Subsequent Violations Following a Warning Letter

~~A subsequent position limit violation within 12 months of the issuance of a warning letter may result in the issuance of a cease and desist order by the Market Regulation Department to the Members, including the associated persons and/or clearing members involved. A notice of such cease and desist order shall be posted.~~

If a customer exceeds the position limits after having received a warning letter for a previous violation of this rule, the customer will be issued a second warning letter, with copies sent to the appropriate parties.

443.C. Referral to the Probable Cause Committee

Any third, subsequent and/or egregious position limit violation may be referred by the Market Regulation Department to the PCC for consideration of the issuance of charges.

443.D. Alternate Risk Factor Evaluation

If a position that includes options exceeds position limits for passive reasons such as a market move or exercise assignment, the person who owns or controls such position shall be allowed one business day to liquidate the excess position without being considered in violation of the limits. In addition, if at the close of trading, a position that includes options exceeds position limits when evaluated using the previous day's delta factors, but does not exceed the limits when evaluated using the delta factors of that day's close of trading, then the position shall not constitute a position limit violation.

444. SANCTIONS AND RESTITUTION ORDERS

Members and Member Firms may, subject to a determination by the sanctioning entity, be liable for unpaid fines or unpaid restitution orders imposed upon their employees.

445. GIVING AND RECEIVING OF GRATUITIES

A member, member firm, broker association, trading group or an employee of any of the foregoing may not give, directly or indirectly, to any employee of another member, member firm, broker association or trading group any gratuities or gifts with an aggregate market value in excess of \$100 within any twelve-month period.

This rule applies notwithstanding any internal policy of an entity that allows for gifts in excess of \$100. The requirements of this rule apply to both the providers and the recipients of such gifts and gratuities.

446. CLERK REGISTRATION, TRADING BADGES, ACCESS TO THE TRADING FLOOR AND DISCIPLINARY JURISDICTION

446.A. Registration

Members and Member Firms shall register clerks with the Membership Department on a form provided by the Exchange ("Application"), which must be executed by the employer of the clerk and the clerk, prior to the clerk being granted access to the Exchange trading floor.

Any changes in the information contained in the Application shall be reported by the member or Member Firm to the Membership Department, within five business days of such change.

446.B. Bylaws and Rules of the Exchange

A clerk shall certify in the Application that he will abide by the Bylaws and Rules of the Exchange.

446.C. Clerk Training Course Requirements

Upon notice from the Membership Department, a clerk must take either an examination or successfully complete a clerk training course, inclusive of an examination ("Course"), to be administered by the Exchange staff.

The following are exceptions to the previous paragraph:

1. A clerk who, anytime within the year immediately preceding registration as a clerk, served as a floor broker on the Exchange he is registering for, shall be exempt from these clerk training requirements;
2. A clerk who, anytime within the year immediately preceding registration as a clerk, worked as a floor broker on a commodity exchange other than the Exchange he is registering for, may, in lieu of attending the Course, take the next examination and computer training course offered by that Exchange;
3. A clerk who, immediately preceding registration as a clerk, worked three months or more as a clerk on the trading floor of a commodity exchange other than the Exchange he is registering for, may, in lieu of attending the Course, take the next examination and computer training course offered by that Exchange; or
4. For good cause shown, Exchange staff may waive any part, or all, of the Course or examination requirements for any clerk who, at any time within the last year, has worked three months or more on the trading floor of any other commodity exchange. Notwithstanding an exemption by Exchange staff, all clerks must attend computer training on the Exchange he is registering for.

If a clerk who is required to take an examination fails to pass such examination, he must, within one

week of being notified that he failed the examination, retake the examination or attend the next Course. If a clerk fails to take either the next examination or the next Course, as directed by the Membership Department, he shall be excluded from the trading floor, and his clerk badge shall be revoked, until such time as he either passes the examination, or successfully completes the Course.

If a clerk, who is required to attend the next Course fails to complete the Course, he will be prohibited from taking the examination to be administered at the conclusion of the Course and will immediately be excluded from the trading floor, and his clerk badge shall be revoked, until such time as he attends and successfully completes another Course.

If a clerk, who is required to attend the next Course fails to pass the examination administered at the conclusion of the Course and fails to take or pass a second examination, the clerk shall be excluded from the trading floor and his clerk badge shall be revoked, until such time as he successfully completes another Course.

Except as provided in subparagraphs 446.C.1.-446.C.4., a clerk who registers with the Membership Department to work at both NYMEX and COMEX simultaneously will be required to successfully complete the Course for each Exchange.

446.D. Clerk Badges

Upon registration of a clerk, a temporary clerk badge will be issued by the Membership Department. Thereafter, upon successful completion of the Course as provided by this rule, the Membership Department will authorize the issuance of a permanent clerk badge, which will grant the clerk access to the trading floor. The clerk badge shall be worn so as to be easily identifiable by the Floor Committee or designated Exchange staff at all times the clerk is on the trading floor. Failure to wear such badge, or to wear the badge in a manner not easily identifiable, may result in the issuance of a fine by the Floor Committee or designated Exchange staff against the clerk and suspension from the trading floor until the fine is paid and the badge displayed. Notice of such fine shall also be given to the Member or Member Firm that employs the clerk. The Member or Member Firm that employs the clerk shall be responsible for the payment of such fine if the clerk defaults in its payment.

446.E. Disciplinary Actions

Any clerk who is not properly registered with the Exchange as provided by this rule shall be subject to disciplinary action in accordance with the provisions of this Chapter 4 and shall also be personally liable for a summary fine of \$100 per business day for each day of non-compliance with this rule. The fine will be assessed by the Floor Committee or designated Exchange staff and shall be issued to the clerk personally. Upon service of a summons for a fine, a clerk shall be immediately excluded from the trading floor until payment of the fine is made to the Exchange and registration completed. Three violations of this rule within one calendar year is sufficient cause for the Chief Regulatory Officer or his designee to summarily revoke the clerk's registration status.

No clerk may trade for himself or any person or entity in any contract traded on or cleared by the Exchange.

The Chief Regulatory Officer or his designee shall have the power and authority to inquire into and to investigate the employment and conduct of, and functions performed by all clerks employed by Members and Member Firms. The Chief Regulatory Officer or his designee shall also have the power to summarily deny or summarily revoke a clerk's registration for conduct detrimental to the Exchange, including but not limited to, not being on the payroll of the Member or Member Firm, or not functioning as a bona fide clerk.

446.F. Clerk Termination or Revocation, Return of Badge

A Member or Member Firm shall report the termination of employment of any clerk, and return the Clerk's Badge, to the Membership Department within one business day of such date of termination.

A Member or Member Firm shall return a Clerk's Badge to the Membership Department within one business day of the revocation of a clerk's registration as determined by the Chief Regulatory Officer or his designee as provided for in subparagraph (E)(5).

Failure to return such badge may result in the issuance of a summary fine against the Member or Member Firm in the amount of \$100 per business day for each day of non-compliance with this rule.

446.G. Billing for Clerk Services

Any bill for services rendered on the trading floor shall be issued in the name of, or as payable to, a Member or Member Firm. For the purposes of this rule, the terms "Member" and "Member Firm" shall include COMEX Members who have NYMEX trading privileges.

447. MEMBER AND MEMBER FIRM RESPONSIBILITY

Notwithstanding any fine assessed pursuant to Rule 445, a Member or Member Firm whose clerk is not

properly registered with the Exchange shall be liable for a summary fine of \$250 per business day for each day the clerk is not so registered. The fine shall be paid to the Exchange upon service of an assessment from the Floor Committee or the Compliance Department as agent. Three violations of this rule within one calendar year is sufficient cause for formal disciplinary action to be taken.

448. AUDIT TRAIL VIOLATIONS

If the Compliance Department determines that a Member has failed to comply with any provision of NYMEX Rule 6.90 or that a COMEX Division Member has failed to comply with any of the provisions of COMEX Rules 104.80 or 104.81, it may summarily take the following actions:

1. A Letter of Warning may be issued for a first infraction, informing the Member that there was a rule violation;
2. A second infraction in a 12 month period may subject the Member to a \$100.00 summary fine;
3. A third infraction in an 18 month period may subject the Member to a \$500.00 summary fine;
4. A fourth infraction in a 24 month period will be sufficient basis for a Compliance Department referral to the Probable Cause Committee for consideration of charges.

This rule will not apply when the Compliance Department determines that a Member has committed a substantive violation of Exchange rules in addition to a trading card infraction.

449. FLOOR ORDER TICKET REVIEWS – SUMMARY VIOLATIONS

If the Compliance Department determines that a NYMEX clearing firm, member firm or floor brokerage operation has failed to comply with NYMEX Rule 6.18(A)(i) or (ii), or that a COMEX clearing firm, member firm or floor brokerage group has failed to comply with COMEX Rules 104.80 or 104.81 with respect to the preparation of floor order tickets, by achieving a compliance rate of 89% or lower, it may summarily implement disciplinary procedures as follows.

After an initial review, the Compliance Department may impose fines corresponding to the following rates of compliance:

<u>89-80%</u>	<u>\$100</u>
<u>79-70%</u>	<u>\$250</u>
<u>69-60%</u>	<u>\$500</u>
<u>59% and Below</u>	<u>\$1,000</u>

If after a second review an entity fails to achieve a passing compliance rate, the Compliance Department may impose a fine in the amount imposed in the initial review under the previous paragraph, plus an additional amount corresponding to their rate of compliance achieved in the second review, as follows:

<u>89-80%</u>	<u>\$100 + amount of fine from first offense</u>
<u>79-70%</u>	<u>\$250 + amount of fine from first offense</u>
<u>69-60%</u>	<u>\$500 + amount of fine from first offense</u>
<u>59% and Below</u>	<u>\$1,000 + amount of fine from first offense</u>

If after a third review an entity fails to achieve a passing compliance rate, the Compliance Department may impose a fine in the amount imposed in the initial review under the previous paragraph, plus an additional amount corresponding to their rate of compliance achieved in the third review, as follows:

<u>89-80%</u>	<u>\$100 + amount of fine from second offense</u>
<u>79-70%</u>	<u>\$250 + amount of fine from second offense</u>
<u>69-60%*</u>	<u>\$500 + amount of fine from second offense</u>
<u>59% and Below*</u>	<u>\$1,000 + amount of fine from second offense</u>

*The Compliance Department may, in its discretion, refer to the Probable Cause Committee for consideration of charges any entity achieving a compliance rate of 69% and below after a third review.

If after a fourth review an entity fails to achieve a passing compliance rate, the Compliance Department may refer the entity to the Probable Cause Committee for consideration of charges.

A fine imposed in accordance with this rule may be appealed to the Business Conduct Committee ("BCC") where the claim originated. To appeal a fine, a Member shall file a typewritten request with the Compliance Department within five (5) business days after receipt of the notice of such fine. The letter of appeal should set forth the reason for the requested appeal and attach any relevant documents. The BCC shall meet at such times as it deems appropriate, and shall reach its decision based upon the letter of appeal and any other documents furnished by the Member subject to the fine with the appeal letter or by the Compliance Department. The BCC in its sole discretion may permit or require personal

appearances by the Member and/or the Compliance Department. The BCC shall affirm, modify or reverse the fine appealed and shall issue its Decision in writing within thirty (30) days of meeting to consider the appeal.

[New Rule 450 below will be adopted on December 1 but will be deleted effective with the December 15 adoption of new Rules 6.01 and 104.03.]

450. REPORTS AND RECORDS

Members must keep full, complete and systematic records, together with all pertinent data and memoranda, of all transactions relating to its business of dealing in commodity futures, options, and cash transactions in accordance with CFTC Regulation 1.35.

(End Chapter 4)

New NYMEX Chapter 6A is marked to show how it differs from CME Chapter 6.

Chapter 6A Arbitration

JURISDICTION

6A.00 DISPUTES SUBJECT TO CME ARBITRATION

6A.00 A. Disputes Among Members

It is contrary to the objectives and policy of the Exchange for members to litigate certain Exchange-related disputes. Disputes between and among members that are described below and that are based upon facts and circumstances that occurred at a time when the parties were members shall be subject to mandatory arbitration in accordance with the rules of this Chapter:

1. claims between members that relate to or arise out of any transaction on or subject to the rules of the Exchange;
2. claims between or among members relating to ownership of, or interests in, trading rights on the Exchange; and
3. claims between members relating to the enforceability of:
 - a. non-compete clauses to the extent they relate to the Exchange,
 - b. terms of employment on the trading floor, and
 - c. financial arrangements relating to the resolution of error trades in Exchange products that are included in any employment agreement entered into on or after August 1, 1998.

Nothing in this rule, however, shall require a member employee to submit to arbitration any claim that includes allegations of a violation of federal, state or local employment discrimination, wage payment or benefits laws.

6A.00 B. Disputes Between Members and Certain Non-Member Employees

The enforceability of the following provisions of an employment agreement entered into on or after August 1, 1998, between a member and a non-member employee registered pursuant to Rule 5046.30 shall be subject to mandatory arbitration in accordance with the rules of this Chapter:

1. non-compete clauses to the extent that they relate to the Exchange; and
2. terms of employment on the trading floor.

Nothing in this rule, however, shall require a non-member employee to submit to arbitration any claim that includes allegations of a violation of federal, state or local employment discrimination, wage payment or benefits laws. A non-member employee shall mean a member's bona fide employee who has been registered by the Exchange to work on the trading floor.

6A.00 C. Claims Against the Exchange

Claims against the Exchange pursuant to the provisions of Rule 11G.578.C., Rule 11G.578.D., Rule

11G.579.C., and/or Rule 11G.587.C. shall be subject to mandatory arbitration in accordance with the rules of this Chapter, provided the claimant has complied with all pre-filing requirements under the applicable rule(s).

6A.00 D. Permissive Arbitrations

The following may be submitted for arbitration at the Exchange and, in the event such a claim is submitted against a member, that member is required to arbitrate the dispute under these rules, unless otherwise provided:

1. claims of a customer against a member that relate to or arise out of any transaction on or subject to the rules of the Exchange;
2. claims against an Exchange clearing member and its Globex user pursuant to Rule 11G.588.C.3.a., b. or c., where the claimant has complied with the provisions of Rule 11G.588.D., and pursuant to Rule 11G.588.C.3.d., provided that any non-member Globex user has consented to arbitration of the dispute at the Exchange within 21 days of receipt of a claim;
3. ~~claims of a customer against a clearing member responsible for the spot-call-delivery performance of a transaction on or subject to the rules of the Exchange and/or against a member in connection with such a transaction~~[Reserved];
4. ~~claims of an SGX member against a member that relate to or arise out of transactions subject to or relating to the Mutual Offset System~~[Reserved];
5. claims of a non-member (other than those claims required to be arbitrated under Rule 6A.00 B) against a member that relate to or arise out of employment on the trading floor;
6. claims by or against an entity whose majority ownership is held by Exchange members and whose principal business relates to activity on or at the Exchange, where the dispute has a material connection to the business or purpose of the Exchange, provided such entity has consented to arbitration of the dispute at the Exchange within 20 days of receipt of a claim; and
7. at the discretion of the Chief Regulatory Officer, any claim involving the interests of the Exchange, its members, their business relations or commodity futures trading in general not otherwise arbitrable under these rules, provided the parties have consented to such arbitration.

6A.00 E. Waiver of Any Objection to Jurisdiction

Any member or non-member who submits a claim or grievance to arbitration or any member who appeals to a hearing committee of the Board from any panel decision, or who takes any steps therein, shall be conclusively presumed to have voluntarily recognized and agreed to the jurisdiction of the panel or hearing committee of the Board to hear and determine the claim or appeal.

6A.00 F. Hearing Panel

Any claim involving only members shall be heard by a Member panel and its decision shall be rendered in accordance with the rules of this Chapter. A Member panel shall mean an arbitration panel consisting of a co-chairman of the Arbitration Committee and five Members as defined in Rule 400.

6A.01 CUSTOMER CLAIMS AGAINST MEMBERS

6A.01 A. Definitions

1. Customer. Customer shall mean any person, not a member of the Exchange, who places an order or for whose account an order is placed for execution on the Exchange or who otherwise executes a transaction on or subject to the rules of the Exchange.
2. Claim. Claim shall mean any dispute arising out of any transaction on or subject to the rules of the Exchange, including mutual offset rules.
3. Mixed Panel. Mixed Panel shall mean an arbitration panel consisting of a co-chairman of the Arbitration Committee and five Arbitration Committee members, three of whom shall be persons who are non-members and who are not associated with any member of a contract market, or employee thereof, and are not otherwise associated with a contract market.
4. Member. Member as used in this Chapter shall mean 1) members and clearing members of the Exchange, including retired members with floor access privileges and individuals and entities described in Rule 106; 2) associated persons ("APs") and affiliates of clearing members of the

Exchange; 3) guaranteed introducing brokers of clearing members of the Exchange and their APs; ~~and 4) Exchange permit holders; and 5) individuals and entities that have agreed in writing to comply with the rules of the Exchange.~~

5. Punitive Damages. Punitive damages shall mean an award in excess of actual damages suffered. Punitive damages shall be limited to twice the amount of actual damages and may be awarded only to a customer after a determination that there has been willful and wanton misconduct in the execution or handling of an order by a member or an employee acting on behalf of a member.

6A.01 B. Refusal to Hear Certain Disputes

A chairman may, but shall not be required to, order that a dispute that is otherwise arbitrable under these rules not be arbitrated hereunder if the dispute requires for adjudication the presence of essential witnesses or third parties over whom the Exchange has no jurisdiction or who are not otherwise available, or if the dispute requires the application of the rules of another exchange.

6A.01 C. Initiation of Arbitration

In the event that a complaint is received by the Exchange from a customer, it shall be referred to the ~~ComplianceMarket Regulation~~ Department, which shall inform the customer of alternative dispute settlement forums and, when appropriate, forward to the customer a Consent Form for arbitration at the Exchange. Such form shall inform the customer, by attachment of all pertinent rules, of the customer's rights and liabilities, including costs associated with arbitration, and the option of selecting an arbitration panel consisting of Exchange members or a Mixed Panel to decide the claim and any counterclaims, cross-claims or third-party claims.

A customer who submits a claim for arbitration in accordance with these rules consents thereby to the jurisdiction of the arbitrators and agrees to the arbitration of any counterclaims, cross-claims or third-party claims by any respondent which arise out of the transaction that is the subject of the customer's claim. The claim shall comply with the requirements of Rule 6A.02, and in the case of a request for punitive damages, the claim shall set forth the facts the customer intends to present in support of the claim that the misconduct was willful and wanton.

The customer shall file a completed Consent Form and deposit the arbitration fee with the ~~ComplianceMarket Regulation~~ Department. Notice shall then be given to the member against whom the claim is asserted, who shall respond to the claim in accordance with Rule 6A.03.

6A.01 D. Referral to Arbitration Panel or Mixed Panel

A Customer claim against a member shall be heard by the type of panel selected by the customer and its decision shall be rendered in accordance with the rules of this Chapter. Customer claims (and any counterclaims, cross-claims or third-party claims applicable thereto) that do not exceed \$5,000 and do not include any claim for punitive damages may, in the interests of efficiency and economy, be resolved without hearing. The panel shall render its decision based upon the parties' written submissions and any other relevant information obtained and provided to the panel and the parties at the direction of the chairman and/or the panel.

FILING PROCEDURES

6A.02 INITIATING AN ARBITRATION CLAIM

A claimant may initiate a claim by submitting a written description of the dispute, a completed Arbitration Cover Sheet and depositing the appropriate arbitration fee with the ~~ComplianceMarket Regulation~~ Department within the period of eligibility for arbitration claims. The written claim shall include a clear description of the facts and circumstances involved in the dispute, including the transaction(s) or agreement(s) complained of, the names of the persons and firms alleged to be responsible for any loss to the claimant, the dates of all acts or omissions relevant to the claim, a detailed calculation of the amount claimed and any other information necessary to fully describe the dispute.

The ~~ComplianceMarket Regulation~~ Department shall reject for filing any claim that does not fully describe the dispute, is clearly filed after the period of eligibility has expired or is clearly not arbitrable at the Exchange. Such a claim will be promptly returned to the filing party with a notice describing the deficiency. A claimant seeking to correct the deficiency and file an amended claim may do so within 30 days of receiving notice describing the deficiency despite any expiration of the period of eligibility prescribed by Rule 6A.09 during that 30-day period. The acceptance for filing by the ~~ComplianceMarket Regulation~~ Department shall not preclude a challenge to the arbitrability of the claim nor create a presumption that the claim is arbitrable.

6A.03 ANSWERING AN ARBITRATION CLAIM

Each respondent shall file a written response within 21 days after receipt of the written claim. However, if a party has timely filed a challenge to the arbitrability of the dispute, its response shall be due 21 days after receipt of the written decision confirming the arbitrability of the dispute.

The written answer must admit the claim or describe the respondent's basis for denying liability to the claimant(s). The answer may include an admission or denial of each specific allegation contained in the claim and/or the respondent's narrative description of the facts and circumstances involved in the dispute. A respondent may assert in an answer any defense that would be available in a court of law or equity, including any affirmative defense.

6A.04 FAILURE TO ANSWER

A respondent's unexcused failure to file a timely answer shall constitute an admission of the facts alleged in a claim.

6A.05 COUNTERCLAIMS, CROSS-CLAIMS AND THIRD-PARTY CLAIMS

A respondent may assert any counterclaim, cross-claim and/or third-party claim to the extent such claim would be allowable as an original claim under these rules and, in response to claims by a customer against a member, the member may assert any counterclaim, cross-claim and/or third-party claim arising out of the same transaction or incident that is the subject of the customer's claim. Each respondent must file any counterclaim, cross-claim or third-party claim at the same time an answer to a claim is due. Initiating counterclaims, cross-claims, third-party claims and answers thereto shall conform to the requirements for initiating and answering original claims.

A respondent who believes that another member may have a claim to any money or property which is the subject of a dispute in arbitration and that the failure of that other member to assert a claim in the pending arbitration could prejudice the interests of the respondent may submit a request to the chairman to compel the participation of the other member. If a member fails to file such claim after being ordered to assert that claim in the pending arbitration, then notwithstanding any other rule, that member shall be barred from asserting in the future any claim against the respondent that is based on the same transaction, occurrence or subject.

6A.06 REVIEW OF ARBITRABILITY

Any party may file a challenge to the arbitrability of a dispute submitted for arbitration at the Exchange. A party's failure to file a timely challenge to arbitrability shall waive any right to object thereafter to the arbitrability of the dispute.

A challenge to arbitrability by a claimant must be filed no later than 5 days after the claim is submitted for arbitration. A challenge to arbitrability by a respondent must be filed no later than 10 days after the respondent has received notice of the claim. The request must be in writing and state the reasons why the dispute is not arbitrable at the Exchange. Any other party may file a written response in support of or opposition to the challenge no later than 10 days after receiving notice of the challenge to arbitrability.

The chairman may decide the arbitrability of a dispute based on his consideration of the written submissions of the parties. The chairman's decision shall be final and is not appealable.

6A.07 CONSOLIDATION OF ARBITRATION DISPUTES

If a chairman receives notice that two or more arbitration disputes pending at the Exchange are related, the chairman may order that any or all of the disputes be consolidated for purposes of conducting a hearing on the disputes. In determining whether to consolidate the disputes the chairman may consider the efficiencies of consolidation as well as the burdens and benefits to the parties in consolidating the disputes.

6A.08 WITHDRAWAL OF CLAIMS

- A. A party may voluntarily withdraw its claim, counterclaim, cross-claim or third-party claim without prejudice at any time before an answer thereto has been filed by notifying the ComplianceMarket Regulation Department in writing of such withdrawal.
- B. After an answer to any claim, counterclaim, cross-claim or third-party claim has been filed, the claimant seeking to withdraw the claim, counterclaim, cross-claim or third-party claim must submit to the chairman a written request to withdraw with prejudice or upon such terms and conditions as may be imposed by the chairman.
- C. A withdrawal with prejudice under this rule shall bar the claimant from re-filing any claim based on the same acts, transactions or omissions as the dismissed claim.

6A.09 PERIOD OF ELIGIBILITY FOR ARBITRATION

An arbitration must be initiated within two years of the date the claimant knew or should have known of the dispute on which the claim is based, except that claims filed pursuant to Rule 6A.00 C. must be submitted within 10 days of receiving notice that the Exchange has refused to compensate the claimant for the claimed loss.

Counterclaims, cross-claims and third-party claims must be submitted no later than the date on which the answer is due.

6A.10 PARALLEL PROCEEDINGS

No claim will be accepted for arbitration at the Exchange if the ~~ComplianceMarket Regulation~~ Department receives notice that another arbitration, reparations action or civil court proceeding based on the same act, transaction or omission as the arbitration claim is pending at the time of filing.

No claim, counterclaim, cross-claim or third party-claim will be accepted for arbitration against a respondent if the ~~ComplianceMarket Regulation~~ Department has received notice that a stay exists due to the pendency of any bankruptcy proceeding against that respondent. If such a stay arises after a claim is accepted for arbitration or if the ~~ComplianceMarket Regulation~~ Department subsequently learns that such a stay is pending, the claim shall be dismissed without prejudice as to each respondent who is the subject of the stay. Nothing in this rule shall prevent a claim in arbitration from proceeding against any remaining respondent.

PRE-HEARING PROCEDURES

6A.11 REQUESTS FOR DOCUMENTS, INFORMATION OR TESTIMONY

A. The initial schedule for document requests by parties and responses will be set by the ~~ComplianceMarket Regulation~~ Department. The chairman may require any member, or any person employed by or associated with a member to produce relevant documents in his possession or control at any time after a claim has been filed.

Upon the failure of a party or member to voluntarily produce relevant documents in its possession or control upon request by a party, the party seeking the documents may submit a written request to the chairman for an order compelling the production of such documents.

1. Any request for an order compelling production of documents must:
 - a. identify each document or type of document sought with as much specificity as possible;
 - b. explain the relevance of each document or type of document sought; and
 - c. include a representation that the requesting party has attempted to obtain the documents from the responding party before resorting to a request to the chairman.
 2. The party or member against whom an order compelling production is sought shall:
 - a. produce copies of the requested documents to the requesting party and the Exchange; or
 - b. represent in writing that the documents are not in his possession or control and explain the basis for such representation, and, if applicable, identify who is in possession or control of the requested documents; or
 - c. object in writing to a request and provide the basis for each objection.
- B. In connection with any claim, counterclaim, cross-claim or third-party claim that seeks relief in excess of \$50,000, any party may seek leave from the chairman to serve written requests for information on any other party. The chairman shall have discretion to determine whether and under what circumstances such requests may be permitted.
- C. The chairman may require any member, or any person employed by or associated with a member, to appear and to testify at a hearing.
- D. Whenever such production or appearance results from the request of a party, all reasonable costs and expenses incurred shall be borne by the party making the request, unless directed otherwise by the panel. A party who incurs costs and expenses recoverable under this rule may, no later than the close of the last hearing date in the matter, submit an application to the panel for such costs and expenses. Such application shall contain a detailed explanation of amounts claimed. The panel may grant or deny all or any portion of the application.

- E. Any member or employee thereof failing to appear, testify, produce documents or provide information in accordance with this rule may be charged with a violation of Rule 432.

6A.12 DOCUMENTS AND WITNESSES TO BE PRESENTED AT HEARING

No later than 10 business days prior to the first scheduled hearing, each party must provide every other party and the Exchange with copies of all documents that the party intends to offer into evidence and a list of the names of all witnesses, including party-witnesses, who the party intends to call at the hearing in support of a claim or defense. Parties are not required under this rule to provide copies of those documents that they may use, or to identify any witnesses whom they may call, only in cross-examination or rebuttal.

6A.13 ADDITIONAL PROCEDURES

The chairman may establish any procedures not otherwise contemplated by these rules necessary to establish a just, equitable and efficient method of resolving a particular dispute, except that the chairman may not decide a motion to dismiss a claim, as motions to dismiss are not permitted under these rules.

HEARINGS

6A.14 ARBITRATION PANEL

6A.14 A. Appointment of Arbitration Panel

The ~~ComplianceMarket Regulation~~ Department shall select a panel of arbitrators from the Exchange's Arbitration Committee to hear and decide a dispute. The panel shall consist of five arbitrators and one chairman.

6A.14 B. Requests to Remove an Arbitrator

1. Each party may request the removal of any arbitrator(s) from a panel for good cause shown. Such request must be made no later than the start of testimony at the first scheduled hearing. Failure of a party to timely request the removal of any arbitrator(s) will be deemed a waiver of that party's right to any further objection to the arbitrator's participation in the hearing and decision of the dispute.
2. The chairman, after considering a request to remove an arbitrator, another party's objections thereto and/or the statements of an arbitrator whose removal is sought, may deny the request or excuse the arbitrator. The chairman's decision shall be final and may not be appealed.
3. If an arbitrator is excused prior to the date of the first scheduled hearing, the ~~ComplianceMarket Regulation~~ Department shall select another Arbitration Committee member to replace the excused arbitrator at the hearing. Parties may make any appropriate request for the removal of the replacement arbitrator under this rule.
4. If an arbitrator is excused on or after the date of the first scheduled hearing, the dispute may, at the election of the non-requesting party and with the consent of the chairman be heard and decided by the remaining arbitrators.

6A.15 HEARING PROCEDURES

6A.15 A. Chairman

The panel chairman shall preside over the proceeding and shall make such determinations on relevancy and procedure as will promote a fair and expeditious adjudication of any claim. The chairman may administer oaths or affirmations by witnesses. Upon request of the panel chairman, the ~~ComplianceMarket Regulation~~ Department shall submit any documents to the panel and parties in the Exchange's possession that are relevant and readily available.

6A.15 B. Arbitrators

The arbitration panel shall consider all relevant, probative testimony and documents submitted by the parties. The panel shall be the sole judge of the law and the facts, but if the panel is in doubt as to any questions of law, it may refer the question to Exchange legal counsel for an opinion. The panel shall not be bound by the formal rules of evidence. The final decision of the panel shall be by majority vote of the arbitrators, and the chairman shall vote only to resolve a tie.

6A.15 C. Parties and their Representatives

Each party and his representative has the right to examine all relevant documents prior to and during

the hearing, to present all relevant evidence in support of a claim or defense or as rebuttal to a claim or defense, and to question during the hearing witnesses presented in connection with a claim or defense. An entity may have one corporate representative of the entity, in addition to any counsel of record, attend the arbitration hearing. Such corporate representative will not be precluded from testifying in the matter.

6A.15 D. Witnesses

All testimony offered to the panel will be under oath or affirmation. Witnesses will be permitted in the hearing room only while providing testimony to the panel. Witnesses shall testify in person at the hearing, except that for good cause shown and in the discretion of the chairman, a witness may be allowed to testify by telephone or other appropriate means.

6A.15 E. Hearing Record

An audio recording of the proceeding shall be made and maintained until the decision becomes final. A verbatim record of such recording shall not be transcribed unless requested by a party, who shall bear the cost of transcription.

DECISIONS

6A.16 AWARDS

6A.16 A. Decision by Panel

After a hearing, or, on customer claims that do not exceed \$5,000 upon consideration of the pleadings and other relevant information, the arbitration panel shall issue a written decision signed by the panel chairman and at least a majority of the panel. The panel may decide any matter in controversy and issue any order the panel deems necessary to fully resolve the dispute. The ~~ComplianceMarket Regulation~~ Department shall promptly serve copies on all parties. A monetary award made by the panel may include the following:

1. actual damages;
2. interest thereon;
3. punitive damages of no more than two times the amount of actual damages in accordance with Rule 6A.01.A.5.;
4. the arbitration fee incurred by a prevailing party, or a portion thereof; and
5. all or any portion of the administrative costs of the proceeding and any other reasonable and necessary expenses, including, but not limited to, attorneys' fees (a) incurred by a party by reason of another party's frivolous or bad faith claim, defense, or conduct during the arbitration or (b) where a statutory or contractual basis exists for awarding such fees. Requests for attorneys' fees and costs incurred in the arbitration proceeding must be raised in the proceeding or they are waived.

6A.16 B. Decision by the Chairman

The chairman may order a party who fails to prosecute or defend a claim to pay to the Exchange all or a portion of its administrative costs incurred in connection with the arbitration claim.

6A.16 C. Limitations on Monetary Awards

Monetary awards in claims filed pursuant to Rule 6A.21 shall be limited as set forth in Rule 11G.578.

6A.17 CORRECTION OF AWARD

Any party may, within three days after receipt of the notice of decision, request the arbitration panel to modify or correct its decision where there has been an obvious material miscalculation or misdescription or where the notice is imperfect in a matter of form not affecting the merits of the dispute or decision.

6A.18 SATISFACTION OF AWARD

A party directed to pay an award shall submit payment of the amount due directly to the party receiving the award. An arbitration award must be satisfied within 15 days of receipt of the notice of decision. If a request is made to correct an award pursuant to Rule 6A.17, the award must be satisfied within 15 days of receipt of the corrected notice of decision.

A party making payment must submit proof of payment to the ~~ComplianceMarket Regulation~~ Department no later than the business day following payment. An individual member who fails to

provide proof of payment within the time prescribed will forfeit the privileges of access to the trading floor, access to the Globex trading platform and preferred fee treatment until proof of payment has been provided. An entity member that fails to provide proof of payment within the time prescribed will forfeit preferred fee treatment for its proprietary trading. Any member that fails to pay an arbitration award within the time prescribed may be subject to sanctions pursuant to Rule 432.R.

APPEALS

6A.19 APPEAL

Any decision rendered in a dispute among members resulting in a non-cash award or involving a claim, counterclaim, cross-claim or third-party claim that sought a recovery over \$10,000 may be appealed to a hearing committee of the Board. All other decisions rendered by an arbitration panel are final and may not be appealed. In order to appeal a decision, a party must, within three business days of receipt of the notice of decision, file with the ~~ComplianceMarket Regulation~~ Department a written notice stating the grounds for the appeal based upon the standards set forth in Rule 6A.20 and deposit the applicable fee established by the Exchange. Within 15 days of receipt of the notice of decision, the appellant must deposit with the ~~ComplianceMarket Regulation~~ Department a cashier's or certified check payable to CME Group in the amount of any monetary award against such appellant.

Failure to timely comply with these requirements for appeal, when applicable, shall constitute a waiver of any right to appeal and render the arbitrators' decision final and binding.

Within 15 days after filing a notice of appeal, the appellant shall file with the ~~ComplianceMarket Regulation~~ Department any argument and any documents or information that the appellant intends to use in support of the appeal. The appellee shall have 15 days thereafter to file whatever documents or information he intends to rely upon in opposition to the appeal. An extension beyond the 15-day filing period may be granted by the ~~ComplianceMarket Regulation~~ Department upon a showing of good cause. In the case of a non-cash award, the filing of the notice of appeal shall not stay the decision appealed from unless the panel from which the appeal is taken or the Chief Regulatory Officer specifically directs that the decision be stayed.

The appeal shall be heard by a hearing committee of the Board, and the matter shall be heard within 60 days of the end of the appellee's filing period, unless the ~~ComplianceMarket Regulation~~ Department or the chairman of the hearing committee determines that good cause for an extension has been shown. The hearing committee shall consist of three directors appointed by the Chairman of the Board, one of whom the Chairman of the Board shall designate as chairman of the hearing committee. No director may serve on a hearing committee if he has a personal or financial interest in the matter under consideration. A party may strike any member of the hearing committee for good cause shown as determined by the Chief Regulatory Officer, in which event that director shall be excused from hearing the matter. The Chairman of the Board shall then select an alternate participant from the Board. Any meeting of the hearing committee shall require the presence of each director appointed to the committee and shall be conducted by the chairman of the hearing committee. The parties may, upon unanimous consent, waive the right to hearing, and the hearing committee may consider the matter based solely on the parties' written submissions.

6A.20 STANDARDS AND PROCEDURES FOR REVIEW UPON APPEAL

In the following cases, the hearing committee may enter an order amending or vacating the award of the arbitration panel:

- A. Where the award was procured by corruption, fraud or undue means;
- B. Where there was evident partiality or corruption on the part of any of the arbitrators or the chairman;
- C. Where the arbitrators were guilty of misconduct in refusing to hear relevant evidence; or of any other behavior by which the rights of any party have been prejudiced;
- D. Where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the dispute submitted was not made; or
- E. Where the arbitrators acted in manifest disregard of the applicable law, including Exchange rules.

The hearing committee shall consider only the record made before the panel and any other evidence submitted by the parties relevant to A. through E. above. In the event that the hearing committee determines to vacate the award, the matter shall be resubmitted to a new panel of arbitrators for a

rehearing. In the event that the hearing committee amends the award or denies the appeal, such decision of the hearing committee shall be final and binding.

ADDITIONAL CLAIMS

6A.21 CERTAIN CLAIMS AGAINST THE EXCHANGE INVOLVING TRADING SYSTEMS OR SERVICES

6A.21 A. General

All claims arising out of or relating to the following matters shall be arbitrated in accordance with the specific requirements of this Rule 6A.21 and, to the extent not inconsistent with such requirements, the rules of this Chapter:

1. receipt of an incorrect order status or the failure to have received an appropriate order status;
2. the negligence of GCC personnel or any other Exchange staff; or
3. Phantom Orders, as defined in Rule 11G.587.

Nothing in Rules 621 or 622 shall be construed to create a claim against the Exchange, to limit a defense available to the Exchange, or to obviate or modify any limitation of Exchange liability imposed by any other rule.

6A.21 B. Initial Liability Claim and Demand for Arbitration

The initial claim of loss, including a detailed description of any loss suffered, must be made to the Exchange within ten business days of the date of the incident that caused the loss. The Exchange shall have 30 business days to pay or deny the claim in whole or in part. If the Exchange denies the claim in whole or in part, the claimant must file a written demand for arbitration with the ~~Compliance~~ Market Regulation Department within ten business days after the Exchange has notified the claimant of such denial. A claimant's failure to pursue its claim within these time limits shall bar any recovery on such claim.

6A.21 C. Selection of Arbitration Panel

The arbitration panel shall consist of three arbitrators selected from a list of arbitrators maintained by the National Futures Association ("NFA"). The Exchange and the claimant shall each select one arbitrator. If the Exchange and the claimant are unable to agree on the third arbitrator, the President of the NFA or his delegate shall choose the third arbitrator.

6A.21 D. Related Claims

All claims arising out of the same system failure, event or alleged negligent act shall, to the extent practicable in the determination of the chairman, be consolidated for a single hearing.

6A.21 E. Award

Within 30 days of completion of the hearing, the panel shall issue a written decision. The award shall be limited to the lesser of the actual loss or the loss that would have been incurred if the claimant had used its best efforts to mitigate the loss. Punitive damages, loss of profits, loss of use, and indirect, incidental or consequential damages shall not be awarded. The decision of a majority of the panel shall be final and binding, and there shall be no appeal to the Board of Directors. A party may move, within three business days of the award, that the award be corrected to remedy any miscalculation or misdescription or where the award is otherwise imperfect in a matter of form not affecting the merits of the award.

6A.21 F. Satisfaction of Award by Exchange

The Exchange shall satisfy any award against it subject to its limitation of liability rules and the rules respecting proration among claimants where damages allowed for a defined period of time exceed any limit imposed by Exchange rules. The Exchange may delay paying any award until such time as any applicable proration or limitation can be finally calculated.

6A.22 CLAIMS RELATING TO TRADE CANCELLATIONS OR PRICE ADJUSTMENTS

6A.22 A. General

All claims relating to certain price adjustments or trade busts pursuant to Rule 11G.588.C.3.a., b. and c. shall be arbitrated in accordance with the specific requirements of this Rule 6A.22 and, to the extent not inconsistent with such requirements, the rules of this Chapter. All claims pursuant to Rule 11G.588.C.3.d. shall be arbitrated in accordance with the rules of this Chapter.

6A.22 B. Initiation of Claim

Any claim for loss under Rule 11G.588.C.3.a., b. or c. must first be submitted to the Exchange as described in Rule 11G.588.D. Following a denial of liability by a party responsible for a trade bust or price adjustment and by the clearing firm through which the trade was placed as described in Rule 11G.588.D., the dispute shall be referred to arbitration. The Exchange shall administer the arbitration and provide notice to all parties.

The party alleged to have made the trade that caused the trade bust or price adjustment and the clearing firm through which that trade was placed both may be respondents in such arbitration. Any party responsible for a trade bust or price adjustment who is not otherwise subject to arbitration under these rules may voluntarily submit to such arbitration by filing a submission agreement with the Exchange within 21 days of that party's receipt of notice of the referral to arbitration. In the absence of the voluntary submission to arbitration by such party, the arbitration shall proceed solely against the clearing firm through which the trade was placed, and that firm shall be liable for any damages awarded by the panel.

6A.22 C. Selection of Arbitration Panel

All claims under Rule 11G.588.C.3.a., b. and c. shall be heard by a Mixed Panel as defined in Rule 6A.01.A.3.

6A.22 D. Related Claims

All claims arbitrable under this rule that arise out of a trade bust or price adjustment that was caused by the same incident shall, to the extent practicable in the determination of the chairman, be consolidated in a single arbitration.

6A.22 E. Award

Within 30 days of completion of the hearing, the panel shall issue a written decision signed by a majority of the arbitrators.

The total award for a single incident shall not exceed \$500,000. Except as provided below, the claims shall be limited to out-of-pocket losses. If the claimants' allowable losses exceed \$500,000, the amount awarded to each claimant shall be reduced pro rata so that the total award does not exceed \$500,000. Any award shall be made jointly and severally against the respondents. In the event the panel finds the respondent(s) liable for the full amount of the claim (or the capped amount of \$500,000), the panel shall also award the claimants their costs and attorneys fees incurred in connection with arbitrating the claim. Punitive damages, loss of profits, loss of use, and indirect, incidental or consequential damages shall not be awarded. The decision of a majority of the panel shall be final and may not be appealed.

A party may move, within three business days of the award, for an order correcting or modifying the award to remedy any miscalculation or misdescription or where the award is otherwise imperfect in a matter of form not affecting the merits of the award.

MISCELLANEOUS

6A.23 RIGHT TO COUNSEL

Every person is entitled to represent his own interests, be represented by an attorney at law of his choosing and at his own expense who is admitted to practice before the highest court in any State, or be represented by any other non-compensated representative at any stage of an arbitration proceeding at the Exchange. An entity must be represented by an officer or owner of the entity or by an attorney at law.

6A.24 COMPUTATION OF TIME

For the purposes of this Chapter, when a period of time is prescribed by a number of days, and not a specific date, the first day counted for the time prescribed is the day after notice is received or other event giving rise to the period of time occurs. Any submission is due or the time to take action shall lapse by the close of business on the last day counted, unless the last day is a weekend or Exchange holiday, in which case the due date shall be the next following day the Exchange is open for business.

For time periods of five days or less only days the Exchange is open for business will be counted. For all other time periods calendar days will be counted.

6A.25 SUBMISSIONS TO OR COMMUNICATIONS WITH THE PANEL

Any submission for consideration by a chairman or panel must be submitted to the ComplianceMarket Regulation Department with copies simultaneously served on each other party or designated representative of a party.

After a dispute has been submitted for arbitration, a person filing the claim or required to respond to the claim and any person asked to provide documents, information or testimony in connection with such

claim shall not contact any member of a panel appointed to hear the claim for any purpose related to the dispute described by the claim.

6A.26 ARBITRATION FEES

Any person submitting an arbitration claim or appealing a decision of an arbitration panel shall remit the applicable fees as may be determined by the Exchange at the time of submission or appeal, in order for such action to be effective.

ARBITRATION COMMITTEE

6A.27 ARBITRATION COMMITTEE

Each member of the Arbitration Committee shall:

- A. be appointed by the Board Chairman on an annual basis;
- B. pledge to the Exchange that he will not publish, divulge, or make known in any manner any facts or information which may come to his attention while performing his duties as a member of the Arbitration Committee, except when reporting to the Board, or to a committee concerned with such information, or when called upon to respond in any judicial or administrative proceeding;
- C. comply with the standards of the American Bar Association-American Arbitration Association's "Code of Ethics for Arbitrators in Commercial Disputes" which the Exchange hereby adopts as its own code of ethics for arbitrators;
- D. pledge to immediately disclose any matter, relationship or interest with any party or the subject of a dispute which may affect the arbitrator's ability to be, or create the appearance that the arbitrator is not, impartial in deliberating and deciding a dispute; and
- E. promptly give notice to the ~~ComplianceMarket Regulation~~ Department of any ex parte communication directed to such Arbitration Committee member which is prohibited by Rule 6A.25.

(End of Chapter 6)

New NYMEX Chapter 7B contains two rules previously set forth in current NYMEX Chapter 9. The rules in Chapter 7B are marked to show how they differ from the rules in existing NYMEX Chapter 9.

Chapter 7B
Delivery Facilities and Procedures

9.047B.12 Clearing ProcedureMetals Inventory Report

(Q) Metals Inventory Report

Each Clearing Member shall report to the Exchange in the form required by the Clearing House the quantity of deliverable metal warrants, and any changes thereto, owned by the Clearing Member, or held for customers. A report of a change in such information shall be made to the Exchange within one (1) business day of such change.

9.177B.13 Delivery Procedures

Commodities bought or sold on Exchange contracts or on Dubai Mercantile Exchange Limited ("DME") contracts shall be delivered and accepted in accordance with the provisions of ~~this Chapter 8,~~ supplemented by provisions of the rules and delivery procedures of the Exchange and/or of the DME applicable to individual commodities. Any question affecting the handling or delivery or any commodity which is not specifically covered by the ~~Bylaws and Rules~~ may be referred to the Clearing House Committee for determination. All deliveries in fulfillment of Exchange contracts and DME contracts shall be made through the Clearing House in accordance with applicable Rules.

9.18 Delivery Through Clearing House

All deliveries or settlements in fulfillment of listed Exchange contracts and the DME contracts shall be made through the Clearing House in accordance with applicable Bylaws and Rules.

Chapter 8 Clearing House and Performance Bonds

GENERAL

800. CLEARING HOUSE

800.A. CME Clearing House

The Exchange shall utilize the services of the CME Clearing House in order to protect market participants and to maintain the integrity of the contracts traded on or processed through the Exchange. Membership in the Clearing House shall be a right and privilege granted by the Board of Directors which may, from time to time, establish such classes of membership in the Clearing House, together with the duties, rights and privileges thereof, as it deems necessary.

800.B. Dubai Mercantile Exchange Limited

For purposes of these Chapter 8 rules and except as otherwise noted within a particular rule, all references to requirements, conditions or procedures of the Clearing House, shall be deemed to apply to Dubai Mercantile Exchange Limited ("DME") contracts.

The Clearing House, in relation to providing clearing services to the DME for transactions effected on or subject to the rules of the DME, will provide reports and such other information to the DME as may be required for the business operation and regulatory requirements applicable to the DME.

801. MANAGEMENT

The general direction of the Clearing House shall be under the jurisdiction of the Clearing House Risk Committee. The Chief Executive Officer with the approval of the Board shall appoint a President of the Clearing House, who shall be responsible for the daily operation of the Clearing House and the implementation of the rules applicable to the Clearing House. The President of the Clearing House may also delegate authority for certain aspects of the daily operation of the Clearing House to staff of the Clearing House.

Clearing House staff shall adopt, establish, publish and amend from time to time a Clearing House Manual of Operations ("Manual"). This Manual shall contain, among other things, information and directions for preparing trade data, completing prescribed memoranda and meeting other Clearing House requirements. The Manual and amendments thereto shall constitute part of the rules of the Exchange.

802. PROTECTION OF CLEARING HOUSE

802.A. Default by Clearing Member and Other Participating Exchanges

1. Default by Clearing Member

If a Clearing Member of NYMEX, COMEX, CME or CBOT fails promptly to discharge any obligation to the CME Clearing House, it shall be in default. If a Clearing Member is in default, its security deposit (pursuant to Rule 816), its performance bonds on deposit with the Clearing House, the proceeds of the sale of any membership and Class A Shares assigned to it for clearing qualification, and any other assets held by, pledged to or otherwise available to the Clearing House, shall be applied by the Clearing House to discharge the obligation. For purposes of this rule, each default by an individual Clearing Member will be considered a separate default event.

For purposes of this Rule, the positions in the cross-margin account of a Participating Clearing Member or its Cross-Margining Affiliate at a Cross-Margining Clearing Organization, and the performance bond thereon, shall be considered assets of the Participating Clearing Member available to the Exchange to the extent provided in the Cross-Margining Agreement between the Exchange and such Cross-Margining Clearing Organization. A Clearing Member in default shall immediately make up any deficiencies in its security deposit resulting from such default prior to the close of business on the next banking day.

The Clearing Member shall take no action, including but not limited to, attempting to obtain a court order that would interfere with the ability of the Clearing House to so apply such assets and proceeds.

If the security deposit, performance bond, and other assets of a Clearing Member available to the Exchange are insufficient to satisfy all of its obligations to the Clearing House, including all claims against the Clearing House by reason of its substitution for that clearing member pursuant to Rule 804, the Clearing House shall nonetheless pay all such claims, which shall be deemed a loss to it and which shall be a liability of the defaulting Clearing Member to the Exchange, which the Exchange may collect from any other assets of such clearing member or by process of law.

2. Default by Other Participating Exchanges.

If a participating exchange fails to promptly discharge any obligation to the Clearing House arising out of its obligations to the Exchange, such Participating Exchange's letters of credit, performance bonds and other assets available to the Exchange shall be applied by the Clearing House to discharge the obligation.

802.B. Satisfaction of Clearing House Obligations

If the Clearing House is unable to immediately satisfy all claims against it including, but not limited to, costs associated with the liquidation, transfer and managing of positions, arising out of: 1) its substitution (pursuant to Rule 804) for a defaulting Clearing Member or a defaulting participating exchange, or a defaulting partner clearinghouse; 2) a shortfall in a cross-margining program; 3) the failure of a depository, exchange or market apart from the Exchange but whose transactions are cleared pursuant to the provisions of Chapters 8B., 8C., 8D., 8E. and 8F.; or 4) for any other cause, then such claim or obligation shall be met and made good promptly by the use and application of funds from the following sources in the order of priority hereafter listed. Each source of funds set forth below shall be completely exhausted, to the extent practicable, before the next following source is applied.

1. Surplus funds of the Exchange in excess of funds necessary for normal operations.
2. The amount of security deposit required under Rule 816 from all classes of clearing members shall be applied toward meeting said loss, in direct proportion to the total security deposit requirement of each clearing member. Notwithstanding the above, the initial draw under this section 2 of the rule shall be in an amount up to any applicable insurance policy deductible then in place with the Exchange;
3. Proceeds from any default insurance maintained by the Exchange to the extent that such proceeds are available in a timely manner to be applied towards the default.
4. In the event a shortfall continues to exist after the application of the insurance proceeds described in number 3 above, any remaining unused proceeds from the security deposit pool set forth in number 2 above shall then be applied:
5. The balance of the Clearing House loss remaining after application of the above funds shall be assessed against all Clearing Members (excluding any insolvent or defaulting clearing member). Each clearing member (excluding any insolvent or defaulting Clearing Member) shall be subject to an assessment up to an amount that does not exceed 275 percent of such Clearing Member's security deposit requirement.
6. All amounts assessed by the Exchange against a Clearing Member pursuant to this Rule, during the hours in which the Federal Reserve's wire transfer system (Fedwire) is in operation, shall be paid to the Exchange by such Clearing Member prior to the close of the Fedwire on such day. All amounts assessed within one (1) hour prior to the close of Fedwire shall be paid to the Exchange within one (1) hour after Fedwire next opens. While such application of funds shall be mandatory, the detailed implementation of Rule 802.B shall be the responsibility of the Clearing House Committee with the approval of the Board.

Any Clearing Member that does not satisfy an assessment, made pursuant to paragraphs 5 or 6 above, shall be in default. Any Clearing House loss that remains as a result of such default shall be assessed pursuant to paragraph 5.

If a Clearing Member (i) makes payment of all amounts assessed against it pursuant to paragraph 5 or 6 above, (ii) replenishes any applicable deficiency in its security deposit in accordance with Rule 802.D., and (iii) satisfies all other conditions for withdrawal, it may, within five (5) business days of such payments, apply to withdraw from clearing membership. Immediately after the Exchange approves the Clearing Member's withdrawal, the withdrawing Clearing Member shall not be subject to any other assessment pursuant to this Rule. Further, upon the approval of the clearing member's request to withdraw, the security deposit that it has restored shall not be used or applied towards meeting any claim or obligation of the Clearing House pursuant to this Rule and shall be released.

After payment of an assessment pursuant to this Rule, a Clearing Member shall charge other Clearing Members for whom it clears contracts or carries positions on its books to recover their proportional share of the assessment. Such other Clearing Members shall promptly pay the charge.

To the extent that, and irrespective of the fact that, the Exchange has default insurance coverage in effect at the time of an event of default, the Exchange may nevertheless continue to utilize the resources under the priority outlined in Rule 802.B.1, B.2, B.3 and B.5 for immediate liquidity while awaiting any insurance proceeds. Any insurance proceeds so recovered by the Exchange, to the extent not required by the Exchange to cure a default, will be applied to the credit of the non-defaulting Clearing Members.

802.C. Rights of Exchange for Recovery of Loss

If a loss for which Clearing Members or their security deposit proceeds have been assessed is subsequently recovered by the Exchange in whole or in part, the net amount of such recovery shall be credited to such persons or firms (whether or not they are clearing members at the time of recovery) in proportion to the amount of the assessment.

802.D. Security Deposit to be Restored

In the event it shall become necessary to apply all or part of the security deposit or Guaranty Fund to meet obligations to the Clearing House pursuant to Rule 802, Clearing Members shall immediately make good any such deficiency in the security deposit prior to the close of business on the next banking day.

803. LIMITATION OF LIABILITY

The liability of the Clearing House shall be limited to losses resulting from the substitution of the Clearing House upon contracts between clearing members and to losses in connection with substitution of another Participating Exchange for clearing members (i.e., the Mutual Offset System), and to losses in connection with amounts due and owing from a Partner Clearing House. The Clearing House shall not be liable for any other obligations, including but not limited to, obligations of a non-clearing member, obligations of a clearing member to a non-member, obligations of a clearing member to another member of the Clearing House who is acting for him as broker, or obligations to a customer by a clearing member; nor shall the Clearing House become liable to make deliveries to or accept deliveries from a customer of its clearing members.

804. SUBSTITUTION

Except with respect to trades made pursuant to Rules 6.21, 6.21A, 6.21B, 6.21C, 526, 538 and 6.21F and 853, the Clearing House shall, through the process of novation, be substituted as, and assume the position of, seller to the buyer and buyer to the seller of the relevant number of Exchange or Marketplace contracts upon the successful matching of trade data submitted to the Clearing House by the clearing members on the long and short sides of a trade. With respect to contracts that are traded on and matched by another exchange or market, the Clearing House shall be substituted as, and assume the position of, seller to buyer and buyer to seller of the relevant number of such contracts upon matching of trade data submitted to and accepted by the Clearing House.

Upon such substitution, each clearing member shall be deemed to have bought the contracts from or sold the contracts to the Clearing House, as the case may be, and the Clearing House shall have all the rights and be subject to all the liabilities of such member with respect to such transaction. Such substitution shall be effective in law for all purposes.

With regard to trades made pursuant to Rules 6.21, 6.21A, 6.21B, 6.21C, 526, 538 and 6.21F and 853, the Clearing House shall be substituted at the time payment of the first settlement variation and performance bond due for such trades pursuant to Rule 814 is confirmed by the appropriate settlement bank for both members.

805. OPEN POSITIONS

All contracts for the purchase or sale of any product for future delivery shall remain open and in force, and shall continue to be binding upon the original parties until liquidated by offset as provided in Rule 806 or by delivery or failure to perform as provided in the applicable product chapters, Chapter 7.

806. OFFSET PROCESS

When a member buys and sells the same commodity for the same delivery month or a put or call option with the same strike price and expiration month and such contracts are cleared through the Clearing House, the purchases and sales are not automatically offset one against the other unless contrary instructions are provided pursuant to Rule 811. ~~Transactions can only be offset against one another by complying with Rule 811.~~

807. **OPEN LONG-POSITIONS DURING DELIVERY MONTH**

At such times and in such manner as shall be prescribed by the Manual, clearing members shall submit a complete and accurate record of ~~dates of~~ all open purchases and sales for use in ~~making~~ deliveries. Clearing members shall be fully responsible for inventories submitted to the Clearing House. This rule shall not apply to trading in options contracts.

808. **RESERVED NYMEX CLEARPORT® CLEARING: PROCEDURES FOR TRADE SUBMISSION**

(A) Scope of Rule. This rule governs transactions not competitively executed on the Exchange ("Transactions") that are submitted via the NYMEX ClearPort® Clearing Trade Portal ("CPC Trade Portal") for clearing in connection with a contract that is listed on the Exchange for clearing only ("DME Transactions") or listed for trading and clearing on the Exchange ("NYMEX Transactions"). In submitting either a NYMEX or DME transaction to the CPC Trade Portal or in allowing either a NYMEX or DME transaction to be submitted to the CPC Trade Portal, the two parties to the Transaction shall be deemed to have mutually agreed to initiate a process to substitute their transaction for a standardized futures contract listed for trading and clearing on the Exchange. For purposes of this rule, the two principals in either a NYMEX or DME Transaction shall be referenced as the "Parties to the Transaction."

Further, with respect to DME Transactions, any breach of procedures related to this Rule 808 shall be handled pursuant to DME rules and regulations.

(B) Transactions: Compliance with Regulatory Exemptions and Exclusions. Each of the Parties to the NYMEX Transaction shall be responsible for ensuring that the Transaction complies with CFTC regulatory requirements as applicable for such transaction, including as appropriate compliance with the terms of a statutory exemption or exclusion under the Commodity Exchange Act from other CFTC regulation relied upon by the Parties to the Transaction.

(C) Submission of NYMEX and DME Futures and Options. The process of submission of a NYMEX or DME futures or options Transaction shall not be deemed to have been completed unless and until the Parties to the Transaction have successfully concluded the submission of the Transaction to the Exchange (or the DME as appropriate) as an exchange of futures for physicals ("EFP"), an exchange of futures for swaps ("EFS"), an exchange of OTC Option for exchange option ("EOO") or as a Block Trade, as applicable, pursuant to the respective provisions of NYMEX Rules 6.21, 6.21A, 6.21C, 6.21F, COMEX Rules 104.36, 104.36A, 104.36B, 104.36C, DME Rules 6.24 and 6.31, and the provisions of this rule.

(D) Trade Submission Procedures. All transactions submitted to the Exchange pursuant to this rule must be submitted in accordance with the procedures established by the Clearing House for this purpose, as amended from time to time. The Parties to the Transaction and any Party authorized under Section (E) of this Rule with brokering capability ("Broker" or "Brokers") authorized to submit executed transactions on their behalf to the Exchange and authorized for related activities shall be exclusively responsible, both individually and jointly, for accurately confirming the details of the Transaction to the Exchange. Once submitted, all such transactions, subject to the rules for trade adjustments set forth in Section (G) of this Rule, shall be deemed final. Neither the Exchange nor a Clearing Member carrying the account of either party will have any responsibility in the confirmation of trade terms for the Transactions.

(E) Registration of Eligible Participants, Eligible Accounts and Authorized Brokers. Each NYMEX and DME Clearing Member must register with the Exchange in the manner required for any customer authorized by the Clearing Member to submit transactions to the Exchange (or the DME, as appropriate) pursuant to this rule, and must also register with the Exchange the applicable account numbers for each such customer. For each such account, the Clearing Member carrying that account also must submit to the Exchange in the manner provided the name of any Broker(s) who has registered with the Exchange for services provided by the Exchange, and who is authorized by the customer to act on its behalf in the submission of executed transactions to the Exchange and related activity.

For any such Brokers authorized by the customer and submitted to the Exchange by the Clearing Member, such submission by the Clearing Member will not constitute an endorsement or ratification of the customer's authorization of the Broker. Moreover, submission of Brokers authorized by the customer will not mean that the Clearing Member is in privity with, has a relationship with and/or is otherwise standing behind any of the customer's authorized Brokers, and the Clearing Member will have no

responsibility for any such Brokers selected by the customer and no duty or obligation to supervise the activities of any such Brokers.

(F) Establishment of Authorized Commodities and Total Risk Value. For each account number that has been registered with the Exchange pursuant to Section (E) of this rule, a NYMEX and DME Clearing Member also must input into the Exchange's Risk Allocation Value "E-RAV" system authorization indicating the specific commodities for which a Transaction may be submitted to the Exchange pursuant to this rule and the risk value(s) assigned by the Clearing Member for Transactions for that account.

(G) Trade Deletion Procedures for Transactions Submitted via NYMEX ClearPort® Clearing Trade Entry Portal. Following submission of the trade details by Broker (or by Exchange staff as mutually agreed by the Parties to the Transaction), an e-mail will be transmitted to the Parties to the Transaction notifying them that they have been listed as counterparties in a Transaction that has been submitted to the Exchange. Following such submission, a buyer or seller may not unilaterally reject the trade terms previously submitted to the Exchange. However, in order to correct an error resulting from the good faith actions of the Broker or Exchange staff, as applicable, and upon mutual consent of the Parties to the Transaction, Broker or Exchange staff, as applicable, may void the transaction provided, however, that this void response is received by the Exchange within sixty (60) minutes of the time of the initial submission of the Transaction to the Exchange.

(H) Entry of Transactions. For a Transaction submitted to the Exchange pursuant to this rule, such transaction first will be routed to the Exchange's E-RAV Credit Check system. The time of entry of a Transaction into the Exchange's E-RAV system will be recorded by the system and will be used by the Exchange as the time that an E-RAV Credit Check was conducted pursuant to Section (I) below.

(I) Use of E-RAV Credit Check System. The Exchange will conduct an E-RAV Credit Check for each Transaction. The E-RAV Credit Check will confirm whether the Clearing Member carrying that account has authorized that account for Transactions submitted pursuant to this rule in the commodity involved in the Transaction, and confirm whether the entry of the Transaction into clearing would fall within the risk value(s) established by the Clearing Member.

At all times until both sides (Buy and Sell) of the Transaction have successfully cleared the E-RAV Credit Check, a Transaction submitted to the Exchange pursuant to this rule shall remain as an uncleared Transaction.

In the event that either side of the Transaction is rejected as a result of the E-RAV Credit Check test, the Parties to the Transaction and their respective Clearing Members would be informed accordingly. Thereafter, any determination as to further action with respect to the Transaction would be resolved by the Parties to the Transaction.

(J) Trade Submission Deadlines. Transactions that are submitted, confirmed and accepted for clearing, as further provided by Section (K) of this rule, prior to 5:15 p.m. New York time on an Exchange business day will be included by the Exchange for clearing for that business day. The Exchange reserves the right to modify these business hours without notice at any time. The NYMEX facilitation desk will generally be available to assist users 24 hours a day on all Exchange business days.

(K) Clearance by Both Sides of the Transactions of Credit Check. Upon clearance by both sides of the Transaction of the E-RAV Credit Check, the transaction shall be deemed to have been accepted for clearing and will be routed automatically to the Exchange's clearing system.

Notwithstanding the above, a Clearing Member also shall be responsible for accepting and clearing a position for a Transaction entered into the Exchange's clearing system for clearing following any non-operation of the Exchange's E-RAV Credit Check functionality for the applicable account carried by the Clearing Member.

809.

TRADE DATA PROCESSING SYSTEM

809.A. Trade Data

Every clearing member must submit to the Clearing House trade data for the day's business not later than the time specified by the Clearing House.

809.B. Matched and Unmatched Trades

The Clearing House shall process all trade data submitted by clearing members but shall accept only

~~these trade records (transactions) which are in agreement with the corresponding trade records submitted by the opposite clearing members.~~

~~Trade records will be matched, to the extent the opposite trade information is consistent, through the tiered matching process.~~

~~Resubmitted trade data will be processed by the Clearing House. Trades with unmatched trade information remaining after the tiered matching process will be rejected and outrade notices will be issued to clearing members.~~

~~Trades unreconciled after the final reconciliation must be submitted on the following business day as "as-of-trades."~~

809.C. Trade Register and Clearing Reports

From the trade data cleared during each day's reconciliation, the Clearing House will produce a trade register for each clearing member which will itemize by commodity and contract: the opening long and short position, the contracts bought and/or sold during the day, the prices at which executed, and the settlement amounts.

The Clearing House will also produce a recap ledger for each clearing member that will itemize various position and financial information that includes but is not limited to, commodity positions, settlement amounts and performance bond information.

809.D. Reconciliation of Outtrades

~~It shall be the primary responsibility of the clearing member to see that all trades are cleared prior to the opening of the following day's open outcry market.~~

~~Each member, if applicable, and clearing member firm shall designate a person or persons who will be available and responsible for reconciling the member or clearing member firm's outtrades. The person or persons shall be qualified to resolve outtrades as the member or clearing member firm's designated outrade representative. Failure to have a qualified representative available, with all materials necessary to reconcile outtrades, at the time specified above shall constitute negligence in the determination of responsibility for any outtrades. If one firm cannot locate another firm's broker or representative for clearing purposes during these time periods, it shall report such fact to the President of the Clearing House. If the President of the Clearing House or his designee cannot find the broker or representative of the firm, fines will be assessed in the amounts of \$1,000, \$2,000 or \$3,000 sequentially, for violations occurring within a 30-day period.~~

810. FALSE ENTRIES ON CLEARING MEMORANDA

No member shall place any false or inaccurate entries on any clearing memoranda, including, with respect to a Participating Clearing Member; the clearing memoranda of a Cross-Margining Clearing Organization.

811. POSITION CHANGE DATA

Position change data must be submitted to the Clearing House each trading day not later than the time specified by the Clearing House. Position change data will be in such form and contain such information as prescribed by the Clearing House. When requested, the identification of accounts will be made available to the Audit Department.

812. [RESERVED]

813. SETTLEMENT PRICE

(A) The daily settlement price for each contract traded on the Exchange shall be determined by the relevant Settlement Price Committee ("Committee") at the close of the RTH trading session, or as soon as practicable thereafter, using the procedures set forth in this rule. The Committee shall consist of such members and representatives of non-member firms as may be appointed by the Exchange.

(1) For each futures and options contracted traded on the Exchange Floor and on Globex, the Committee shall be divided into sub-committees. To the extent possible, each sub-committee shall consist of at least six (6) Members for the applicable Exchange Division, at least one of whom shall be a Floor Broker, one of whom shall be a Floor Trader, and one of whom shall represent trade interests (either personal, of his employer, or of a substantial customer base). Additionally, one Exchange employee may be a voting member of the Committee and the Exchange employee shall have final authority in all instances to veto and override price determinations made by the Committee.

(2) For all futures and options contracts traded solely on NYMEX ClearPort® Trading or solely on

Globex, the Committee shall consist of such Exchange employees, Members and non-Members and representatives of Members and non-Member firms as may be appointed by the Exchange.

(B) The Committee, or any subcommittee thereof, shall have the authority to request from any member representing that certain market information should be considered in the determination of a settlement price, such documentation as it deems appropriate including, but not limited to, trading cards or records created using an Approved Handheld, and order tickets.

(C) If The Committee or any subcommittee thereof believes that any settlement price arrived at through the application of the formulas specified in the Settlement Rules is inappropriate, it shall settle the futures or options contracts at a price it judges to be proper, in their best judgment at a level consistent with such other transactions or market information, including but not limited to, information from open outcry and electronic trading venues. For any price established by use of the Committee's discretion, the Committee shall prepare a written explanation of its reasons for deviating from the price which would have been established by application of Settlement Rules.

813.A. NYMEX Division

(A) Settlement Prices for Crude Oil, Heating Oil and New York Harbor Gasoline Blendstock (RBOB) Futures Contracts

(1) For crude oil, heating oil and New York Harbor Gasoline Blendstock (RBOB) futures contracts, the settlement price for each delivery month that:

(a) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and

(b) for which 30% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation, volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range.

(c) Additionally, TAS volume, if applicable, shall not be included as closing range volume for the purpose of item (b) above, to determine percentage of closing range volume in a delivery month. TAS volume shall not be used to calculate settlement.

(d) Notwithstanding the qualifications cited in items 1(a) –(c) above, the current delivery month or spot month will always be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically. Further, a month which may qualify for weighted average treatment pursuant to items 1(a)-(c) above, that is also eligible for TAS transactions, will be disqualified from weighted average treatment if the closing range volume in the contract month is not at least 25% of the TAS volume in such contract month.

(2) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (A), the settlement price 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) greatest weight given to spreads executed on the trading floor by open outcry late in the trading day in large volumes, and

(b) lesser weight given to

(i) spreads traded on the trading floor by open outcry in lesser volumes,

(ii) spread bids and offers actively represented on the trading floor by open outcry late in the trading day, and

(iii) spread transactions, bids and offers from earlier in the trading day on the trading floor by open outcry, provided that, in any circumstance where the Committee is considering bids and offers for spreads, it shall consider the mid-point of the best bid and best offer and not the individual best bid or best offer. In the event of a "price spike in the closing range" in any contract month where the

settlement price is determined by weighted average according to the open interest and volume criteria set forth in paragraph (A), the Committee may disregard the settlement price for a spiked month in considering spread relationships pursuant to this paragraph. For the purpose of this rule, a "price spike in the closing range" shall have occurred if, in the sole discretion of the Committee, a significant change in the spread relationships between the "spiked month" and the contract months immediately preceding and following such month occurred during the closing range. Notwithstanding the foregoing, no settlement price shall be established that would be lower than the best bid, or higher than the best offer that: (a) was for at least 100 contracts for outright or at least 200 contracts for spreads in crude oil futures contracts or for at least 50 contracts (outright or spreads) for heating oil or gasoline futures contracts or for at least 10 contracts for coal futures, and (b) had been posted with the Exchange and remained available for execution and unfilled for the final fifteen (15) minutes of trading.

(3) If any settlement price, determined pursuant to paragraphs (A)(1) or (2), is inconsistent with transactions that occurred during the closing range in other delivery months of the same futures contract or with market information known to the Committee, (including, but not limited to, either floor trading or electronic trading, (i) bids or offers for outright transactions and spreads that were unfilled during the closing range, (ii) bids, offers or transactions in strips, and (iii) outright transactions executed prior to the closing range) the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event the Committee shall prepare a written record of the basis for any settlement price so established.

(4) In the event that the Committee: establishes a settlement price in accordance with sections (A)(1) or (2) of this Rule; determines that a "price spike in the closing range occurred", in accordance with subsection (A)(2)(iii) of this Rule; or fails to determine a settlement price by unanimous agreement of the six Members designated by the Exchange to establish settlement prices pursuant to Rule 6.51, the Committee shall prepare a written record of the basis upon which it established such settlement price.

(B) Settlement Prices for Natural Gas Futures Contracts

Settlement prices will be determined as follows:

(1) The settlement price for each delivery month that: (a) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and (b) for which 30% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. (c) Additionally, trading at settlement (TAS) volume, if applicable, shall not be included as closing range volume for the purpose of item (b) above, to determine percentage of closing range volume in a delivery month. TAS volume shall not be used to calculate settlement.

(2) Notwithstanding the qualifications cited in items 1(a)-(c) above, the current delivery month or spot month will always be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically. Further, a month which may qualify for weighted average treatment pursuant to items a-c above, that is also eligible for TAS transactions, will be disqualified from weighted average treatment if the closing range volume in the contract month is not at least 25% of the TAS volume in such contract month.

(3) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (1), the settlement price, shall be determined in the best judgment of the Committee based upon trades or orders that are bid/offered and posted pursuant to prescribed procedures in the last 30 minutes of trading on the trading floor by open outcry: outright for a volume of 100 lots in any of the first 24 listed contract months, or outright for a volume of 100 lots beyond the 24th contract month that have reached a minimum open interest of 10,000 contracts based upon the open interest published at noon on a trading day; intracommodity spreads for a volume of 100 lots/month; and intracommodity strips for a volume of 30 lots/month for a yearly or 50 lots/month for a seasonal. Priority will be given first to outright, then spreads, then strips, that meet the criteria above. Provided further, that an order that met the original volume requirement and was partially filled with the balance still open, will be honored. Additionally, Floor Members posting any orders shall be held to filling them unless the order was cancelled during the posting period with appropriate notice to the market. Cancelled orders will not be honored for settlement purposes.

(4) For any contract months not otherwise addressed in Sections (1) and (2) of this rule, or if any settlement price, determined pursuant to paragraphs (1) or (2), is inconsistent with transactions that occurred during the closing range in other delivery months of the same futures contract or with market information known to the Committee, (including, but not limited to, either floor trading or electronic trading), the Committee shall be bound to consider all relevant available data but shall not be bound by data from any one type of market information. Such other market information includes but is not limited to the following:

Executed trades, bids or offers for outrights, spreads and strips provided before the last 30 minutes of the trading day transactions including both floor trading and Electronic Trading, an Exchange settlement price model, and relevant OTC market data as further specified below;

The Exchange settlement price model will be calibrated so that it is generally mathematically consistent with market price information provided through Sections (1) and (2); and OTC market quotes, if available, may be considered for outrights, spreads and strips supplied by OTC brokers who are registered with NYMEX for NYMEX ClearPort® Clearing. The Committee shall prepare a written record for any settlement price determined pursuant to Section (3) of this rule.

(6) Notwithstanding the above, the settlement price for a delivery month in the Henry Hub Swap futures contract will be the settlement price for the corresponding delivery month in the Natural Gas futures contract, provided however that the final settlement for an expiring delivery month in the Henry Hub Swap futures contract will be determined in accordance with the terms of Chapter 508 (Henry Hub Swap).

(C) Settlement Prices for Propane Gas Products

(1) For each propane futures contract, the settlement price for each delivery month that: (a) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and (b) for which 30% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If there are no such transactions in the closing range, the settlement price shall be the last trade price, unless a bid higher or offer lower than the last trade price is made in the closing range. Such higher bid or lower offer shall be the settlement price.

(2) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (1), the settlement price 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) greatest weight given to spreads executed on the trading floor by open outcry late in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded on the trading floor by open outcry in lesser volumes, (ii) spread bids and offers actively represented on the trading floor by open outcry late in the trading day, and (iii) spread transactions, bids and offers from earlier in the trading day on the trading floor by open outcry.

(D) Settlement Prices for PJM Electricity Monthly Futures Contract

(1) For each PJM Electricity Monthly futures contract, the settlement price for each delivery month that: (a) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and (b) for which 10% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions in that delivery month which occur in the closing range.

(2) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (A)(1), the settlement price 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) greatest weight given to spreads or strips executed late in the trading day in large volumes, and (b) lesser weight given to (i) spreads or strips traded in lesser

volumes, (ii) spread or strip bids and offers actively represented late in the trading day, and (iii) spread or strip transactions, bids and offers from earlier in the trading day. Notwithstanding the foregoing, no settlement price shall be established that would be lower than the best bid, or higher than the best offer that: (a) was for at least 20 contracts for outright or 20 contracts for spreads, and (b) had been posted with the Exchange and remained available for execution and unfilled for the final twenty (20) minutes of trading.

(E) Settlement Prices - e-miNY Contracts

(1) Crude Oil e-miNY: The settlement price for each contract month will be equal to the NYMEX Light, Sweet Crude Oil Futures contract settlement price for the corresponding contract month.

(2) Natural Gas e-miNY: The settlement price for each contract month will be equal to the NYMEX Natural Gas futures contract settlement price for the corresponding contract month.

(F) Settlement Price Procedures for Platinum and Palladium Contracts

(1)(a) The term "base month" shall mean, with respect to Platinum, the January, April, July or October delivery months and, with respect to Palladium, the March, June, September, or December delivery months. (b) The term "most active month" shall mean the nearest base month that has the largest daily trading volume, provided however, that if a base month other than the nearest base month has larger daily trading volume on any day, the most active month shall be such base month until the daily trading volume in such month is less than the next succeeding base month.

(2) The settlement price for the most active month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions that occur in the closing range including both trades executed on the trading floor by open outcry and trades executed electronically. If no outright transactions occur in the closing range, the settlement price shall be the last trade price, unless during the closing range a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.

(3) The settlement prices of all delivery months other than the most active month shall be the price relationships established by spread differentials between such most active month and such other month executed on the trading floor by open outcry. Spread differentials shall be determined by the last spread transaction. If no spread transaction occurred on such day such differential shall be the average of the last bid and offer for such spread. If no spread transactions have occurred on such day and there were no bids or offers for such spread on such day, the spread differential shall be the spread differential of the settlement prices for the previous business day.

(4) Daily Settlement Prices for NYMEX Asian Platinum and Palladium Futures Contracts. This Section (4) shall apply for determination of settlements prices for all trading days of a listed contract month in the applicable NYMEX Asian futures contract 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.

(a) The settlement price for each NYMEX Asian Platinum contract month that is also listed for floor trading will be equal to the Platinum 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 500 grams. The settlement price for each NYMEX Asian Palladium contract month that is also listed for floor trading will be equal to the Palladium 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 500 grams.

(b) The settlement price for any contract month of a NYMEX Asian 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.

(G) NYMEX Options Settlement Premiums

The Settlement premiums for option series shall be determined upon the following procedures:

(1) With the exception of the day of expiration, option settlement premiums shall be determined in accordance with the following:

a. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium shall be based on, but not limited to, (i) the price traded, (ii) volume traded, (iii) the underlying futures price, (iv) the bid/offer spread on the underlying future, and (v) the length of time between a trade and the close of trading.

b. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium will be determined consistent with the corresponding put (call) using an appropriate option pricing model.

c. i) For Natural Gas and European Natural Gas Options: Orders that are bid/offered and posted pursuant to prescribed procedures at least fifteen (15) minutes before the close and throughout the closing range shall be considered for settlement by the -Committee (the "Committee") according to the following priority: Outrights for at least 200 lots, then Straddles for at least 100 lots, then Spreads for at least 200 lots, then strips which have a cumulative total of at least 250 lots. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid or offer if requested by the Committee. Further, the Committee shall not consider any posted order referenced above which does not effect the output of the appropriate options pricing model by at least three (3) ticks when settling the market on any day.

ii) For Crude Oil and European Crude Oil Options: Orders that are bid/offered and posted pursuant to prescribed procedures at least fifteen (15) minutes before the close and throughout the closing range shall be considered for settlement by the -Committee (the "Committee") according to the following priority: Outrights for at least 200 lots, then Straddles for at least 100 lots, then Spreads for at least 200 lots, then strips which have a cumulative total of at least 250 lots. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid or offer if requested by the Committee. Further, the Committee shall not consider any posted order referenced above which does not effect the output of the appropriate options pricing model by at least three (3) ticks when settling the market on any day.

iii) For Calendar Spread Options: Orders that are bid/offered and posted pursuant to prescribed procedures at least fifteen (15) minutes before the close and throughout the closing range shall be considered for settlement by the Committee (the "Committee") according to the following priority: Outrights for at least 100 lots, then Straddles for at least 50 lots, then Spreads for at least 100 lots, then strips which have a cumulative total of at least 150 lots. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid or offer if requested by the Committee. Further, the Committee shall not consider any posted order referenced above which does not effect the output of the appropriate options pricing model by at least three (3) ticks when settling the market on any day.

iv) For all other Options: Bids and offers for twenty-five (25) lots or more that have been posted at least ten (10) minutes before the close and throughout the closing range shall be considered for settlement, unless the Committee determines that it is unreasonable to do so given spread relationships at the close of trading. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid offer if requested by the Committee.

d. The Committee shall endeavor to use its best efforts to maintain appropriate price spread relationships between and within listed months.

(2) On the day of option expiration, the option settlement premium shall be determined in accordance with the following:

a. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract the option settlement premium shall be the minimum tick size.

b. For call (put) options whose strike price is less (greater) than the settlement price of the underlying

futures contract, the option settlement premium shall be determined on the basis of the absolute difference between the futures price and the strike price.

(3) If, using the procedures specified in Subsections (1) or (2) above, a settlement premium being considered for a particular option would not be consistent with (a) trades made during the closing range in other option series on the same underlying future, (b) the settlement price of the underlying future, or (c) market information (including but not limited to either open outcry trading or electronic trading) that is either known by Committee members or brought to their attention by Exchange officials, then the Committee may establish a settlement premium that is consistent with other trades, the settlement price of the underlying future, or market information. In all instances in which the Committee establishes a settlement premium pursuant to this Section (3), the Committee shall prepare a written record setting forth the basis for such settlement premium.

(4) After settlements for all contract months for a particular contract are completed by the Committee, there will be a ten minute period where members can object to a particular settlement. Following this ten minute period, members may no longer make objections to the settlement premiums.

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 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. 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. 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 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.

(C) Settlement Price Procedures for Copper Contracts

(1)(a) The term "base month" shall mean the March, May, July, September and December delivery months.

(b) The term "most active month" with respect to this Rule and the Rules in Chapters 111 and 117 shall mean the base month that is not the current delivery month, with the greatest reported open interest on the official COMEX daily open interest report.

(2) The settlement price for the current delivery month shall be comprised of the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range combined with the weighted average price of all spreads executed by open outcry between the current delivery month and the most active month during the final 30 minutes of trading. If no outright transactions occur in the closing range or no spreads are executed during the final 30 minutes of trading in the current delivery month, or, if in the opinion of the Committee, the settlement price determined is inconsistent with value indicated by other spread relationships established during the last thirty minutes of trading, the spread relationships occurring within the last thirty minutes, between and among contract months from the current delivery month to the most active month, shall be utilized by the Committee in their best judgment to establish a settlement price at a level consistent with such other transactions or market information, including but not limited to information from open outcry and electronic trading venues, with greater weight given to the weighted average of executed spread trades, and lesser weight given to the implied midpoint of spread bids and offers actively represented during the final 30 minute period of trading. In such event, the Committee shall prepare a written record of the basis for any settlement price so established.

(3) The settlement price for the most active month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If no outright transactions occur in the closing range of the most active month, the settlement price shall be the last trade price from either the open outcry or the electronic venue, unless during the closing range a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.

(4) 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 at open outcry later in the trading day, and (iii) spread transactions, bids and offers at open outcry from earlier in the trading day. Notwithstanding the foregoing, no settlement price shall be established that would be lower than the best outright bid, or higher than the best outright offer, that: (a) was for at least 20 contracts, and (b) had been posted with the Exchange and had remained available for execution and unfilled for the final 30 minutes of trading of that trading day.

(5) Exception - Matched Order Price. The settlement price for the nearest copper futures delivery month (spot) shall be the matched order price established pursuant to Rule 104.42 ("Matched Orders"). If the only trades entered into during the closing period were effected through matching, the contract will be settled by the respective subcommittee of the Committee in accordance with this Rule.

(D) Settlement Price Procedures for Aluminum Contracts

(1) For aluminum futures contracts, the settlement price for the current delivery month and the delivery month with the greatest reported open interest on the official COMEX daily open interest report that is not the current delivery month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions in that delivery month including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If no outright transactions occur in the closing range of either the current delivery month and the delivery month with the greatest reported open interest on the official COMEX daily open interest report that is not the current delivery month, the settlement price for the applicable month shall be the last trade price from either the open outcry or electronic venue, unless during the closing period a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.

(2) In all other delivery months for such futures contracts, the settlement price 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 late in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded at open outcry in lesser volumes, (ii) spread bid and offers actively represented at open outcry late in the trading day, (iii) spread transactions, bids and offers at open outcry from earlier in the trading day. Notwithstanding the foregoing no settlement price shall be established that would be lower than the best outright bid, or higher than the best outright offer, that: (a) was at least for 20 contracts, and (b) had been posted with the Exchange and had remained available for execution and unfilled for the final 30 minutes of trading of that trading day.

(3) If any settlement price, determined pursuant to Paragraph (1) or (2), is inconsistent with transactions that occurred during the closing range for other delivery months of the same futures contract (including, but not limited to, either open outcry trading or electronic trading) or with other market information known to the Committee (including but not limited to either open outcry trading or electronic trading), the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event, the Committee shall prepare a written record of the basis for any settlement price so established.

(E) Option Settlement Premiums

The settlement premiums for option series shall be determined upon the following procedures:

(1) With the exception of the day of expiration, option settlement premiums shall be determined in accordance with the following:

a. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium shall be based on, but not limit to, (i) the price traded, (ii) volume traded, (iii) the underlying futures price, (iv) the bid/offer spread on the underlying future, and (v) the length of time between trade and the close of trading.

b. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium will be determined consistent with the corresponding put (call) using an appropriate option pricing model.

c. Bids and offers for twenty-five (25) lots or more that have been posted at least ten (10) minutes before the close and throughout the closing range shall be considered for settlement, unless the Committee ("Committee") determines that it is unreasonable to do so given spread relationships at the close of trading. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid offer if requested by the Committee.

d. The Committee shall endeavor to use its best efforts to maintain appropriate price spread relationships between and within listed months using an appropriate options model.

(2) On the day of option expiration, the option settlement premium shall be determined in accordance with the following:

a. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract the option settlement premium shall be zero.

b. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract, the option settlement premium shall be determined on the basis of the absolute difference between the futures price and the strike price.

(3) If, using the procedures specified in Subsections (1) or (2) above, a settlement premium being considered for a particular option would not be consistent with (a) trades made during the closing range in other option series on the same underlying future, (b) the settlement price of the underlying future, or (c) market information that is either known by Committee members or brought to their attention by Exchange officials (including but not limited to either open outcry trading or electronic trading) then the Committee may establish a settlement premium that is consistent with other trades, the settlement price of the underlying future, or market information. In all instances in which the Committee establishes a

settlement premium pursuant to this Section (3), the Committee shall prepare a written record setting forth the basis for such settlement premium.

(4) After settlements for all contract months for a particular contract are completed by the Committee, there will be a ten minute period where members can object to a particular settlement. Following this ten minute period, members may no longer make objections to the settlement premiums.

813.C. NYMEX and COMEX Division Contracts Listed Only on Globex

(A) The terms of this rule shall generally govern the establishment of settlement prices for futures contracts that are listed for trading only on Globex®. For each NYMEX or COMEX financially-settled contract based upon a physically settled NYMEX contract or COMEX futures contract, such contract shall be settled pursuant to the provisions of the physically settled NYMEX or COMEX futures contract in that commodity. For financially-settled contracts, this rule shall govern only for trade dates other than the final day in an expiring contract month, and final settlement following termination in an expiring contract month in such contracts shall be determined in accordance with the chapter of rules for the applicable contract.

The settlement prices established pursuant to this rule shall be determined by the President's designee. The President's designee in his sole discretion and judgment shall determine settlement prices for purposes of clearing and settlement for that contract. Staff shall determine such prices by considering market information deemed to be appropriate, and such information may include, but is not limited to:

(1) trading activity on Globex;

(2) price data obtained from a cross-section of over-the-counter ("OTC") brokers collectively representing both buyers and sellers in OTC markets;

(3) price data obtained from OTC market participants, considering both buyers and sellers in such markets;

(4) price data from other sources deemed to be reliable and accurate; and

(5) other relevant data and information.

(B) The closing range for each NYMEX and each COMEX Product that is listed for trading only on GLOBEX for each day of trading, including the closing range on the final day of trading in such contract listed for trading only on such system, shall include all trades made within the last (10) ten minutes of the applicable trading session for such contract and all bids higher than as well as offers lower than any trade made within such periods.

813.D. Clearing House Right to Use Alternate Price

Unless otherwise specified by Exchange regulation or policy, the daily settlement price for each contract shall be determined by the relevant Pit Committee at the close of open auction trading hours. The settlement price shall be determined by the Pit Committee based on various factors including, but not limited to (a) the prices that traded during the close; (b) the volume traded at particular prices within the closing range; (c) bids and offers made during the close; (d) the prices at which spreads traded during the close; and (e) the settlement price(s) of related contracts. If the proposed settlement price differs from the midpoint of the closing range for a particular contract, the Pit Committee will document the basis for the deviation from the midpoint. Such documentation must be signed by two members of the Pit Committee.

Notwithstanding the above Sections 813.A.-813.C., in the case of inaccuracy or unavailability of a settlement price from the Exchange, another exchange, market or Marketplace, or if such settlement price would create risk management concerns for the Clearing House, the Clearing House reserves the right to calculate settlement variation using an alternate price determined by the Clearing House.

814. SETTLEMENT VARIATION

When a clearing member is long or short any amount of any futures contract at the end of the trading day, as indicated by its clearing memoranda, settlement shall be made with the Clearing House to the settlement price for that day, and such member shall be liable to pay to, or entitled to collect from, the Clearing House any loss or profit, as the case may be, represented by the difference between the price at which the commodity was bought or sold and the settlement price of the commodity at the end of the trading day. After making such settlement with the Clearing House, such member shall be deemed long

or short (or long and short) such commodity, as the case may be, at the settlement price of the trading day. Notwithstanding the foregoing, the Clearing House shall not be required to pay any profit to a Participating Clearing Member in the event that such member or its Cross-Margining Affiliate fails to make any required settlement for that trading day with a Cross-Margining Clearing Organization.

If the market conditions or price fluctuations are such that the Clearing House deems it necessary, it may call upon the clearing members which in its opinion are affected to deposit with the Clearing House by such time as specified by the Clearing House the amount of funds that it estimates will be needed to meet such settlements as may be necessary. The Clearing House may pay out funds to those clearing members that in the opinion of the Clearing House will have credit balances as a result of those same market conditions or price fluctuations, except that in no instance may the Clearing House pay out funds to a clearing member, other than at the regular settlement, in excess of the total original performance bond deposits it holds for such clearing member. All deposits and payments made under this Rule shall be subject to the procedures prescribed by the Clearing House and set forth in the Manual.

Settlement variation, as figured to the market at such times as the Clearing House shall determine, must be paid in cash or any other form of collateral approved by the Clearing House Risk Committee.

815. [RESERVED]

816. SECURITY DEPOSIT

Each clearing member shall make a deposit with the Clearing House as security for its obligations to the Clearing House. The minimum security deposit of a clearing member, shall equal the greater of (a) an amount specified by the Clearing House Risk Committee or (b) the clearing member's proportionate share of the "Aggregate Security Deposit," which shall be an amount determined by the Clearing House Risk Committee. Each clearing member's proportionate share of the Aggregate Security Deposit shall consist of (i) a specified percentage of the Aggregate Security Deposit multiplied by the clearing member's proportionate share (including the total risk performance bond requirement in respect of positions in its cross-margin accounts) of the average aggregate risk performance bond requirement (including the risk performance bond requirement in respect of positions in all cross-margin accounts) for the preceding three months; plus (ii) a specified percentage of the Aggregate Security Deposit multiplied by the clearing member's proportionate share of the total number of contracts executed on the Exchange and any applicable exchange or market during the preceding three months. The percentages in (i) and (ii) above shall be determined and modified by the Clearing House Risk Committee as appropriate. Some contracts may be weighted more heavily than others in order to reflect the greater risk associated with those contracts. The average aggregate risk performance bond requirement, the total number of contracts executed, and each clearing member's proportionate share of each will be calculated by the Clearing House, and a report setting forth such information and the clearing member's required security deposit will be given to the clearing member each quarter, or more frequently as Clearing House staff shall determine. If such report indicates that the clearing member's current security deposit with the Clearing House is smaller than the amount required, the clearing member shall increase its amount within five business days. If such report indicates that the clearing member's current security deposit with the Clearing House is larger than the amount required, the clearing member may withdraw the excess amount.

A clearing member's security deposit may be in a form as set forth in the Manual. Such security deposit forms and amounts shall be subject to the terms and conditions as approved by Clearing House staff.

817. LIQUIDITY FACILITY

Assets deposited by a clearing member in satisfaction of security deposit and performance bond requirements may also be used to directly secure the Clearing House's Exchange's obligations to its lenders under any liquidity facility entered into by CMEthe Exchange for the purpose of providing liquidity to the Clearing HouseExchange. By delivering assets to the Clearing HouseExchange in satisfaction of security deposit and performance bond requirements, each clearing member is hereby deemed: (i) to agree that its Assets may directly secure the Clearing House'sExchange's obligations to the Clearing House'sExchange's liquidity lenders and that its Assets may become subject to a lien in favor of the Clearing Houses' Exchange's liquidity lenders or otherwise guarantee the Clearing House'sExchange's obligations and; (ii) to authorize CMEthe Exchange, and appoint CMEthe Exchange (such appointment being coupled with an interest) as such clearing member's attorney-in-fact, to enter into agreements on its behalf in connection with its Assets serving as security for the Clearing House'sExchange's obligations to the Clearing House'sExchange's liquidity lenders; and (iii) to acknowledge that the obligations of the Clearing HouseExchange to its liquidity lenders may be greater, and extend for periods of time longer, than the obligations, if any, of such clearing member to the Clearing House Exchange. CMEThe Exchange, as each clearing member's attorney-in-fact, will have authority to enter into agreements on behalf of each clearing member and in each clearing member's

name for the purpose of causing the clearing member's Assets to directly secure the Clearing House's Exchange's obligations to the Clearing House's Exchange's liquidity lenders. Any agreement entered into by CMEthe Exchange on behalf of clearing members pursuant to this Rule 817 shall bind each clearing member and will contain provisions, including representations, warranties and covenants, required by lenders under any liquidity facility. If there is a default under any such liquidity facility, the Assets of the clearing members pledged to secure such liquidity facility may be foreclosed upon by the Clearing House's Exchange's liquidity lenders and applied against the obligations of the Clearing House Exchange under the related liquidity facility. The clearing members shall take no action, including but not limited to attempting to obtain a court order, that would interfere with the ability of such liquidity lenders to receive the benefit of their contractual remedies in connection with any such foreclosure or that would controvert or assert the invalidity of any provision of these rules. Each clearing member agrees to sign any document or agreement requested by CMEthe Exchange to further document the power of attorney set forth and established by these rules. (References to "Clearing House" in this rule may also include "CME" depending on the context as the Clearing House is a division of CME.)

818.-819. [RESERVED]

820. **PERFORMANCE BONDS**

It shall be incumbent upon each Clearing Member that its trades and trades of its customers be margined up to the time of the acceptance of such trades by the Clearing House.

(A) Original Margin

Original Margin shall be paid on Exchange commodity transactions in such form as determined by the Clearing House. Original margins may be changed at the discretion of the Clearing House.

(B) Variation Margins

The President of the Clearing House, at any time during the day, may call for variation margins to meet the variations in the market. Such margins shall be paid to the Exchange within the time limits prescribed by the President of the Clearing House.

(C) Straddle Margins

(1) Futures Straddles

A Clearing Member carrying an account which has both a long and a short futures position with the Clearing House in a particular commodity, in the same or different contracts but in no event for the same delivery month of the same contract, may treat such long and short positions to the extent they are equal in quantity as a futures straddle. Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Initial margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.

(2) Options Straddles

A Clearing Member carrying an account which has both (1) a short call option and a long call option; (2) a short put option and a long put option; (3) a long put option and a long call option; or (4) a short put option and a short call option, in a particular commodity, but in no event for the same series, may treat such positions to the extent they are equal in quantity as an options straddle. Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Initial margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.

(D) Clearing Members may meet original margin calls by depositing:

(1) Cash (U.S. Currency);

(2) Securities issued by the Department of Treasury of the United States of America maturing within ten

(10) years from the date of the deposit and guaranteed as to principal and interest by the United States Government; such securities shall be valued at ninety five percent (95%) of the par value; or

(3) Subject to a maximum limit of 50% of the Clearing Member's total original margin obligations, Irrevocable Letters of Credit payable to the order of the Clearing House including such Letters of Credit that are deposited with the Clearing Member in accordance with Exchange procedures by a customer, in form acceptable to the Clearing House, issued by or confirmed by an original margin depository and having an expiration date of not less than three (3) or more than twenty four (24) months from the date of issuance; provided, however, that such Letter of Credit may not be used to meet original margin obligations during the fifteen calendar days prior to the expiration date thereof (if the fifteenth day prior to the expiration of the Letter of Credit is not a business day, the period during which such Letter of Credit may not be used to meet original margin obligations shall begin on the business day immediately preceding that day); and, provided further, that on the business day preceding the fifteenth calendar day prior to the expiration of the Letter of Credit, the Clearing House shall issue a call for original margin to be deposited in a form and manner acceptable to the Clearing House for positions held open as of the close of business on that day and margined by the Letter of Credit. The Clearing House shall have the unqualified right to call on any Letter of Credit at any time prior to expiration. Upon expiration of a letter of credit that has been posted with the Exchange for the maximum twenty four (24) months, a new letter of credit must be posted as no amendments will be accepted to extend the maturity date, or

(4) Shares in a money market mutual fund that complies with CFTC Regulation §1.25 and that has been approved by the Clearing House subject to the following conditions:

(i) for purposes of original margin, such shares will be valued at 98% of market value; (ii) a Clearing Member's participation in any approved fund shall be limited to no more than 5% of that fund; and (iii) no more than 10% of the total assets of an approved money market mutual fund may be used to meet original margin obligations at the Exchange.

(E) The Clearing House shall have the right, at all times, to prohibit or otherwise limit the use as original margin by any Clearing Member of letters of credit or of securities under this Rule.

(F) The Clearing House shall retain the original margin deposited with respect to any futures contract against which a delivery notice has been issued until the business day after the delivery date or such date as designated by the Clearing House.

(G) Customer Accounts with the Exchange

(1) Except as provided in subsection (2) below, all customer funds deposited with the Exchange shall be held in accordance with the Commodity Exchange Act and Commission Regulation 1.20 in an account identified as Customer Segregated. Customer funds shall be segregated by the Exchange and treated as belonging to the customers of the clearing member. Pursuant to this Rule, clearing members registered as Futures Commission Merchants shall not be required to obtain a segregated acknowledgment letter from the Exchange.

(2) Customer funds deposited with the Exchange for cleared transactions in over-the-counter pari-mutual auctions may be deposited in either a member account or a customer non-regulated account. Neither account shall be treated as a customer segregated account.

(H) Every obligation of a Clearing Member to the Clearing House, whether arising from its member account or customer segregated account or otherwise shall also be deemed to be an obligation of such Clearing Member to CME in its capacity as agent for the Clearing House and the Exchange.

821.-823. [RESERVED]

824. ADDITIONAL PERFORMANCE BOND

Whenever, in the opinion of the Clearing House Risk Committee, the President of the Clearing House or, in his absence, his delegate, unstable conditions relating to one or more products exist, they may from time to time, call for additional performance bond collateral from clearing members. Such additional performance bond calls may be as much as or more than the original performance bond collateral. The performance bond collateral thus called for may be for one or more contract(s) from one or more clearing member(s) and on long positions, short positions or both.

In the event market conditions and price fluctuations at any time shall cause the Clearing House Risk Committee or the President of the Clearing House or, in his absence, his delegate, to conclude that additional performance bond collateral is required to maintain an orderly market or to preserve fiscal integrity the Clearing House Risk Committee or the President of the Clearing House or his delegate may call for additional performance bond collateral to be deposited with the Clearing House during the next banking hour after demand therefor, or at such times as may be specified. Such additional performance bond collateral may be called from the longs or the shorts or from both.

When the Clearing House Risk Committee or the President of the Clearing House or, in his absence, his delegate, shall be of the opinion that any clearing member is carrying commitments or incurring risk in its proprietary, customer and/or cross-margin accounts, that are larger than is justified by the financial condition of that clearing member, then the Clearing House Risk Committee, the President of the Clearing House or, in his absence, his delegate, may require additional performance bond collateral of such clearing member which shall be deposited with the Clearing House during the next banking hour after demand therefor, or at such time as may be specified, or a portion of the open positions of said clearing member may be required to be transferred to the books of another clearing member.

825.-826. [RESERVED]

827. SECURITIES LENDING PROGRAM

United States Treasury Bills, Treasury Notes, Treasury Bonds, Treasury Bond Principal Strips, Agency Securities, and other financial instruments approved by Clearing House staff, (collectively, "Securities") that are deposited with the Clearing House by clearing members in satisfaction of Security Deposit requirements or as performance bond for their own (i.e., "house") trades may be loaned out by the Clearing House pursuant to the Securities Lending Program. Clearing members depositing Securities with the Clearing House in satisfaction of security deposit requirements or as performance bond for house trades that are loaned out pursuant to the Securities Lending Program are deemed to agree that the lending of Securities under arrangements having safeguards consistent with generally accepted market practices will constitute reasonable care of the Securities in the possession of the Clearing House or its securities lending custodian.

828.-829. [RESERVED]

830. CROSS-MARGINING

830.A. Definitions

1. **Cross-Margining Affiliate:** An affiliate of a Participating Clearing Member with which such clearing member is cross-margining its positions at the Clearing House and a Cross-Margining Clearing Organization.
2. **Participating Clearing Member:** A clearing member that is cross-margining its positions at the Clearing House with its own or a Cross-Margining Affiliate's positions at a Cross-Margining Clearing Organization.
3. **Cross-Margining Clearing Organization:** A clearing organization that has entered into a Cross-Margining Agreement with the Clearing House.
4. **Joint Cross-Margining Program:** A cross-margining program in which the Clearing House and one or more Cross-Margining Clearing Organizations each hold a joint security interest in positions, margin and other property of Participating Clearing Members and, if applicable, their Cross-Margining Affiliates.
5. **Guaranteed Cross-Margining Program:** A cross-margining program in which a guaranty is provided by and between the Clearing House and one or more Cross-Margining Clearing Organizations and each entity holds an individual security interest in positions, margin and other property of Participating Clearing Members and, if applicable, their Cross-Margining Affiliate.

830.B. Cross-Margining Programs

1. The Clearing House may establish cross-margining programs as approved by the Clearing House Risk Committee and the Board. A clearing member may become a Participating Clearing Member to participate in a Joint Cross-Margining Program by establishing with the Clearing House one or more cross-margin accounts for cross-margining positions with either its own positions or those of a cross-margining affiliate at a Cross-Margining Clearing Organization. In order to establish a cross-margin account, a clearing member shall enter into the agreements required by the Clearing

House, including a Cross-Margined Account Agreement and Security Agreement with the Clearing House, the Cross-Margining Clearing Organization, and, if applicable, the member's Cross-Margining Affiliate. That Agreement shall provide, among other things, that the Clearing House and the Cross-Margining Clearing Organization shall jointly have a first lien on and security interest in all positions held in the cross-margin account, all related performance bond, and all proceeds of the foregoing, as security for the obligations of the clearing member and, if applicable, its Cross-Margining Affiliate, to the Clearing House and the Cross-Margining Clearing Organization. Failure to comply with the terms of such Agreements may constitute an act detrimental to the interest or welfare of the Exchange.

2. A clearing member may become a Participating Clearing Member in a Guaranteed Cross-Margining Program by entering into a Cross-Margining Participant Agreement with the Clearing House, the Cross-Margining Clearing Organization, and, if applicable, the clearing member's Cross-Margining Affiliate. That Agreement shall provide, among other things, that a Participating Clearing Member shall immediately be obligated to reimburse the Clearing House ("Reimbursement Obligation") in the event the Participating Clearing Member or its Cross-Margining Affiliate defaults in the payment of any obligation to a Cross-Margining Clearing Organization and the Clearing House is required to make a guaranty payment to such Cross-Margining Clearing Organization. In addition, the Agreement shall provide that the Clearing House shall have a first lien and security interest in all positions held, all related performance bond, and all proceeds of the foregoing, as security for the obligations of the clearing member and, if applicable, its Cross-Margining Affiliate, to the Clearing House. Failure to comply with the terms of such Agreement may constitute an act detrimental to the interest or welfare of the Exchange.

The provisions of this Rule 830 and the corresponding sections of the Clearing House Manual shall apply to all CME-cleared positions held pursuant to a cross-margining program and shall supersede all other provisions of the Rules to the extent inconsistent therewith. In addition, the Clearing House shall determine what positions will be eligible for cross-margining.

830.C. [Reserved]

830.D. Performance Bonds for Cross-Margining Program

Performance bond requirements for a Joint and Guaranteed Cross-Margining Program shall be determined as set forth in the Cross-Margining Agreement, and that Agreement shall also govern what forms of performance bond will be permitted and how such performance bond will be held.

830.E. Close-Out of Cross-Margin Positions

A Participating Clearing Member may be suspended if it or its Cross-Margining Affiliate, if any, is in default in payment of any obligation, including a Reimbursement Obligation, with respect to a Joint or Guaranteed Cross-Margining Program.

The cross-margin account of a clearing member participating in a Joint Cross-Margining Program may be liquidated by the Clearing House at the request of a Cross-Margining Clearing Organization whether or not the Exchange or the Clearing House suspends, or is permitted under the Rules to suspend, such clearing member. Upon the suspension of a Participating Clearing Member, or upon receiving notice from a Cross-Margining Clearing Organization of its suspension of a Participating Clearing Member or its Cross-Margining Affiliate, the Clearing House shall have the right to liquidate the positions in the cross-margin account, convert to cash the performance bond therefor, and dispose of the proceeds thereof, all in accordance with the terms of the Cross-Margining Agreement.

The positions of a clearing member participating in a Guaranteed Cross-Margining Program may be liquidated by the Clearing House in the event that the Participating Clearing Member or its Cross-Margining Affiliate defaults in the payment of any obligation to the Clearing House or a Cross-Margining Clearing Organization. Upon the suspension of a Participating Clearing Member, or upon receiving notice from a Cross-Margining Clearing Organization of its suspension of a Participating Clearing Member or its Cross-Margining Affiliate, the Clearing House may liquidate: the positions of the Participating Clearing Member; all related performance bond; and all proceeds of the foregoing. The Clearing House may then apply all such liquidated proceeds to satisfy the Participating Clearing Member's obligations to the Clearing House, all in accordance with the terms of the Cross-Margining Agreement.

831.-849. [RESERVED]

MISCELLANEOUS

850. EXCHANGE SERVICE FEES

(A) Charges for clearing trades shall be fixed by the Board upon the recommendation of the Clearing House Risk Committee and shall be payable by Clearing Members as billed. All Clearing Fees shall be charged per contract bought, sold, delivered or accepted.

(B) A minimum fee of \$200.00 per month shall be charged to Clearing Members.

(C) Claims by Clearing Members for adjustments to clearing charges or fees shall be made to the Exchange within 90 days of the invoicing of such charges by the Exchange. The failure to claim adjustments within this period shall constitute a waiver of such claim by the Clearing Member.

(D) Clearing Members shall collect from non-member customers a transaction fee as established by the Exchange for each commodity contract bought or sold or otherwise cleared on or subject to the rules of the Exchange and/or the Dubai Mercantile Exchange Limited and remit said fees to the Clearing House as billed.

- ~~A. Members and member firms — Each Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM), or Series B-5 (COM) member (hereinafter referred to as “members”), and member firm shall be obligated to pay, at such times and in such manner as the Exchange may prescribe, fees for transactions executed by open auction and on e-cbot, as described below and in accordance with the fee schedule adopted by the Exchange, which is incorporated into this Rule by reference. In that fee schedule, the applicable rate specifications shall be per contract/per side, and the applicable volume specifications shall be per calendar month.~~
- ~~1. Open auction fee caps — with respect to open auction trades for a Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM) or Series B-5 (COM) member's own account, the maximum of fees paid by any such member shall be \$20,000 per year per person who executes the trades. With respect to open auction trades for the proprietary account of a CBOT Clearing Closely Held Corporate Member Firm or a CBOT Equity Closely Held Corporate Member Firm, or an Affiliate of either such firm, as defined by the Exchange, which are initiated and executed by the same member, who is registered with the Exchange as a trader for the account pursuant to procedures established by the Exchange, the maximum of fees paid by any such member firm or Affiliate shall be \$20,000 per year per person who initiates and executes the trades.~~
 - ~~2. Open auction floor broker fee — Open auction trades executed by a member as a floor broker for others shall incur a floor brokerage charge of 2 cents per contract/per side. Provided, however, that this charge shall not apply to trades which are both initiated and executed by the same member for the account of a member, or the proprietary account of a member firm. The maximum of fees paid by any Series B-1 (Full), Series B-2 (Associate), Series B-3 (GIM), Series B-4 (IDEM) or Series B-5 (COM) member pursuant to this subsection shall be \$20,000 per year. When a member executes trades as a floor broker for others and also executes open auction trades for his or her own account, the maximum of fees paid by such member for all such open auction trades collectively shall be \$20,000 per year.~~
 - ~~3. Firm owned memberships — Notwithstanding sections A.1. and A.2. of this Rule, the fees applicable with respect to memberships which are owned by member firms shall be equivalent, in the following categories, to those which the Exchange prescribes for delegates:
 - ~~i. Trades for such member's own account, in cases where the individual is not a principal of the member firm which owns his/her membership. For purposes of this paragraph, an individual shall be deemed a principal of a member firm if he/she holds a majority ownership interest in that firm and/or meets other such criteria as the Exchange may prescribe by regulation; and~~
 - ~~ii. Trades executed by such member on behalf of any account other than the proprietary account or a customer account of the member firm owner of the membership, or its Affiliate, as defined by the Exchange.~~~~
- ~~B. Non-members — Each member firm handling the funds of non-member customers shall include, in the statements to such customers, fees for the open auction and e-cbot transactions executed for~~

~~the accounts of such customers in accordance with the fee schedule adopted by the Exchange. In that fee schedule, the applicable rate specifications shall be per contract/per side, and the applicable volume specifications shall be per calendar month.~~

~~All such fees collected from non-member customers shall be remitted by the member or member firm at such times and in such manner as the Exchange may prescribe.~~

~~No member firm shall identify on its statements to nonmember customers any charge as an "Exchange Service Fee" unless the amount shown is actually due and payable to the Exchange under this Rule.~~

- ~~C. Surcharges—Exchange transaction fee surcharges, exchange fees for non-trade transactions, and clearing fees are set forth in the fee schedule adopted by the Exchange, which is incorporated into this Rule by reference.~~
- ~~D. Revenue—The Exchange shall have the authority in its discretion to suspend any of the fees specified in this Rule at any time during a fiscal year.~~
- ~~E. Reports—Each member or member firm subject to the provisions of this Rule shall submit to the Exchange such reports as the Exchange may deem necessary for the administration of this Rule.~~
- ~~F. Special assessments—This Rule shall not abrogate the right of the Exchange to levy such additional dues, assessments, charges or fees upon the membership as it may deem necessary or advisable.~~

~~G. Definitions for the purpose of implementing this Rule~~

- ~~1. Member's Own Account—The term "member's own account" shall refer only to those commodity futures and/or commodity options trading accounts that are wholly owned by and held in the name of one or more members. For any account held by more than one member, all trades made for such account shall pay transaction fees equal to the highest fee required of any of the individual participants in the account, in accordance with section G.6. of this Rule. An account owned by and held in the name of a non-member spouse or other relative of a member shall not be considered a member's account.~~

~~2. Member's Own Account in Trust—A commodity futures and/or commodity options trading account placed in trust shall be deemed a "member's own account" if the following conditions are satisfied:~~

- ~~i. the member is the sole settlor of the trust; and~~
- ~~ii. the member is one of the trustees of the trust and as such trustee, has sole control over the investment-making decisions of the trust; and~~
- ~~iii. the beneficiaries of the trust include only the member, the member's spouse and/or the member's descendants; and~~
- ~~iv. the trust declaration expressly incorporates the Rules of the Exchange, as may be amended; and~~
- ~~v. the interest in the trust that inures to the beneficiaries of the trust shall be subject to all Rules of the Exchange, as may be amended; and~~
- ~~vi. the non-member trustee, if any, expressly agrees in the trust declaration, to be subject to all Rules of the Exchange, as amended; and~~
- ~~vii. the member provides to the Exchange's Membership Services Department, a copy of the trust declaration creating the trust, as well as any amendments thereto, along with a letter from an attorney stating that in the attorney's opinion, the trust created is designed to achieve the estate planning objectives of the member.~~

~~Upon the member's death or if the member is adjudged incompetent, any commodity futures and/or commodity options trading account placed in trust pursuant to this section G.2. by such member will be treated as a non-member trading account for purposes of implementing this Rule.~~

~~3. Member Firm's Proprietary Account—The term "proprietary account of a member firm" shall refer only to those commodity futures and/or commodity options trading accounts that are wholly owned by and held in the name of the member firm. For an account to qualify as a~~

member firm proprietary account, any individual who initiates and/or enters trades on behalf of the proprietary account (unless he owns a membership and is entering trades within the scope of his membership privileges) must meet the following requirements:

- ~~i. may not provide trading capital for the account; and~~
- ~~ii. may not have responsibility to provide capital based on trading losses; and~~
- ~~iii. for individuals that are not issued a W-2 (or comparable documentation in jurisdictions other than the United States) the firm must have a written agreement detailing the full terms of their compensation agreements; and~~
- ~~iv. may not contribute subordinated debt, unless the individual is a partner, member of a limited liability company, or shareholder of the member firm; and~~
- ~~v. gross trading profits and losses must be reported in the firm's income statement.~~

Any account that does not meet the above criteria will be considered a joint account with the individual entering the trades and, therefore, must comply with section G.6. of this Rule.

~~4. Individual Member's Trading Account — For an account to qualify as an individual member's account or a joint account of individual members, where the trades are executed on e-cbot, any individual who initiates and/or enters trades on behalf of the account (unless he owns a membership and is entering trades within the scope of his membership privileges) must meet the following requirements:~~

- ~~i. may not provide trading capital for the account; and~~
- ~~ii. may not have responsibility to provide capital based on trading losses; and~~
- ~~iii. the individual member must have a written agreement detailing the full terms of the trader's compensation; and~~
- ~~iv. the trader may not make a loan to the individual member for the purposes of providing trading capital.~~

~~A member that is trading on the floor may designate up to a maximum of two clerks who may execute trades initiated by the member through e-cbot. Such trades will be eligible for fees at the individual member rate.~~

~~Any account that does not meet the above criteria will be considered a joint account with the individual entering the trades, and, therefore, must comply with section G.6. of this Rule.~~

~~5. Firm Owner Trading a Proprietary Account — In cases where a non-member owner, non-member member of a limited liability company, or non-member partner of a member firm trades a member firm proprietary account, and where the non-member trader's compensation is tied to the profitability of the specific proprietary account(s), in order for the trades in such proprietary account to receive member fee treatment, the non-member trader must maintain at least \$200,000 in the trading account(s) and the \$200,000 must be available to support the trading activity on the Exchange. If the non-member trader does not maintain the requisite \$200,000, the account will be considered a joint account between the member firm and the non-member trader and therefore, the transaction fees will be determined in accordance with section G.6. of this Rule.~~

~~6. Joint Accounts — Any account where profits and/or losses are shared by more than one party (member or non-member), shall pay Exchange transaction fees based on the highest rate applicable to any of the account's participants. In addition, a trading account that is funded by a loan shall be deemed a joint account between the borrower and the lender unless it can be demonstrated that the terms of the loan represent a reasonable interest rate, not affected by the profits and/or losses generated in the account. Further, if the terms of the loan suggest that the loan need not be paid back in the event of losses, the trading account shall be deemed a joint account.~~

~~H. Fees for CBOT Family of Funds Equity Member Firms — CBOT Family of Funds Equity Member Firms, as defined by the Exchange, will be granted the same fee treatment that the proprietary accounts of Equity Member Firms that are CBOT Clearing or Equity FCMs or CBOT Clearing or~~

Equity Corporate Member Firms, as defined by the Exchange, receive where the trade is executed by a non-member for those firms' accounts.

- ~~J. Exchange service fee adjustments—Exchange transaction fee adjustments resulting from the overpayment of such fees must be made through the Exchange Fee Billing System's ("EFB") on-line correction facility. The Exchange will only grant adjustments to member firms for the overpayment of exchange transaction fees for the prior two months from the month the adjustment is made to the EFB on-line correction facility.~~

~~The Exchange will only require member firms to make adjustments for the underpayment of exchange transaction fees for a period up to one year back from the end of the audit period selected by the Exchange. Exchange findings of underpayments may not be offset with an adjustment for any overpayments, except as provided above. Interest and/or costs may be assessed in accordance with policies established by the Exchange.~~

851. TRANSACTION FEE STATUS OF CBOE EXERCISERS

~~["e-cbot" references in this rule will be changed to "Globex" upon Globex integration.]~~

~~Pursuant to Rules 850 and 106.D.14.(a) through (d), as applicable, and in accordance with the August 7, 2001 Agreement between the Exchange and the Chicago Board Options Exchange ("CBOE"), as modified by the letter agreements, dated October 7, 2004, February 11, 2005 and February 14, 2005, between the Exchange, CBOE and CBOT Holdings, Series B-1 (Full) members and Series B-1 (Full) member delegates who utilize their rights in Series B-1 (Full) membership as a basis to exercise and become a member of the CBOE without purchasing a membership on such exchange (hereinafter referred to as "Exerciser Members") will be subject to the following:~~

- ~~A. Open Auction Trades—Exerciser Members will be obligated to pay non-member (customer) rates for trades executed on the CBOT Exchange Floor by or on behalf of such Exerciser Member at any time when such Exerciser Member is logged on to the CBOE's electronic trading platform;~~

~~B. e-cbot Trades—~~

- ~~1. If a Series B-1 (Full) member who is an Exerciser Member is physically present on the CBOE trading floor or is logged onto the CBOE's electronic trading platform at the time an order is entered or altered in e-cbot by or on behalf of such Exerciser Member, then such Exerciser Member will be obligated to pay non-member (customer) rates for trades resulting from the execution of such orders.~~
- ~~2. A series B-1 (Full) member delegate who is an Exerciser Member will be obligated to pay non-member (customer) rates for all trades executed on e-cbot by or on behalf of such Exerciser Member.~~

~~The foregoing obligations will not apply if such Exerciser Member possesses another membership that has not either been delegated or, in the case of another CBOT Series B-1 (Full) membership, used as a basis to exercise and become a member of the CBOE, and that entitles such member to trade in a particular product.~~

REQUIRED USE OF ATOM BY CLEARING MEMBERS AND FLOOR BROKERS

(A) Each Clearing Member of the Exchange and floor broker must enter into an agreement (the "ATOM Agreement") to participate in the ATOM[1] system. The ATOM Agreement shall be in the form specified by the Exchange and shall be filed with the Exchange.

(B) Each Clearing Member shall enter and maintain all applicable floor brokerage rates into the ATOM system, at rates agreed to between the Clearing Member and the applicable floor broker. A Clearing Member must provide thirty (30) days prior written notice to the floor broker before any modification to a floor brokerage rate entered in the ATOM system shall become effective.

(C) Each Clearing Member and floor broker shall agree on customer identification codes and each floor broker shall enter these codes when entering clearing data for such trades for these customers.

1 "ATOM" is a trademark of the Board of Trade Clearing Corporation and has been licensed for use by NYMEX.

852. FINES FOR ERRORS, DELAYS AND OMISSIONS

Exchange staff shall establish, and from time to time revise, schedules of fines to be imposed upon clearing members for errors, delays and omissions with respect to trade and position data and other required Clearing House memoranda. These fines are to be collected by the Clearing House and are in addition to any disciplinary sanctions that may be imposed by the BCC or CHRC for the violation of Exchange rules within their jurisdiction.

853. TRANSFERS OF TRADES

- A. Subject to the limitations of Rule 854, existing trades may be transferred either on the books of a clearing member or from one clearing member to another clearing member provided:
 - 1. The transfer merely constitutes a change from one account to another account provided the underlying beneficial ownership in said accounts remains the same; or
 - 2. An error has been made in the clearing of a trade and the error is discovered and the transfer is completed within ~~four~~two business days after the trade date.
- B. Subject to the limitations of Rule 854, Exchange staff may, upon request by the clearing member(s), approve a transfer of existing trades either on the books of the same clearing member, or from the books of one clearing member to the books of another clearing member if the transfer is in connection with, or as a result of, a merger, asset purchase, consolidation or similar non-recurring transaction between two or more entities where one or more entities become the successor in interest to one or more other entities.
- C. Exchange staff may, with the consent of the clearing member(s) involved, permit the transfer of existing trades if, in staff's opinion, the situation so requires and such transfer is in the best interests of the Exchange.
- D. Provided that the transfer is permitted pursuant to Sections A., B. or C. above, the transactions must be recorded and carried on the books of the receiving firm at the original trade dates. Futures transactions may be transferred using either the original trade price or the most recent settlement price; options transactions may be transferred using either the original trade price or a trade price of zero.
- E. All transfers shall be reported to the Clearing House in a form acceptable to the Exchange for the type of transactions involved. The proper indicator must be included in the transfer such that the transactions, including the transaction(s) to reverse an error, clear as transfers. The clearing members involved shall maintain a full and complete record of all transactions together with all pertinent memoranda.

854. CONCURRENT LONG AND SHORT POSITIONS

Set forth below are the procedures that must be followed for concurrent long and short positions and hold-open accounts.

- A. Concurrent long and short positions in the same commodity and month may be held by a clearing member at the direction of a customer or on behalf of an omnibus account; however it shall be the duty of the clearing member to ascertain whether such positions are intended for offset or to be held open prior to final transmission of position data to the Clearing House.
- B. Concurrent long and short positions in physically delivered contracts that are held by the same owner during the current delivery month ~~and two business days prior to the delivery month~~ must be offset by transactions executed in the market, by allowable privately negotiated transactions, or fulfilled through the normal delivery process, provided however that trades may be transferred for offset if the trade date of the position being transferred is the same as the transfer date. Such positions may not be offset via netting, transfer, or position adjustment except to correct a bona fide clerical or operational error on the day the error is identified and provided that the quantity of the offset does not represent more than one percent of the reported open interest in the affected futures contract month. For the purposes of this rule, the current delivery month for energy futures contracts commences on the open of trading on the third business day prior to the termination of the respective futures contract, including the termination date. The current delivery month for metals futures commences two business days prior to the first business day of the delivery month.
- C. Clearing members which, pursuant to this rule, carry concurrent long and short positions, must

report to the Clearing House both sides as open positions. When either side or both sides are reduced in accordance with Section B. of this rule, the open positions as reported to the Clearing House must be reduced accordingly.

- D. The Exchange takes no position regarding the internal bookkeeping procedures of its clearing members which, for the convenience of a customer, may "hold open" a position only on their books. However, the clearing member must accurately report to the Exchange and the Clearing House, as appropriate, large trader positions, long positions eligible for delivery and open interest.

855. OFFSETTING MINI-SIZED AND FULL-SIZED FUTURES POSITIONS

- A. With the consent of the account controller, a clearing member may offset and liquidate long futures positions against short futures positions, or short futures positions against long futures positions, held in the same account in the following ratios:

(Crude Oil) WS to QM 2:1
(Natural Gas) HP to QG 4:1
(RBOB Gasoline) RT to QU 2:1
(Heating Oil) BH to QH 2:1

The clearing member shall notify the Clearing House of offsetting positions by submitting reports to the Clearing House in such form and manner as the Clearing House shall specify. The positions shall be offset at the previous day's settlement price.

The positions being offset shall be transferred to a Clearing House holding account. Long and short positions in the same contract and contract month held in the holding account shall be netted, thus reducing the number of open positions in such contract.

~~DJIASM Futures—With the consent of the account controller, a clearing member may offset and liquidate long futures positions against short futures positions, or short futures positions against long futures positions, held in the same account in the following ratios:~~

~~Mini-sized Dow (\$5 Multiplier) to DJIA Index ————— 2:1~~
~~Mini-sized Dow (\$5 Multiplier) to DJIA Index (\$25 Multiplier) ————— 5:1~~
~~DJIA Index to DJIA Index (\$25 Multiplier) ————— 5:2~~

~~The clearing member shall notify the Clearing House of offsetting positions by submitting reports to the Clearing House in such form and manner as the Clearing House shall specify. The positions shall be offset at the previous day's settlement price.~~

~~—The positions being offset shall be transferred to a Clearing House holding account. Long and short positions in the same contract and contract month held in the holding account shall be netted, thus reducing the number of open positions in such contract.~~

- ~~B. Physically delivered futures contracts—With the consent of the account controller, a clearing member may request to offset and liquidate long mini-sized futures positions against short full-sized futures positions, or short mini-sized futures positions against long full-sized futures positions, held in the same account in the following ratios of mini-sized to full-sized futures contracts:~~

~~Mini-sized (1000 bu.) Corn to Full-sized (5000 bu.) Corn ————— 5:1~~
~~Mini-sized (1000 bu.) Soybean to Full-sized (5000 bu.) Soybean — 5:1~~
~~Mini-sized (1000 bu.) Wheat to Full-sized (5000 bu.) Wheat ————— 5:1~~

~~The clearing member shall notify the Clearing House of its request to offset positions by submitting reports to the Clearing House in such form and manner as the Clearing House shall specify. If accepted, the positions being offset shall be transferred to a holding account at the Clearing House. The Clearing House shall accept such request or fraction of such request upon receiving an opposite offset request from another clearing member. Such requests shall be processed in the order of oldest request date first.~~

~~No such offset request shall be accepted during the last two trading days.~~

Chapter 9 Clearing Members

GENERAL

900. CATEGORIES OF CLEARING MEMBERS

The Exchange may establish different clearing member categories and alter the rights and responsibilities of such categories.

The term "clearing member" as used in the Rules, shall include all clearing member categories established by the Exchange, including Clearing FCMs, ~~Clearing Closely Held Corporate Members, Clearing Corporate Members and Sole Proprietor Clearing Members~~, unless otherwise specified.

900.A. NYMEX Clearing Members

~~CBOT~~NYMEX Clearing Members shall have all applicable rights, responsibilities and privileges attendant thereto, subject to the provisions of these rules and shall be qualified to clear transactions for all NYMEX~~CBOT~~ products, ~~and all Expanded Access Products listed for trading by CME after July 12, 2007.~~

900.B. COMEX Clearing Members

COMEX Clearing Members shall have all applicable rights, responsibilities and privileges attendant thereto, subject to the provisions of these rules and shall be qualified to clear transactions for all COMEX products.

901. GENERAL REQUIREMENTS AND OBLIGATIONS

Membership in the Clearing House is a privilege and license granted by the Board and may be withdrawn by the Board for cause at any time. Clearing House staff may grant exemptions to the General Requirements and Obligations set forth below for Clearing Members if it is determined that such an exemption will not jeopardize the financial integrity of the Clearing House. Subject to such exemptions, each applicant for qualification as a clearing member must satisfy the following requirements:

- A. It shall be a corporation (defined by the Rules of the Exchange to include a limited liability company), partnership or other entity approved by Exchange staff. It shall agree to: 1) abide by all Exchange Rules and to cooperate in their enforcement; 2) be responsible, even after it has withdrawn as a clearing member, for any violations of Exchange Rules committed by it while it was a clearing member; and 3) continue to meet all requirements applicable to clearing members, including all financial requirements provided by these rules;
- B. It shall have an authorized representative (i.e., officer, principal, or partner) who shall represent the clearing member before the Exchange and its committees. Such authorized representative shall be responsible to the Exchange for any representations made to the Exchange as if such person were a member as defined by Rule 400.
- C. It shall be qualified to do business in the State of Illinois or the State of New York or have a valid agency agreement with an entity qualified to do business in the State of Illinois or the State of New York;
- D. It shall be engaged in or demonstrate immediate capacity to engage in the conduct of the business of a clearing member;
- E. It shall demonstrate such fiscal and moral integrity as would justify the Clearing House's assumption of the risks inherent in clearing its trades;
- F. It shall demonstrate financial capitalization commensurate with Exchange requirements as set by the Clearing House Risk Committee;
- G. If any person directly or indirectly controls, owns 10% or more of, or has the right to 10% or more of the profits of two or more clearing members, then each such clearing member shall guarantee the obligations of the others to the Clearing House and shall execute a written guarantee to the Clearing House on a form approved by the Clearing House.
- H. It shall notify the Exchange prior to any significant business transaction or significant change in operations which shall include, but is not limited to the following:
 1. The merger, combination or consolidation between the clearing member and another person or

entity;

2. The assumption or guarantee by the clearing member of all or substantially all of the liabilities of another in connection with a direct or indirect acquisition of all or substantially all of that person's or entity's assets;
3. The sale by the clearing member of a significant part of its business and/or assets to another person or entity;
4. A change in the direct or indirect beneficial ownership of 20% or more of the clearing member;
5. Any change in the system provider used by the clearing member to process its trades; and
6. A significant increase in the number of members that a clearing member qualifies.

Additionally, a clearing member that qualifies members must provide fifteen days notice to the Exchange of any proposal to terminate such business or any material part of such business.

The Clearing House Risk Committee or Exchange staff, upon such notice, may disapprove or approve, subject to certain conditions, such changes in structure or operations if it determines that the proposed change could jeopardize the financial or operational integrity of the Exchange or the Clearing House.

- I. It shall agree to guarantee and assume complete responsibility for: 1) all trades and orders executed or directed to be executed by floor brokers and traders it qualifies; and 2) all orders that floor brokers it qualifies execute or fail to execute either negligently, fraudulently or in violation of Exchange rules.

J.-K. [Reserved]

- L. It shall submit to the Clearing House a written guarantee, on a form provided by the Clearing House, from each person or entity owning 5% or more of the equity securities of the clearing member, that shall guarantee all obligations of the clearing member to the Clearing House arising out of accounts cleared by the clearing member that are:

1. non-customer accounts, including proprietary accounts as defined by CFTC Regulation 1.3(y); and
2. accounts carried by another futures commission merchant if such accounts would be considered non-customer accounts, including proprietary accounts as defined by CFTC Regulation 1.3(y), of the clearing member, if carried directly by the clearing member.

Notwithstanding anything herein to the contrary, the guarantee required by this Rule 901.L. shall not apply to any obligations of the clearing member to pay an assessment to the Clearing House pursuant to Rule 802.B.

Each clearing member must submit and maintain with the Audit Department a current list of every person or entity which is directly, or indirectly through intermediaries, the beneficial owner of 5% or more of any class of equity security of the clearing member. If such person or entity owns the clearing member indirectly through intermediaries, all intermediaries must be listed including, if a corporation, all shareholders who own 5% or more of any class of equity security, or, if a partnership, all general and any limited or special partners who have contributed 5% or more of the partnership's capital. If the intermediary's shareholders or partners are not individuals, the clearing member must include the chain of ownership of 5% shareholders, general partners and 5% limited or special partners until individuals are listed.

If a corporation directly or indirectly owns 5% or more of the equity securities of the clearing member, the written guarantee shall be signed by an appropriate officer of the corporation, and a resolution granting such officer authority to sign the guarantee shall also be submitted to the Clearing House. Clearing House staff may also require each person or entity owning 5% or more of the equity securities of such parent corporation, or of parents of such parent corporation, to execute guarantees.

For purposes of this Rule 901.L., the term "equity security" shall include any stock, partnership interest or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security that Clearing House staff shall deem to be of similar nature and consider necessary or appropriate to treat as an equity security.

- M. It shall guarantee and assume financial responsibility for all trading activity routed through a Globex portal, a ClearPort Trading portal or routed through any other electronic trading system to CME for clearing of such transactions. Such activity is guaranteed to CME by the clearing member via any connection, terminal, link, telecommunications hub or handheld unit provided by the clearing member to a third party as well as any other applicable electronic trading systems and terminals that the clearing member provides to a third party to enter orders.

N. It shall be responsible for the acts of Globex terminal operators and ClearPort Trading Users or User Agents accessing, respectively, the Globex system or the ClearPort Trading system through its connections, including direct connections or other connections that it provides to firms that are under common ownership with it. It shall be the duty of the clearing member to supervise its employees and agents acting as Globex terminal operators or ClearPort Trading Users or User Agents to ensure such employees and agents comply with Exchange rules, and any violation of Exchange rules by such terminal operators shall be considered a violation by the clearing member.

902. CLEARING MEMBERSHIP ASSIGNMENT REQUIREMENTS

(A) Subject to exceptions granted by Exchange staff, each firm, as a condition of obtaining and maintaining Clearing Member privileges, shall be required to own and or have conferred upon it two (2) Exchange memberships in each Division in which it desires Clearing Member privileges. The firm shall also be required to designate one or two individuals as its "conferring Members". Conferring Members may individually own the membership(s) and or hold such memberships via ABC Agreement. In addition, until further notice from the Exchange, each NYMEX Division Clearing Member shall at all times own or have pledged/conferred upon it at least: 8,000 shares in CME Group common stock; 12,000 shares in CME Group common stock if it is a Clearing Member at NYMEX and CME or CBOT; and 16, 000 shares in CME Group common stock if it is a Clearing Member at NYMEX, CME and CBOT.

(B) In the case of one conferring Member, such Member shall be an executive officer, general partner or an executive officer of a corporate general partner of the firm.

(C) In the case of two conferring Members, at least one member shall be an executive officer, general partner or an executive officer of a corporate general partner of the firm; the other conferring Member need only be a bona fide full time employee of the firm.

(D) As used in this Rule, an executive officer, general partner or an executive officer of a corporate general partner must have the power to direct the affairs of the firm with respect to transactions executed on the Exchange or shall be the senior commodity officer of the firm.

(E) Trades done for the account of any parent, subsidiary, affiliate, etc. of a Clearing Member, if not itself a Clearing Member shall be at non-Member rates; only the firm obtaining Clearing Member status hereunder may receive Member rates.

(F) Each Clearing Member hereby grants to the Clearing House a first priority and unencumbered lien against all memberships and any CME Group shares requires for clearing membership on the Exchange.

902.A. Assignment Requirement

Subject to exemptions granted by Exchange staff, a CBOT Clearing FCM shall have at least two Series B-1 (Full) memberships assigned, and all other CBOT clearing members shall have at least one Series B-1 (Full) membership assigned.

Subject to exemptions granted by Exchange staff, each CBOT clearing member shall assign at least the number of CME Group Class A Shares set forth in the table below:

Number of CME Group Class A Shares Needed for Clearing Membership

Type of Membership	CBOT Clearing Member	Joint Clearing Member of CBOT and CME
Clearing FCMs	8,000	12,000
Clearing Closely Held		
Corporate Members	8,000*	12,000
Clearing Corporate Members	8,000*	12,000
Sole Proprietor		
Clearing Members	8,000*	12,000

*Clearing Closely Held Corporate Members, Clearing Corporate Members and Sole Proprietor Clearing Members that qualified as clearing member firms as of July 12, 2007, will have a "grandfathered" share requirement of 4,725.

Assigned Class A Shares may not be sold, pledged, hypothecated, lent, reregistered or otherwise

~~transferred without the prior approval of the Exchange. Each clearing member assigning Class A Shares to the Clearing House hereby acknowledges that the Clearing House has control over such Class A Shares and further agrees to comply with any policies or procedures established by the Clearing House to affect control over Class A shares.~~

~~All of the memberships and Class A Shares required for clearing memberships pursuant to this rule must be owned by the clearing member or a person, including a parent company, with an acceptable proprietary interest in such clearing member, if such clearing member was approved for membership after November 20, 2007.~~

~~A clearing member approved for membership on or before November 20, 2007, may continue to maintain the same number of independent membership assignments and the same ratio of independent Class A Share assignments as the clearing member held on November 20, 2007. If a clearing member approved on or before November 20, 2007, or a person with an acceptable proprietary interest in the clearing member, subsequently purchases a membership or Class A Shares and substitutes such asset for one which was previously an independent assignment, such membership or Class A Shares must thereafter be owned by the clearing member or a person with an acceptable proprietary interest.~~

~~Upon default of a clearing member in meeting its obligations to the Clearing House or upon the Clearing House Risk Committee's determination that a clearing member's financial position jeopardizes the financial integrity of the Clearing House, the Clearing House may direct the sale of any or all of the clearing member's assigned CBOT memberships and Class A Shares. The proceeds from the sale of the CBOT memberships shall be used to satisfy Rule 110 obligations.~~

~~902.B. [Reserved]~~

~~**902.C. Assignment Process**~~

~~A membership and/or Class A Shares may be assigned upon the completion of an Exchange approved form. A membership and Class A Shares may be assigned on behalf of only one clearing member and may not be subject to any Rule 110 claims at the time of assignment. Upon submitting an assignment form to the Shareholder Relations and Membership Services Department, the membership shall be notified of the assignment. Parties will have ten days after the notification of the assignment to submit any Rule 110 claims against the membership being assigned. After all Rule 110 claims have been resolved to the satisfaction of the Exchange, the membership shall be assigned.~~

~~**902.D. Assignment Substitutions**~~

~~A clearing member may substitute a membership and/or Class A Shares for an assigned membership and/or Class A Shares provided that the clearing member continues to meet the assignment requirements of this Rule.~~

~~In the event a clearing member has a valid claim against a member that it qualifies and the member's membership is assigned to another clearing member, the clearing member utilizing the membership for assignment shall have 10 business days to substitute another membership to fulfill the assignment requirements of this Rule.~~

~~**902.E. Assignment Withdrawal Disputes**~~

~~In the event a member wants to withdraw his assigned membership over the objection of the clearing member to which the membership is assigned, such member must request permission to do so from Clearing House staff. The request must be in writing with a copy delivered to the clearing member to which the membership is assigned.~~

~~**902.F. Lien on Memberships and Class A Shares**~~

~~Each clearing member hereby grants to the Clearing House a first priority and unencumbered lien against all memberships and any Class A shares required for clearing membership by the Exchange.~~

903. RESPONSIBILITY FOR QUALIFIED MEMBERS

- A. A clearing member that qualifies a floor broker or trader thereby guarantees and assumes complete responsibility for: 1) all trades and orders executed or directed to be executed by such floor broker or trader; and 2) all orders that such floor broker executes or fails to execute either negligently, fraudulently or in violation of Exchange rules.
- B. To qualify traders, a clearing member must have established systems in place for trade submission, clearing, and settlement/banking with the Clearing House.
- C. No member may be qualified by more than one clearing member at one time.
- D. A member may not transfer his qualification unless he has obtained a written release from the clearing member last qualifying him. A release shall not be withheld unless a member has an unsatisfied indebtedness to the clearing member last qualifying him where the indebtedness is due to a deficit arising from transactions on the Exchange or where the clearing member last qualifying

him is the guarantor under an existing valid guarantee of a loan which had been made to the member exclusively for the purpose of financing the purchase of the member's membership. A member who believes his qualifying clearing member is unreasonably withholding a release necessary to permit the member to be qualified by a different clearing member may request a hearing before a Panel of the Business Conduct Committee as provided in accordance with the provisions of Rule 408.514. Any other disputes between the parties shall be resolved, to the extent permitted by the rules, through the arbitration procedures set forth in Chapter 6A.

- E. A clearing member may, without prior notice, revoke a member's authorization to trade by written revocation filed with the ~~Shareholder Relations and~~ Membership Services Department. Such revocation shall be effective and the member's qualification to trade shall terminate when notice of the disqualification is posted on the Exchange floor. A member shall not appear upon the floor of the Exchange until he has been requalified.
- F. A member shall place all trades, including trades for his own account or any account which he controls, on the books of his qualifying clearing member unless written authorization to the contrary from said clearing member has been filed with the ~~Shareholder Relations and~~ Membership Services Department. Regardless of such authorization, a member in a deficit position with any clearing member shall place trades only through his qualifying clearing member. Any non-qualifying clearing member that carries a member's account in a deficit position shall promptly notify the clearing member that is qualifying such member.
- G. No clearing member shall provide Globex or ClearPort Trading access to, or clear any trade for, an employee, qualified trader or other representative of another clearing member without the written consent of such clearing member. No clearing member shall provide Globex or ClearPort Trading access to, or clear any trade for, a person in a partnership with another clearing member without the written consent of all partners. Such written consent shall be filed with the ~~Shareholder Relations and~~ Membership Services Department.
- H. In the case of a member who has Globex access or ClearPort Trading access guaranteed by a clearing member other than his qualifying clearing member, the qualifying clearing member may terminate the member's ability to place orders through Globex or ClearPort Trading by notifying the clearing member providing the member access to Globex or ClearPort Trading. The clearing member providing the access to Globex or ClearPort Trading will be responsible for ensuring that the member does not place orders through Globex or ClearPort Trading.

904.-909. [RESERVED]

APPLICATION PROCEDURES FOR CLEARING MEMBERS

910. APPLICATION FORMS

Applicants for clearing membership shall submit an application, financial statements and other documentation as Clearing House staff shall require.

911. SCREENING PROCEDURES

Upon receipt of an application, the Audit Department shall investigate the applicant's qualifications, which may include an examination of the books and records of the applicant.

912. APPROVAL

An applicant for clearing membership receiving a majority vote of the full membership of the Clearing House Risk Committee shall be approved effective immediately.

An applicant that fails to receive a majority vote shall be informed by the Clearing House Risk Committee chairman and shall have 10 days thereafter to file an appeal to the Board seeking further consideration. The Board may approve the applicant by a majority vote if it is satisfied that the Clearing House Risk Committee's decision was arbitrary, capricious or an abuse of the Committee's discretion.

913. WITHDRAWAL FROM CLEARING MEMBERSHIP

913.A. Voluntary Withdrawal

A clearing member may withdraw from clearing membership upon approval of Clearing House staff, and ratification by the Clearing House Risk Committee. Clearing House staff shall base its decision on all relevant factors, including, but not limited to, whether the withdrawal is consistent with the best interests of the Exchange, the Clearing House, the membership and the public. The withdrawal shall be effective on the date that the withdrawal is posted.

913.B. Release of Security Deposit, Membership and Class AB Share Proceeds and

Assignments

When a clearing member withdraws from clearing membership (whether voluntarily or involuntarily), its security deposit, the proceeds from the sale of its memberships and its Class A Shares assigned for clearing qualification or any other deposits required by the Clearing House, and any remaining assets available to the Exchange and the Clearing House including, but not limited to, memberships and Class A Shares will be released when Exchange and Clearing House staff determine that the following has occurred: (1) all contracts and obligations with the Exchange and the Clearing House have been settled and paid, (2) all sums owing to the Exchange have been paid, (3) all obligations to other members and customers arising out of claims directly related to futures transactions cleared on the Exchange have been paid or otherwise provided for, and (4) all obligations to other members and customers arising out of other arbitration claims filed pursuant to Chapter 6A have been paid or otherwise provided for and (5) the requisite liquidity providers for the Exchange have released the security interest in such clearing member's "Assets" contemplated by Rule 817 in accordance with the terms of the liquidity facility contemplated thereby; provided, however, that in the event that Exchange and Clearing House staff determine that all of the foregoing other than (4) have occurred, the Clearing House Risk Committee may in its discretion authorize the release of such property.

Generally, no such property shall be released prior to the 60th day following the effective date of the clearing member's withdrawal from membership in the Clearing House. Notwithstanding the above, Exchange and Clearing House staff may grant an exemption to the above restriction for good cause shown. Further, for purposes of the paragraph above, all obligations of the withdrawing clearing member to the Exchange or the Clearing House, of whatever nature or kind, shall be accelerated and become due and payable upon the effective date provided for in the Clearing House Risk Committee decision to approve the withdrawal.

914.-929. [RESERVED]

ACCOUNT HOLDER PERFORMANCE BOND REQUIREMENTS

930. PERFORMANCE BOND REQUIREMENTS: ACCOUNT HOLDER LEVEL

930.A. Performance Bond System

The Standard Portfolio Analysis of Risk (SPAN®) Performance Bond System is the performance bond system adopted by the Exchange. SPAN-generated performance bond requirements shall constitute Exchange performance bond requirements. All references to performance bond within the rules of the Exchange shall relate to those computed by the SPAN system.

Performance bond systems other than the SPAN system may be used to meet Exchange performance bond requirements if the clearing member can demonstrate that its system will always produce a performance bond requirement equal to or greater than the SPAN performance bond requirements.

930.B. Performance Bond Rates

Clearing House staff shall determine initial and maintenance performance bond rates used in determining Exchange performance bond requirements. The Board reserves the right to change or modify any performance bond levels determined by Clearing House staff.

930.C. Acceptable Performance Bond Deposits

Clearing members may accept from their account holders as performance bond cash currencies of any denomination, readily marketable securities (as defined by SEC Rule 15c3-1(c)(11) and applicable SEC interpretations), money market mutual funds allowable under CFTC Regulation 1.25, bank-issued letters of credit and deliverable warehouse receipts for commodities traded on the Exchange provided that such receipts will be valued as margin at no more than 75% of the value of the commodity.

Clearing members shall not accept as performance bond from an account holder securities that have been issued by the account holder or an affiliate of the account holder unless the clearing member files a petition with and receives permission from Clearing House staff.

Bank-issued letters of credit must be in a form acceptable to the Clearing House. Such letters of credit must be drawable in the United States. Clearing members shall not accept as performance bond from an account holder letters of credit issued by the account holder, an affiliate of the account holder, the clearing member, or an affiliate of the clearing member.

All assets deposited by account holders to meet performance bond requirements must be and remain unencumbered by third party claims against the depositing account holder.

Except to the extent that Clearing House staff shall prescribe otherwise, cash currency performance bond deposits shall be valued at market value. All other performance bond deposits other than letters of credit shall be valued at an amount not to exceed market value less applicable haircuts as set forth in SEC Rule 240.15c3-1.

930.D. Acceptance of Orders

Clearing members may accept orders for an account provided sufficient performance bond is on deposit in the account or is forthcoming within a reasonable time.

For an account which has been subject to calls for performance bond for an unreasonable time, clearing members may only accept orders that reduce the performance bond requirements of existing positions in the account.

Clearing members may not accept orders for an account that has been in debit an unreasonable time.

930.E. Calls for Performance Bond

1. Clearing members must issue calls for performance bond that would bring an account up to the initial performance bond requirement: a) when performance bond equity in an account initially falls below the maintenance performance bond requirement; and b). subsequently, when performance bond equity plus existing performance bond calls in an account is less than the maintenance performance bond requirement.

Such calls must be made within one business day after the occurrence of the event giving rise to the call. Clearing members may call for additional performance bond at their discretion. Notwithstanding the foregoing, a clearing member is not required to call for or collect performance bond for day trades.

2. Clearing members shall only reduce a call for performance bond through the receipt of performance bond deposits permitted under subsection C. of this rule. Clearing members may cancel a call for performance bond through: a) the receipt of performance bond deposits permitted under subsection C. of this rule only if such deposits equal or exceed the amount of the total performance bond call; or b) inter-day favorable market movements and/or the liquidation of positions only if performance bond equity in the account is equal to or greater than the initial performance bond requirement. Clearing members shall reduce an account holder's oldest outstanding performance bond call first.
3. Clearing members must maintain written records of all performance bond calls issued and satisfied in whole or in part.

930.F. Release of Excess Performance Bond

Subject to exceptions granted by Clearing House staff, clearing members may only release performance bond deposits from an account if such deposits are in excess of initial performance bond requirements.

930.G. Loans to Account Holders

Clearing members may not make loans to account holders to satisfy their performance bond requirements unless such loans are secured as defined in CFTC Regulation 1.17(c)(3). The proceeds of such loans must be treated in accordance with CFTC Regulation 1.30.

930.H. Aggregation of Accounts and Positions

Clearing members may aggregate and net positions in accounts under identical ownership within the same classifications of customer segregated, customer secured, special reserve account for the exclusive benefit of customers, and nonsegregated for performance bond purposes. Clearing members may compute performance bond requirements on identically owned concurrent long and short positions on a net basis.

930.I. Hedge Positions

Clearing members shall have reasonable support to classify positions as bona-fide hedge and risk management positions, as defined by Rule 9A.28559, that are afforded hedge performance bond rates.

930.J. Omnibus Accounts

1. Clearing members shall collect performance bond on a gross basis for positions held in domestic and foreign omnibus accounts.
2. For omnibus accounts, initial performance bond requirements shall equal maintenance performance bond requirements.
3. Clearing members shall obtain and maintain written instructions from domestic and foreign omnibus accounts for positions which are entitled to spread or hedge performance bond rates.

930.K. Liquidation of Accounts

If an account holder fails to comply with a performance bond call within a reasonable time (the clearing member may deem one hour to be a reasonable time), the clearing member may close out the account holder's trades or sufficient contracts thereof to restore the account holder's account to required performance bond status. Clearing members shall maintain full discretion to determine when and under what circumstances positions in any account shall be liquidated.

930.L. Clearing House Authority to Require Additional Performance Bond

The Clearing House, in its sole discretion, has the authority to require clearing members to collect additional performance bond from specific account holders in circumstances deemed necessary by the Clearing House.

930.M. Failure to Maintain Performance Bond Requirements

If a clearing member fails to maintain performance bond requirements for an account in accordance with this rule, the Exchange or the Clearing House may direct such clearing member to immediately liquidate all or part of the account's positions to eliminate the deficiency.

931. CUSTOMER MARGINS FOR SECURITY FUTURES POSITIONS HELD IN FUTURES ACCOUNTS

~~Margin requirements associated with Security Futures positions, which result from transactions made on the Exchange on behalf of Customers, and which are held in a futures account, shall be determined and administered in accordance with the Rules and Regulations of the Exchange, and in compliance with CFTC Regulations 41.42 through 41.49 and SEC Regulations 242.400 through 242.406. With regard to such Security Futures positions, if Exchange Rules or Regulations are inconsistent with CFTC Regulations 41.42 through 41.49 and SEC Regulations 242.400 through 242.406, including any successor Regulations, the CFTC and SEC Regulations shall prevail.~~

- ~~(a) Initial and maintenance margin rates used in determining Exchange margin requirements applicable to Security Futures that are held on behalf of Customers in a futures account, shall be established at levels no lower than those prescribed by CFTC Regulation 41.45 and SEC Regulation 242.403, including any successor Regulations.~~
- ~~(b) As used in this Regulation, the term "Customer" does not include (a) an "exempted person" as defined in CFTC Regulation 41.43(a)(9) and SEC Regulation 242.401(a)(9); or (b) Market Makers as defined below.~~
- ~~(c) A Person shall be a "Market Maker" for purposes of this Rule, and shall be excluded from the requirements set forth in CFTC Regulations 41.42 through 41.49 and SEC Regulations 242.400 through 242.406, as applicable, in accordance with CFTC Regulation 41.42(c)(2)(v) and SEC Regulation 242.400(e)(2)(v), with respect to all trading in Security Futures for its own account, if such Person is an Exchange Member that is registered with the Exchange as a "Security Futures Dealer".~~

~~Each such Market Maker shall: (a) be a member of the Exchange and be registered as a floor trader or a floor broker with the CFTC under Section 4(a)(1) of the CEA or be registered as a dealer with the SEC under Section 15(b) of the Exchange Act; (b) maintain records sufficient to prove compliance with the requirements set forth in this Regulation and CFTC Regulation 41.42(c)(2)(v) or SEC Regulation 242.400(e)(2)(v), as applicable, including without limitation, trading account statements and other financial records sufficient to detail activity; and (c) hold itself out as being willing to buy and sell Security Futures for its own account on a regular continuous basis.~~

~~A Market Maker satisfies condition (c) above if any of the following three requirements are fulfilled:~~

- ~~(1) The Market Maker:
 - ~~(i) Provides continuous two-sided quotations throughout the trading day for all delivery months of Security Futures Contract representing a meaningful proportion of the total trading volume of Security Futures Contracts on the Exchange, subject to relaxation during unusual market conditions as determined by the Exchange (such as a fast market in either a Security Futures Contract or a security underlying a Security Futures Contract) at which times the Market Maker must use its best efforts to quote continuously and competitively; and~~
 - ~~(ii) When providing quotations, quotes with a maximum bid/ask spread of not more than the greater of \$0.20 or 150% of the bid/ask spread in the primary market for the security underlying each Security Futures Contract.~~~~
- ~~(2) The Market Maker:
 - ~~(i) Responds to at least 75% of the requests for quotations for all delivery months of Security Futures Contracts representing a meaningful proportion of the total trading volume of Security Futures Contracts on the Exchange, subject to relaxation during unusual market conditions as determined by the Exchange (such as a fast market in either a Security Futures Contract or a security underlying a Security Futures Contract) at which times the Market Maker must use its best efforts to quote competitively; and~~~~

~~(ii) When responding to requests for quotation, quotes within five seconds with a maximum bid/ask spread of no more than the greater of \$0.20 or 150% of the bid/ask spread in the primary market for the security underlying each Security Futures Contract.~~

~~(3) The Market Maker:~~

~~(i) Is assigned to a group of Security Futures Contracts listed on the Exchange that is either unlimited in nature ("Unlimited Assignment") or is assigned to no more than 20% of the Security Futures Contracts listed on the Exchange ("Limited Assignment"); and~~

~~(ii) At least 75% of the Market Maker's total trading activity in Exchange Security Futures Contracts is in its assigned Security Futures Contracts, measured on a quarterly basis; and~~

~~(iii) During at least 50% of the trading day, the Market Maker has bids or offers in the market that are at or near the best market, except in unusual market conditions as determined by the Exchange (such as a fast market in either a Security Futures Contract or a security underlying a Security Futures Contract), with respect to at least 25% (in the case of an Unlimited Assignment) or at least one (in the case of a Limited Assignment) of its assigned Security Futures Contracts; and~~

~~(iv) The requirements in (ii) and (iii) are satisfied on (a) at least 90% of the trading days in each calendar quarter by Market Makers who have undertaken an Unlimited Assignment; or (b) at least 80% of the trading days in each calendar quarter by Market Makers who have undertaken a Limited Assignment; or (c) on at least 80% of the trading days in each calendar quarter by Market Makers who have undertaken either an Unlimited Assignment or Limited Assignment but where the Exchange is listing four (4) or fewer Security Futures Contracts.~~

~~For purposes of clauses (1) and (2) above, beginning on 181st day after the commencement of trading of Security Futures Contracts on the Exchange, a "meaningful proportion of the total trading volume of Security Futures Contracts on the Exchange" shall mean a minimum of 20% of such trading volume.~~

~~Any Market Maker that fails to comply with the applicable Rules of the Exchange, CFTC Regulations 41.42 through 41.49 or SEC Regulations 242.400 through 242.406, as applicable, shall be subject to disciplinary action in accordance with Chapter 5. Appropriate sanctions in the case of any such failure shall include, without limitation, a revocation of such Market Maker's registration with the Exchange as a Security Futures Dealer.~~

~~(d) The Exchange shall establish initial and maintenance margin requirements applicable to Security Futures that are held in a futures account, provided that the margin requirement for any long or short position held by a member firm on behalf of a Customer shall not be less than 20% of the current market value of the relevant Security Futures Contract, or such other requirement as may be established by the CFTC and SEC for purposes of CFTC Regulation 41.45(b)(1) and SEC Regulation 242.403(b)(1), unless a lower margin level is available for such position pursuant to paragraph (e) below.~~

~~(e) Initial and maintenance margin requirements for offsetting positions involving Security Futures and related positions are provided in the schedule below, for purposes of CFTC Regulation 41.45(b)(2) and SEC Regulation 242.403(b)(2).~~

~~[The entirety of the schedule setting forth the initial and maintenance margin requirements for offsetting positions is also deleted however the table has been removed from this document.]~~

~~¹ Baskets of securities or security futures contracts must replicate the securities that comprise the index, and in the same proportion.~~

~~² Generally, for the purposes of these regulations, unless otherwise specified, stock index warrants shall be treated as if they were index options.~~

~~³ "Aggregate exercise price", with respect to an option or warrant based on an underlying security, means the exercise price of an option or warrant contract multiplied by the number of units of the underlying security covered by the option contract or warrant. "Aggregate exercise price" with respect to an index option, means the exercise price multiplied by the index multiplier. See, e.g., Amex Rules 900 and 900C; CBOE Rule 12.3; and NASD Rule 2522.~~

~~⁴ "Out-of-the-money" amounts shall be determined as follows:~~

- ~~(1) for stock call options and warrants, any excess of the aggregate price of the option or warrant over its current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System);~~
- ~~(2) for stock put options or warrants, any excess of the current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System) of the option or warrant over its aggregate exercise price;~~
- ~~(3) for stock index call options and warrants, any excess of the aggregate exercise price of the option or warrant over the product of the current index value and the applicable index multiplier; and~~
- ~~(4) for stock index put options and warrants, any excess of the product of the current index value and the applicable index multiplier over the aggregate exercise price of the option or warrant. See, e.g., NYSE Rule 431 (Exchange Act Release No. 42011 (October 14, 1999), 64 FR 57172 (October 22, 1999) (order approving SR-NYSE-99-03)); Amex Rule 462 (Exchange Act Release No. 43582 (November 17, 2000), 65 FR 71151 (November 29, 2000) (order approving SR-Amex-99-27)); CBOE Rule 12.3 (Exchange Act Release No. 41658 (July 27, 1999), 64 FR 42736 (August 5, 1999) (order approving SR-CBOE-97-67)); or NASD Rule 2520 (Exchange Act Release No. 43581 (November 17, 2000), 65 FR 70854 (November 28, 2000) (order approving SR-NASD-00-15)).~~

⁵ "In-the-money" amounts must be determined as follows:

- ~~(1) for stock call options and warrants, any excess of the current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System) of the option or warrant over its aggregate exercise price;~~
- ~~(2) for stock put options or warrants, any excess of the aggregate exercise price of the option or warrant over its current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System);~~
- ~~(3) for stock index call options and warrants, any excess of the product of the current index value and the applicable index multiplier over the aggregate price of the option or warrant; and~~
- ~~(4) for stock index put options and warrants, any excess of the aggregate exercise price of the option or warrant over the product of the current index value and the applicable index multiplier.~~

⁶ Two security futures will be considered "identical" for this purpose if they are issued by the same clearing agency or cleared and guaranteed by the same derivatives clearing organization, have identical contract specifications, and would offset each other at the clearing level.

932. ACCEPTABLE MARGIN FOR SECURITY FUTURES AND TREATMENT OF UNDERMARGINED ACCOUNTS

Notwithstanding any other Exchange Rules or Regulations, the following provisions shall establish the acceptable margin for Security Futures Positions that are held on behalf of Customers in a futures account, and the treatment of undermargined futures accounts containing Security Futures Contracts.

- ~~(a) Member firms may accept from their Customers as margin for Security Futures held in a futures account, deposits of cash, margin securities (subject to the limitations set forth in the following sentence), exempted securities, any other assets permitted under Regulation T of the Board of Governors of the Federal Reserve System (as in effect from time to time) to satisfy a margin deficiency in a securities margin account, and any combination of the foregoing, each as valued in accordance with CFTC Regulations 41.46(e) and 41.46(e) or SEC Regulation 242.404(e) and 242.404(e), as applicable. Shares of a money market mutual fund that meet the requirements of CFTC Regulation 1.25 may be accepted as a margin deposit from a Customer for purposes of this Rule.~~
- ~~(b) A member firm shall not accept as margin from any Customer securities that have been issued by such Customer or an Affiliate of such Customer unless such member firm files a petition with and receives permission from the Exchange for such purpose.~~
- ~~(c) All assets deposited by a Customer to meet margin requirements must be and remain unencumbered by third party claims against the depositing Customer.~~

~~(d) If a Customer fails to comply with a margin call within a reasonable period of time (the member firm may deem one hour to be a reasonable period of time), the relevant member firm shall take the deduction required with respect to an undermargined account in computing its net capital under applicable CFTC and SEC Regulations.~~

~~(e) If at any time there is a liquidating deficit in an account in which Security Futures are held, the member firm shall take steps to liquidate positions in the account promptly and in an orderly manner.~~

9313.-949. [RESERVED]

SALES PRACTICES AND CUSTOMER PROTECTION

950. SUPERVISION

Each clearing member shall adopt and enforce written procedures pursuant to which it will supervise in accordance with the requirements of these Rules and the CEA and CFTC Regulations thereunder, each customer's account(s), including, but not limited to, the solicitation of any such account(s). For purposes of this rule, the term "customer" does not include another futures commission merchant.

951. DISCLOSURE REQUIREMENTS

Each clearing member must comply with all disclosure requirements set forth in applicable CFTC and NFA Rules and Regulations.

952. SALES COMMUNICATIONS

No clearing member shall make fraudulent or high-pressure sales communications relating to the offer or sale of commodity futures and options.

953. PROMOTIONAL MATERIAL

No clearing member shall use any promotional material which is likely to deceive or mislead the public. Each clearing member shall maintain a copy of all written and electronic promotional material at the clearing member's principal place of business and shall make such promotional material available to the Exchange upon request.

954. CUSTOMER COMPLAINTS

Each clearing member shall retain all written customer complaints, and make and retain a record of the date each complaint was received, the associated person who serviced the account, a general description of the matter complained of, and what, if any, action was taken by the clearing member regarding the complaint. With respect to verbal complaints, each clearing member shall develop and implement a written program approved by senior management that requires clearing member staff to direct individuals with verbal complaints to place such complaints in written form and submit such complaints to the Compliance Officer of the clearing member. Such complaints and related records must be maintained at the clearing member's principal place of business.

955. ASSIGNMENT AND NOTIFICATION OF EXERCISE NOTICES

- A. Each clearing member shall adopt written procedures pursuant to which it shall allocate option exercise notices in a fair and non-preferential manner.
- B. Upon notification from the Clearing House of assignment of an exercise notice, the clearing member shall promptly notify the option grantor to whom the notice has been allocated.

956. DISCRETIONARY, CONTROLLED AND MANAGED ACCOUNTS

956.A. Requirements

1. Power of Attorney

No clearing member shall accept or carry an account over which a person other than the account owner exercises discretionary trading authority or control (hereinafter referred to as a discretionary, controlled, or managed account) without first obtaining a written power of attorney, trading authorization, or similar document (hereinafter referred to as a power of attorney). Such power of attorney must be signed and dated by the account owner and clearly designate the person to whom discretionary trading authority has been granted.

The power of attorney shall remain in effect until it is terminated by a written revocation signed and dated by the account owner or by the death or incapacity of the account owner. Written revocation may also be made by the person to whom discretionary trading authority has been granted.

2. Discretionary Account Listing

A clearing member must clearly identify each discretionary trading account it carries and promptly provide the Exchange with a complete and accurate list of such accounts upon request.

956.B. Presumption of Authority

Except where specifically indicated by the phrase "discretion not exercised" written on the order ticket, and subsequently confirmed to the customer as such, every trade in a discretionary trading account shall be presumed to have been made pursuant to the power of attorney and subject to the requirements of this rule.

956.C. Supervision and Trading of Discretionary Trading Accounts

1. Discretionary Trading Account Activity

Each clearing member shall have a supervisory employee (other than the person granted discretionary trading authority) supervising activity in discretionary trading accounts. The supervision shall include, but is not limited to, a review of excessive trading in amount or frequency in relation to account equity. This requirement shall only apply to discretionary trading accounts controlled by an employee of the clearing member or the clearing member's guaranteed introducing brokers.

2. Floor Trading

No member shall execute a transaction in the trading pit for an account over which he has discretionary trading authority unless the transactions are for a) family accounts as defined in Section E.1. or b) another member of the Exchange for an account owned by such other member or proprietary accounts of member firms as set forth in Section E.2.

956.D. Position Limits

A person with discretionary trading authority over one or more discretionary trading accounts shall not execute or order the execution of trades for such accounts where such trades, by themselves or in addition to his personal trades, exceed the limits prescribed in these rules regarding total positions in any contract.

A husband, wife and dependent children are presumed to be a single entity and, as such, must adhere to the position limits as prescribed by the Exchange rules unless otherwise approved by Exchange staff upon written application.

956.E. Exceptions

The provisions of Sections B. and C.1. of this rule shall not apply to the following accounts:

1. Family Accounts

Accounts controlled or managed by persons for their own family. For purposes of this rule, members of one's family shall include a spouse, parent, child, grandparent, grandchild, brother, sister, aunt, uncle, nephew, niece or in-law.

2. Member and Proprietary Accounts

Accounts of members or proprietary accounts as defined by CFTC Regulation 1.3(y).

957. CONFIRMATIONS TO CUSTOMERS

A clearing member shall confirm to the customer every transaction made for the customer no later than the following business day. Such confirmation shall be in electronic or written form and shall show the commodity bought or sold, the quantity, the price, the delivery month and, for options, strike price, put or call and expiration month.

958. BRANCH OFFICES, GUARANTEED INTRODUCING BROKERS, AND ASSOCIATED PERSONS

A. Each clearing member must maintain a complete and accurate list of all branch offices, guaranteed introducing brokers, and the associated persons of the clearing member and its guaranteed introducing brokers. Such list shall be promptly provided to the Exchange upon request.

B. Branch offices, guaranteed introducing brokers, and the associated persons of the clearing member and its guaranteed introducing brokers must comply with Exchange rules. Each associated person of the clearing member or its guaranteed introducing brokers shall be bound by Exchange rules to the same extent as if such person were a member.

C. Each clearing member must diligently supervise its branch offices, guaranteed introducing brokers, and the associated persons of the clearing member and its guaranteed introducing brokers.

D. Each clearing member shall be responsible for the acts or omissions of its branch offices, guaranteed introducing brokers, and the associated persons of the clearing member and its guaranteed introducing brokers. Any violation of an Exchange rule by any such person may be considered a violation by the clearing member.

959. [RESERVED]

OMNIBUS AND CARRYING BROKER ACCOUNTS

960. **OMNIBUS AND CARRYING BROKER ACCOUNTS**

- A. All clearing members must maintain a complete list of all omnibus and carrying broker accounts maintained on their books. Such list shall be promptly provided to the Exchange upon request. Information for each such account must include account name, number and address, and classification of the account as either customer or house. Additionally, the identities and positions of the beneficial owners of any omnibus account must be immediately disclosed to the Exchange upon request.
- B. A clearing member carrying an omnibus account shall have the responsibility for ensuring that each person carried in the account does not exceed speculative limits unless granted an exemption pursuant to Rules in Chapter 9A-559.
- C. Each clearing member carrying an omnibus account must at all times reflect in its records the gross long and short positions held in such omnibus account.

Prior to the first delivery day in a contract month or as otherwise required by the Clearing House, each clearing member carrying an omnibus account must maintain a complete and accurate list of the purchase and sale dates of all open positions held in such omnibus account for that contract month. Such list must be current throughout the contract month to ensure that the delivery procedure is not impaired.
- D. Each clearing member that maintains an omnibus account with another clearing member shall also bear financial responsibility to the Exchange and the Clearing House for that omnibus account.

961.-969. [RESERVED]

FINANCIAL REQUIREMENTS AND FINANCIAL EMERGENCIES

970. **FINANCIAL REQUIREMENTS**

- A. Subject to exceptions granted by Exchange staff, all clearing members, including non-FCMs, must comply with the requirements set forth in CFTC Regulations 1.10, 1.12, 1.17 and 1.18. This includes, but is not limited to, the following:
 - 1. Maintenance of minimum capital requirements of at least \$5 million;
 - 2. Submission of a Form 1-FR, FOCUS Report or other requested information within the specified period of time;
 - 3. Notification requirements when a clearing member:
 - a. Fails to maintain minimum capital requirements;
 - b. Fails to maintain early warning capital requirements;
 - c. Fails to maintain current books and records; or
 - d. Determines the existence of a material inadequacy as specified in CFTC Regulation 1.16(d)(2);
 - e. Changes its fiscal year; or
 - f. Changes its public accountant;

In addition to the notifications required by CFTC regulations, all clearing members must provide written notice to the Audit Department of the above events.

 - 4. Completely and accurately computing and recording the balances in the net capital computation including capital requirements;
 - 5. Subordination agreement requirements, including the filing of such agreements; and
 - 6. Preparation of a monthly computation of adjusted net capital and minimum financial requirements.
- B. For non-FCMs, all filing, notification, and approval requirements set forth in CFTC Regulations 1.10, 1.12, 1.17 and 1.18 and in the rules of the Exchange must be submitted to or obtained from the Audit Department, if necessary, rather than the Commission.
- C. In conjunction with the requirements set forth in CFTC Regulations 1.10, 1.12, 1.17, and 1.18, clearing members must comply with the following requirements:
 - 1. Submit a monthly Form 1-FR or FOCUS Report and the Exchange Supplementary Information schedule including an unaudited monthly Form 1-FR or FOCUS Report as of the clearing

member's fiscal year-end, within the time requirements set forth in CFTC Regulation 1.10. A clearing member must include with its Form 1-FR or FOCUS Report a Statement of Income (loss) for the period between the date of the most recent financial statement or, at the option of the clearing member, the most recent certified financial statement filed with the Audit Department and the date for which the report is made.

2. Submit a certified Form 1-FR or FOCUS Report as of the clearing member's fiscal year-end within the time requirements set forth in CFTC Regulation 1.10. A clearing member must include with its certified Form 1-FR or FOCUS Report, a reconciliation from the certified Form 1-FR or FOCUS Report to the monthly Form 1-FR or FOCUS Report as of the same date or a statement that no differences were noted.
 3. A clearing member for which ~~the NYMEXCBOT or COMEX~~ is the designated self-regulatory organization may request the Audit Department's permission to change its fiscal year. Such request will only be granted for good cause and in accordance with the requirements of CFTC Regulation 1.10(e)(2). The Audit Department's grant of the change in fiscal year will fulfill the approval requirements of CFTC Regulation 1.10(e)(2).
 4. A clearing member for which ~~the NYMEXCBOT or COMEX~~ is the designated self-regulatory organization may request an extension of time to file a monthly Form 1-FR, monthly FOCUS Report, certified Form 1-FR or certified FOCUS Report from the Audit Department. Such extension will only be granted for good cause and in accordance with the requirements of CFTC Regulations 1.10(f) and 1.16(f). The Audit Department's grant of an extension will fulfill the approval requirements of CFTC Regulations 1.10(f) and 1.16(f).
- D. Exchange staff may prescribe additional accounting, reporting, and other financial and/or operational requirements and clearing members must comply with such requirements. All clearing members must provide notice to the Audit Department of a failure to comply with the additional accounting, reporting, financial, and/or operational requirements. The Audit Department must receive immediate written notification when a clearing member knows or should know of such failure.
- E. Financial statement filing requirements under this Rule must be met through Exchange-approved electronic transmissions, except for certified Form 1-FRs or FOCUS Reports. Personal Identification Numbers (PINs) must be submitted by authorized signers of the Form 1-FR or FOCUS Report. The PIN will constitute and become a substitute for the manual signature of the authorized signer to the electronically filed Form 1-FR or FOCUS Report. The PIN is a representation by the authorized signer that, to the best of his or her knowledge, all information contained in the statement being transmitted under the PIN is true, correct and complete. The unauthorized use of a PIN for electronic attestation by an unauthorized party is expressly prohibited.
- F. Exchange staff may grant exceptions to the financial and reporting requirements of Rule 970 for good cause if it is determined that such exceptions will not jeopardize the financial integrity of the Exchange.

971. SEGREGATION AND SECURED REQUIREMENTS

- A. All clearing members must comply with the requirements set forth in CFTC Regulations 1.20 through 1.30, 1.32, and 30.7. This includes, but is not limited to, the following:
1. Maintaining sufficient funds in segregation or set aside in separate accounts;
 2. Computing, recording and reporting completely and accurately the balances in the:
 - a. Statement of Segregation Requirements and Funds in Segregation; and
 - b. Statement of Secured Amounts and Funds Held in Separate Accounts;
 3. Obtaining satisfactory segregation and separate account acknowledgment letters and identifying segregated and separate accounts as such; and
 4. Preparing complete and materially accurate daily segregation and secured amount computations in a timely manner.
- B. Exchange staff may prescribe additional segregation and secured amount requirements.
- C. All clearing members must provide written notice to the Audit Department of a failure to maintain sufficient funds in segregation or set aside in separate accounts. The Audit Department must receive immediate written notification when a clearing member knows or should know of such failure.

972. REDUCTIONS IN CAPITAL

A clearing member must provide written notice to the Audit Department as set forth below of any substantial reduction in capital as compared to the most recent filing of a financial report.

1. If any event or series of events, including any withdrawal, advance, loan or loss would cause, on a net basis, a reduction in net capital as reported on the Form 1-FR, or in tentative net capital as reported on the FOCUS Report for broker/dealers, of 20% or more, notice must be provided within two business days of the event or series of events causing the reduction; and
2. If equity capital of the clearing member or a subsidiary or a consolidated affiliate would be withdrawn by action of a stockholder or a partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, or an unsecured advance or loan would be made to a stockholder, partner, sole proprietor, employee or affiliates, such that the withdrawal, advance or loan would cause, on a net basis, a reduction in excess net capital of 30% or more, notice must be provided at least two business days prior to the withdrawal, advance or loan that would cause the reduction.

a.

In the event that the capital of any non-FCM clearing member at any time falls below the minimum required capital, such clearing member shall give immediate written notice of the fact to the Audit Department.

b.

In the event that the capital of any non-FCM clearing member at any time declines by 20% or more from the capital last reported to the Exchange, the clearing member shall give formal written notice of such event to the Audit Department within two (2) business days of its occurrence. Such "Notice of Capital Impairment" shall state the date of and applicable reason(s) for the decline.

The foregoing shall not apply in the case of a reduction in capital resulting from (1) the repayment or prepayment of subordinated liabilities for which notice has been given in accordance with Rule 970 or (2) any futures or securities transaction in the ordinary course of business between a clearing member and any affiliate where the clearing member makes payment to or on behalf of such affiliate for such transaction and then receives payment from such affiliate for such transaction within two business days from the date of the transaction.

973.

CUSTOMER ACCOUNTS WITH THE CLEARING HOUSE

All customer funds deposited with the Clearing House on behalf of customers protected by CFTC Regulation 1.20 shall be held in accordance with the Commodity Exchange Act and CFTC Regulation 1.20 in an account identified as Customer Segregated. Such customer funds shall be segregated by the Clearing House and treated as belonging to the customers of the clearing member. Pursuant to this rule, a clearing member shall satisfy the segregation acknowledgment letter requirement of CME Rule 971.A.2., the Commodity Exchange Act, and CFTC Regulation 1.20 for customer deposits held at the Clearing House.

All customer funds deposited with the Clearing House on behalf of customers protected by CFTC Regulation 30.7 shall be held in accordance with the Commodity Exchange Act and CFTC Regulation 30.7 in an account identified as Customer Secured 30.7. Such customer funds shall be segregated by the Clearing House and treated as belonging to such customers of the clearing member.

All customer funds deposited with the Clearing House on behalf of customers protected by SEC Regulation 15c3-3 shall be held in accordance with the Securities Exchange Act of 1934 and SEC Regulation 15c3-3 in an account identified as Special Reserve Account for the Exclusive Benefit of Customers. Such customer funds shall be segregated by the Clearing House and treated as belonging to such customers of the clearing member.

974.

FAILURE TO MEET MINIMUM FINANCIAL REQUIREMENTS

If, in the opinion of the Audit Department, a clearing member fails to meet the minimum financial requirements as prescribed herein or neglects to promptly furnish a statement upon request, a recommendation may be made to the Clearing House Risk Committee to suspend the privileges of the clearing member. Upon such recommendation, the Clearing House Risk Committee shall conduct a hearing and such clearing member shall show cause why its privileges should not be suspended. Upon finding that the minimum financial requirements are being violated, the Clearing House Risk Committee may suspend the privileges of such clearing member in accordance with the provisions of Chapter 4 of these rules. The CFTC shall be immediately notified of any clearing member which fails to meet the minimum financial requirements. Any suspended clearing member may appeal the decision of the Clearing House Risk Committee to the Board.

975. EMERGENCY FINANCIAL CONDITIONS

If the President of the Exchange or the President of the Clearing House determines that the financial or operational condition of a clearing member or one of its affiliates is such that to allow that clearing member to continue its operation would jeopardize the integrity of the Exchange or the Clearing House, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the clearing member continues to meet the required minimum financial requirements, he or she may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the Clearing House Risk Committee and the President of the Clearing House. Such panel shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the clearing member from the Clearing House and/or the Exchange, as applicable, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, or (e) additional performance bond to be deposited with the Clearing House. The clearing member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 412. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the panel orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of a clearing member, Rule 913.B. shall apply and the clearing member shall be treated as a withdrawing clearing member.

976. SUSPENSION OF CLEARING MEMBERS

If a clearing member becomes insolvent, the clearing member must immediately notify the Exchange and the Clearing House of such insolvency. The insolvency shall be announced by the President of the Exchange or the President of the Clearing House and thereupon such clearing member shall be deemed automatically suspended from the Clearing House and/or the Exchange, as applicable. If a member of the Clearing House becomes insolvent, or for other reasons is suspended from the Clearing House or the Exchange, the officers, owners or partners who are members of the Exchange may also be suspended from the Exchange.

A clearing member shall be deemed insolvent:

1. If it files a voluntary petition in bankruptcy or is adjudicated as bankrupt;
2. If it fails to fulfill or promptly adjust all of its Exchange obligations; or
3. If satisfactory proof is made to the Clearing House Risk Committee that it is unable to pay its debts as they fall due in the ordinary course of business.

A clearing member may be suspended by the Clearing House Risk Committee pursuant to Rule 403 if it fails to meet the capital requirements of the Exchange, the Clearing House, or the CFTC, or if its financial condition, or the financial condition of one of its affiliates, is such that its continued operation would jeopardize the integrity of the Exchange or the Clearing House. Members and clearing members suspended in accordance with this rule shall be notified and may request a hearing before the Board as provided in Rule 412.

977. SUSPENSION OF OFFICERS OR PARTNERS

Whenever an officer, owner or partner of a clearing member is suspended or expelled, the respective clearing member may be suspended or expelled for a like term. Members and clearing members affected by this rule shall be notified and may request a hearing before the Board as provided in Rule 412.

978. OPEN TRADES OF SUSPENDED CLEARING MEMBERS

When a clearing member, having open trades, is suspended or expelled, it may designate a clearing member to close out such transactions through designated personnel and in a manner acceptable to the Clearing House.

When a clearing member that has open positions, defaults to the Clearing House in the deposit of performance bonds or settlements, or is suspended for insolvency, the President of the Exchange or the President of the Clearing House, or their delegates, may appoint a clearing member to which all such open positions shall be transferred for liquidation, or may appoint a clearing member to liquidate such positions on behalf of such defaulted or suspended clearing member. If open positions are transferred, all supporting performance bond associated with the positions and any settlement payments due or collected must be delivered to the Clearing House, to be entrusted to the clearing member designated to liquidate the positions. The clearing member appointed to liquidate the positions shall have the right, under the direction of the President of the Clearing House, to buy or sell for the account of the suspended clearing member such contracts as may be necessary to clear the suspended clearing member's contracts with the Clearing House; the clearing member shall also have the right under the direction of the President of the Clearing House to make or take delivery.

979. SUSPENDED OR EXPELLED CLEARING MEMBERS

In the event a clearing member has been suspended or expelled, the clearing member shall comply with all orders of the Board, the Clearing House Risk Committee, the President of the Clearing House, or the President of the Exchange.

In the event of refusal by a clearing member to comply with any order placed upon it, the Clearing House or the Exchange may take whatever means necessary to effect the order.

A clearing member or any member suspended due to a clearing member's insolvency may be reinstated upon affirmative proof to the Clearing House Risk Committee of such clearing member's financial responsibility. A member may withdraw from the clearing member and may apply for reinstatement to membership in the Exchange provided that the insolvency of the clearing member was not caused by such member's willful, reckless or unbusinesslike conduct.

RECORDS AND REPORTS

980. REQUIRED RECORDS AND REPORTS

- A. Each clearing member shall prepare, maintain and keep current those books and records required by the rules of the Exchange, the Commodity Exchange Act and the Regulations thereunder. Such books and records shall be open to inspection and promptly provided to the Exchange upon request.
- B. Each clearing member shall maintain an adequate accounting system, internal accounting controls, and procedures for safeguarding customer and firm assets as set forth in CFTC Regulation 1.16(d)(2). This includes, but is not limited to, the following:
 - 1. Preparation and maintenance of complete and accurate reconciliations for all accounts; and
 - 2. Resolution of reconciling items in a timely manner.
- C. A clearing member must file any information requested by the Exchange within the time period specified in the request.
- D. Each clearing member shall maintain at all times the ability to provide to the Exchange in an acceptable form a complete set of equity system reports (including, at a minimum, the equity run, open position listing, day trade listing, cash adjustments listing and performance bond call and debit equity listing). Such reports shall be available to the Exchange in ~~New York~~Chicago no later than 98:00 a.m. ~~New York~~Chicago time on the business day following the report date.
- E. Each clearing member shall maintain at all times the ability to provide to the Exchange a listing of each customer's method of access to ~~NYMEX~~CBOT markets, including front end applications and network connections.

981. ANTI-MONEY LAUNDERING

Each clearing member shall develop and implement a written anti-money laundering program approved in writing by senior management reasonably designed to achieve and monitor the clearing member's compliance with the applicable requirements of the Bank Secrecy Act (31 U.S.C. 5311, et. seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury and, as applicable, the Commodity Futures Trading Commission. That anti-money laundering program shall, at a minimum,

- 1. Establish and implement policies, procedures and internal controls reasonably designed to assure compliance with the applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder;
- 2. Provide for independent testing for compliance to be conducted by clearing member personnel or by a qualified outside party;
- 3. Designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program; and
- 4. Provide ongoing training for appropriate personnel.

Clearing members must also supervise and ensure that their guaranteed introducing brokers are in compliance with the anti-money laundering provisions contained in this Rule.

982. RISK MANAGEMENT

All clearing members must have written risk management policies and procedures in place to ensure they are able to perform certain basic risk and operational functions at all times. At a minimum, the following areas must be considered in the firm's policies and procedures, depending on the firm's size and its business and product mix:

- A. Trade Submission and Account Monitoring. Clearing members must have procedures in place to

demonstrate compliance in the following areas for trades executed through both electronic platforms and open outcry:

1. Monitoring the credit risks of accepting trades, including give-up trades, of specific customers.
2. Monitoring the risks associated with proprietary trading.
3. Limiting the impact of significant market moves through the use of tools such as stress testing or position limits.
4. Maintaining the ability to monitor account activity on an intraday basis, including overnight.
5. Ensuring order entry systems include the ability to set automated credit controls or position limits or requiring a firm employee to enter orders.
6. Defining sources of liquidity for increased settlement obligations.

B. Additional and/or Alternative Requirements. Exchange or Clearing House staff may prescribe additional and/or alternative requirements in order for clearing members to comply with this Rule.

983.

DISASTER RECOVERY AND BUSINESS CONTINUITY

All clearing members must have written disaster recovery and business continuity policies and procedures in place to ensure they are able to perform certain basic operational functions in the event of a significant internal or external interruption to their operations. At a minimum, the following areas must be considered in the firm's policies and procedures, depending on the firm's size and its business and product mix:

- A. Clearing members must have procedures in place to allow them to continue to operate during periods of stress or to transfer accounts to another fully operational clearing member with minimal disruption to the Exchange, the Clearing House, or their customers. In order to satisfy this requirement, clearing members must perform:
 1. Periodic testing of disaster recovery and business continuity plans.
 2. Duplication of critical systems at back up sites.
 3. Periodic back-up of critical information.
- B. Key Staff Contacts. Clearing members must maintain and, at the request of the Exchange or the Clearing House, provide accurate and complete information for their key personnel. Clearing members must inform the Exchange and the Clearing House, as applicable, in a timely manner whenever a change to their key personnel is made.
- C. Additional and/or Alternative Requirements. Exchange or Clearing House staff may prescribe additional and/or alternative requirements in order for clearing members to comply with this Rule.

984.

GIVE-UP TRADES

A trade given up to another clearing member will be deemed to have been accepted by, and the financial obligations attendant to such trades will be the responsibility of, such clearing member if the trade is not rejected by the close of business on the business day following the trade date. The acceptance of a trade by a clearing member shall not relieve any member, member firm, or clearing member of the duty to act in good faith and with reasonable care and diligence.

In the absence of a give-up agreement whose terms and conditions govern the responsibilities/obligations of executing brokers, customers and Clearing Members, the following provisions shall define the respective responsibilities/obligations of those parties to an order. The "executing broker" as used in this rule is the registered billing entity, Member Firm or Floor Broker to whom the order is transmitted.

984.A. Responsibilities/Obligations of Clearing Members

1. Limits Placed by Clearing Member

A Clearing Member may, in its discretion, place trading limits on the trades it will accept for give-up for a customer's account from an executing broker, provided, however, that the executing broker receives prior written or electronic notice from the Clearing Member of the trading limits on that account. Notice must be received by the executing broker in a timely manner. A copy of such notice shall be retained by the Clearing Member.

2. Trade Rejection

A Clearing Member may reject ("DK") a trade only if: (1) the trade exceeds the trading limits established under section A.1. of this rule for that customer and it has been communicated to the executing broker as described in Section A.1.; or (2) the trade is an error for which the executing broker is responsible. If a Clearing Member has a basis for and rejects a trade, it must notify the executing broker promptly.

3. Billing

A Clearing Member will pay all floor brokerage fees incurred for all transactions by the executing broker for the customer and subsequently accepted by the Clearing Member by means of the ATOM system. Floor brokerage fees will be agreed upon in advance among the Clearing Member, customer and the executing broker.

984.B. Responsibilities/Obligations of Executing Brokers

1. Customer Order Placement

An executing broker will be responsible for determining that all orders are placed or authorized by the customer. Once an order has been accepted, a broker or the broker's clerk must:

- (a) confirm the terms of the order with the customer;
- (b) accurately execute the order according to its terms;
- (c) confirm the execution of the order to the customer as soon as practicable; and
- (d) transmit such executed order to the Clearing Member as soon as practicable in accordance with Exchange Rules and procedures.

2. Use of Other Persons

Unless otherwise agreed in writing, the executing broker is allowed to use the services of another broker in connection with the broker's obligations under these rules. The executing broker remains responsible to the customer and Clearing Member under these rules.

3. Executing Broker Responsibility for Verifying Clearing Member Authorization

Prior to a broker accepting and executing an initial order for any new customer account, the executing broker must confirm with the Clearing Member by telephonic, electronic or written means, that:

- (a) the customer has a valid account with the Clearing Member;
- (b) the account number;
- (c) the brokerage rate;
- (d) the customer is authorized by the Clearing Member to place orders with the executing broker for that account.

The executing broker must retain a copy of the authorization or the specifics of the telephonic confirmation, which includes opposite party, date, time and any other relevant information. The falsification of such information shall be the basis for disciplinary action.

4. Rejection of Customer Order

Where an executing broker has confirmed Clearing Member authorization to execute orders on behalf of a customer in accordance with this Rule 984 the broker may, in the broker's discretion, reject an order that the customer transmits to the broker for execution. The broker shall promptly notify the customer and the Clearing Member(s) of any such rejection.

SPECIAL OTC CONTRACT REQUIREMENTS

990. SPECIAL CAPITAL PROVISIONS FOR CLEARING MEMBERS GUARANTEEING AND CLEARING OTC CONTRACTS EXECUTED BY NYMEX FLOOR MEMBERS

(A) Clearing Members that guarantee and clear OTC contracts, agreements or transactions pursuant to the program referenced in NYMEX Rule 992 must have and maintain at all times minimum capital of at least \$20 million.

(B) If, during the 18-month period, a Clearing Member does not maintain capital of at least \$20 million, it must further reduce its capital in compliance with this program by 100 percent of the NYMEX margin requirements for the OTC contracts, agreements or transactions of floor brokers and floor traders that it is guaranteeing pursuant to this program. A Clearing Member must compute its capital in accordance with Exchange rules and generally accepted accounting principles consistently applied.

(C) A Clearing Member that is subject to the provisions of paragraph (B), above shall be required to compute, on a daily basis, the total margin requirement for OTC contracts, agreements or transactions of floor brokers and floor traders that it is guaranteeing pursuant to this program. Such computations must be documented and maintained by the Clearing Member in accordance with CFTC Regulation 1.31 and be made available for inspection by Exchange representatives. Computations prepared as of financial statement filing dates must be included as part of such filing with the Exchange.

(D) A decline in a Clearing Member's capital resulting from the application of this Rule shall be subject to the reporting requirements set forth in Rule 970.
Clearing Rules Specifically Governing Clearing Member Obligations Regarding Clearing of Options and Forwards Executed in Exchange-Designated Pari-mutuel Auctions

Note: The following subsection is intended to group together several rules that apply specifically to obligations associated with the clearing of this category of product. Clearing Members are advised that, in addition to other Chapter 9 rules that govern their duties more generally, they may wish to also consult the following Chapter 9 rules:

Rules 971 and 973.

(E) Clearing Members that guarantee and clear OTC contracts, agreements or transactions pursuant to the program referenced in NYMEX Rule 6.21G must have and maintain at all times minimum capital of at least \$20 million.

991. CLEARING REQUIREMENTS FOR CLEARING OF OVER-THE-COUNTER OPTION TRANSACTIONS IN EXCHANGE-DESIGNATED PARI-MUTUEL AUCTIONS

(A) No Clearing Member shall assign an account number that would accept the entry of orders into an Exchange-designated pari-mutuel auction for or on behalf of a customer, unless such customer is first provided with an Auction Procedures document in a form approved by the Exchange and any subsequent revisions or amendments to such Auction Procedures. A Clearing Member shall obtain the agreement of each eligible customer for which it proposes to clear transactions in a pari-mutuel auction that such customer will be bound by the Auction Procedures and by applicable Exchange Rules, in connection with each such transaction. Such agreement may be obtained in any manner deemed appropriate by the Clearing Member, including without limitation through the customer's consent in its agreement with the Clearing Member to be bound by Exchange Rules, provided that such agreement can be enforced by the Exchange or an Auction Broker (as defined below) against the customer. The Auction Procedures applicable to pari-mutuel auctions and transactions are hereby incorporated into these Rules and made a part hereof to the same extent as if such Procedures were reprinted herein in their entirety.

(B) Participation in an Exchange-designated pari-mutuel auction shall be limited to "eligible customers." For purposes of this rule, eligible customers shall be limited to individuals and entities:

(1) who qualify as an "eligible contract participant" as defined by the Commodity Exchange Act and by CFTC rule, order or other interpretation, which would include NYMEX Floor Members participating in over-the-counter markets under the conditions and requirements established by NYMEX Rule 9.38;

(2) who agree to be bound by the NYMEX Rules and by the Auction Procedures referenced in Section (C);

(3) who have established a relationship with a Clearing Member and for whom the Clearing Member has submitted information to the Exchange as provided in Section (C); and

(4) where the offer and sale of products listed in such auction to such individual or entity and the participation in such auction market by such individual or entity does not violate any law applicable to such individual or entity.

Clearing Members may only authorize customer accounts for Exchange-designated pari-mutuel auction for customers.

(C) Before authorizing any account of an eligible customer to trade in an Exchange-designated pari-mutuel auction, a Clearing Member must first submit to the Exchange in the manner provided by the Exchange the following information along with other related information that may be required by the Exchange from time to time:

(1) the account number of the eligible customer;

(2) the commodity or commodities that the Clearing Member has authorized the eligible customer to trade on the Exchange-designated pari-mutuel auction; and

(3) the maximum financial exposure that the Clearing Member is willing to accept for trading by the eligible customer on the Exchange-designated pari-mutuel auction. The limit set by the Clearing Member for the Exchange-designated pari-mutuel auction shall be unique to that auction and thus shall operate separately from the risk limits that may be applicable to that account number in connection with other Exchange services.

In addition, by agreeing to clear transactions in a pari-mutuel auction for eligible customers, and by establishing Risk Allocation Values for orders submitted by that customer, in accordance with paragraph (E) below, a Clearing Member will be deemed to represent and warrant that each customer for which it agrees to clear transactions is an eligible customer under these Rules and that such customer has been provided with the Auction Procedures (including any revisions or amendments) and has agreed to be bound by the Auction Procedures and these Rules. Each Clearing Member will indemnify and hold harmless the Exchange from any claims, damages, losses, costs or expenses whatsoever incurred by NYMEX or any Auction Broker arising out of any representation or warranty made by Clearing Member in this Clause (C) not being true or accurate (including any claim that an eligible customer is not bound by any Supplemental Cleared OTC Contract (defined in Section (F) below).

(D) Pari-mutuel transactions will be entered into through separate auctions, as set forth in the Auction Procedures. Upon the completion of an auction, each eligible customer with an executed transaction will be deemed to have entered into an over-the-counter transaction with the Exchange on the terms, and in the amount and at the price, specified with respect to the particular auction, without any further action by Exchange, the Clearing Member or the eligible customer. Immediately thereafter, the over-the-counter transaction will be given up for clearing to the Clearing Member designated by the eligible customer and shall be extinguished and replaced, by a cleared over-the-counter transaction between the Exchange and the applicable Clearing Member without any further action by the eligible customer or the Clearing Member pursuant to product specifications for such product as provided by Exchange rules.

(E) In addition, Clearing Members must require their eligible customers to designate at least one firm through which the customer's orders will be submitted into the Exchange-designated pari-mutuel auction ("Auction Broker"). The duties of an Auction Broker will include application of the authorizations and risk limits (set by a Clearing Member pursuant to Section (C)) (hereafter "Risk Data") to the orders received from the eligible customers of the Clearing Member.

(F) A Clearing Member agrees unconditionally to accept and to clear all trades executed for that account for which it has input information pursuant to Section (C), regardless of malfunction or non-operation of the Exchange's contracts order filter functionality, the Risk Allocation Value order filter functionality, and/or the position limit functionality, provided however that in the event of any manner of misapplication or non-application of the Risk Data by an Auction Broker that results in the execution of a transaction above the risk limit specified by the Clearing Member for an eligible customer, the Clearing Member shall be required to clear only that portion of the transaction that is within or up to such risk limit and the excess of the transaction size above such risk limit shall result in the execution of a cleared contract (a "Supplemental Cleared OTC Contract") on behalf of the relevant Auction Broker, in the amount of such excess, which shall be cleared by the Auction Broker's Clearing Member. The eligible customer that entered the order in excess of its credit limit shall reimburse the Auction Broker for any amounts that the Auction Broker is required to pay under the Supplemental Cleared OTC Contract. Conversely, the Auction Broker will pay to the eligible customer any amount that the Auction Broker receives under such Supplemental Cleared OTC Contract. A Clearing Member shall be responsible for maintaining and updating as appropriate the Risk Data on an ongoing basis and shall submit any such updates to the Risk Data pursuant to the procedures and deadlines as established by the Exchange.

992. PARTICIPATION BY NYMEX FLOOR MEMBERS IN SPECIAL PROGRAM FOR OVER-THE-COUNTER TRADING WITH FCM GUARANTEE

(A) The over-the-counter (OTC) contracts, agreements or transactions must be executed pursuant to Section 2(h)(1) of the Commodity Exchange Act (Act), which in effect provides among other things that such transactions shall be subject to CFTC anti-fraud and anti-manipulation authority and also may not be entered into on a trading facility. This program generally allows a NYMEX Floor Member to enter into trading in certain OTC contracts on the basis of a FCM guarantee without needing to satisfy the total assets requirements otherwise necessary under the Act for such trading. In order to maintain eligibility for this program, a NYMEX Floor Member must continue to satisfy all of the conditions contained in this rule.

(B) This program is available only to NYMEX Floor Members in good standing who are properly registered with the CFTC as a floor trader and/or as a floor broker. With respect to floor brokers, this program is available only for trading executed by the floor broker for his proprietary account. In addition, each NYMEX Floor Member must notify the Exchange Compliance Department prior to any participation in this program.

(C) Clearing. The NYMEX Floor Member must have obtained and at all times maintain a financial guarantee in writing as provided by the Exchange for the contracts, agreements or transactions from a NYMEX Clearing Member that:

(1) is registered with the Commission as an FCM; and,

(2) clears the OTC contracts, agreements or transactions thus guaranteed for such NYMEX Floor Member.

(D) Permissible OTC contracts, agreements or transactions shall be limited to trading in a commodity that either: (1) is listed only for clearing at NYMEX or

(2) is listed for trading and clearing at NYMEX and NYMEX's rules provide for exchanges of futures for swaps in that contract, and

(3) each OTC contract, agreement or transaction executed pursuant to this NYMEX program must be cleared at NYMEX.

(E) The NYMEX Floor Member may not enter into OTC contracts, agreements or transactions with another floor broker or floor trader as the counterparty for any contract that is listed for trading on the Exchange. However, a NYMEX Floor Member may enter into OTC contracts, agreements or transactions for such products with the Exchange in connection with options or forwards entered into through a pari-mutuel auction or, in connection with other OTC contracts, agreements or transactions, with an individual or entity that qualifies as an "eligible contract participant" pursuant to the Act.

(F) All contracts transacted in connection with this rule must be submitted and accepted for clearing on the Exchange. This rule neither authorizes nor allows a NYMEX Floor Member to maintain an uncleared OTC position and such activity would constitute a violation of this rule.

CLEARING MEMBER BANKRUPTCY

[Rule 993 is based on the text of CBOT Rule 718. The only change in the NYMEX version is the new rule number and the elimination of the reference to Rule 713.C.]

993. CUSTOMER SUBSTITUTION IN THE EVENT OF CLEARING MEMBER BANKRUPTCY

In the event that an "order for relief" as defined in CFTC Reg. 190.01(dd) has been entered in respect to a clearing member whose customer holds a futures contract or options contract that may only be liquidated by physical delivery and, as to such contract:

(i) trading has ceased on the date of the entry of the "order for relief;"

- (ii) notice of delivery has been tendered on or before the date of the entry of the "order for relief;" or
- (iii) trading ceases before the trustee can liquidate the contract;

then, notwithstanding Rule 713.C., the Clearing House shall allow the customer (if his identity can be readily ascertained and verified) to be directly substituted for the debtor clearing member to the extent necessary to complete delivery. None of the requirements for delivery, including notices, instructions, payment, etc., shall be waived hereby. Moreover, substitution shall in no way relieve the debtor clearing member of its obligations to the Clearing House and the opposite clearing member in regard to any claims arising out of that delivery.

New NYMEX Chapter 9A contains several rules previously set forth in current NYMEX Chapter 9. The rules in Chapter 9A are marked to show how they differ from the rules in existing NYMEX Chapter 9.

Chapter 9A **Position Rules**

9A.19 Final Day of Trading

(A)(1) On the final day of trading in the delivery month of a contract that is listed for trading by open outcry on the trading floor, it shall be the responsibility of each Clearing Member who is not in a position to fulfill his contractual obligation on any maturing contract by prescribed notice and tender, to have a liquidating order entered on the Exchange floor one hour before the time established for the beginning of the closing range for such delivery month. All such orders shall be market orders to be executed prior to the expiration of trading.

(2) On the final day of trading in the delivery month of a NYMEX or COMEX Division contract or DME contract that is listed for trading solely on Globex®, or on NYMEX ClearPort® Trading under the brand name DME Direct for DME contracts it shall be the responsibility of each Clearing Member who is not in a position to fulfill its contractual obligation on any maturing contract by prescribed notice and tender, to have a liquidating order entered on the relevant electronic trading platform.

9A.19A Transfers to Correct Errors Occurring on the Last Day of Trading

(A) For purposes of this Rule 9A.19A, a clearing member carrying open contracts in an expired delivery month for its own account or the account of any other person as the result of an error may, by consent of the account owners, transfer any or all of such contracts to any other account carried by such clearing member or to any other clearing member; provided, however, that;

(i) such transfer shall occur not later than the time prescribed for clearing members to file with the Exchange a Notice of Intention to Accept or Deliver for the specific commodity, by which time the clearing member(s) effecting the transfer, shall deliver to the Clearing House written notification of such transfer in the form and manner prescribed by the Exchange specifying the parties thereto and the prices at which such transfers were effected; and

(ii) the clearing member(s) must submit and retain records of all forms presented to the Clearing House for the processing of any error transfer trade.

(B) In the event that the error is discovered after the close of trading on the last day of trading in an expiring contract, but before the trade is assigned to a clearing member, a floor member may transfer the position held in error to any account carried by any clearing member, provided that the floor member and the clearing member carrying the account accepting the positions submit to the Exchange and retain a copy of the forms required by the Exchange for the transfer of such position.

9A.26 All Month/Any One Month Position Accountability

(A) Any person, as defined in Chapter 1 Rule 1-26, who owns or controls positions in excess of the levels cited in Chapter 9A, Appendix (A) below, under heading 9A.26 All Month/Any One Month Position Accountability shall be subject to the following provisions pursuant to position accountability levels:

(1) promptly supply to the Exchange such information as the Exchange may request pertaining to the nature and size of the position, the trading strategy employed with respect to the position, and the position owner's or controller's hedging requirements, provided, however, that if the position owner or controller fails to supply such information as and when requested, the Compliance Department ~~President or his designee~~ may order the reduction of such position;

(2) agree, upon request by the Compliance Department ~~President or his designee~~, not to increase the position owned or controlled as of the time the request was received; and

(3) agree to comply with any prospective limit prescribed by the Compliance Department ~~President or his designee~~ which exceeds the size of the position owned or controlled.

(B) For the purposes of this Rule 9A.26, the futures-equivalent of an option contract and spread option contract is the previous day's NYMEX Risk Factor for that option. Further, long calls, short puts and long futures are on the same side of the market; short calls, long puts and short futures are on the same side of the market.

With respect to crack spread option contracts, a call option is the equivalent of a long product futures contract and a short crude oil futures contract; a put option is the equivalent of a short product futures contract and a long crude oil futures contract. Therefore, long crack spread option calls and short crack spread option puts are on the same side of the market; short crack spread option calls and long crack spread option puts are on the same side of the market.

With respect to calendar spread option contracts, a call option is the equivalent of a long futures contract in the first underlying futures in the spread and a short futures contract in the second underlying futures in the spread; a put option is the equivalent of a short futures contract in the first underlying futures in the spread and a long futures contract in the second underlying futures in the spread.

(C) The any one month/all month position accountability levels shall be calculated on a net futures-equivalent basis. A NYMEX Light Sweet Crude Oil miNY Futures Contract shall be deemed equivalent to .50 of a Crude Oil Financial Contract, a NYMEX Natural Gas miNY Futures Contract shall be deemed equivalent to .25 of a Henry Hub Penultimate Financial Futures Contract, a NYMEX miNY Gasoline Futures Contract shall be deemed equivalent to .50 of a RBOB Gasoline Financial Contract, and a NYMEX miNY Heating Oil Futures Contract shall be deemed equivalent to .50 of a Heating Oil Financial Futures Contract; a COMEX miNY Gold Futures Contract shall be deemed equivalent to .50 of a Gold future, a COMEX miNY Silver Futures Contract shall be deemed equivalent to a .50 Silver future, and a COMEX miNY Copper Futures Contract shall be deemed equivalent to a .50 Copper Future.

(D) Except as provided in Rule 9A.27, the any one month/all month position accountability levels for each futures contract traded on the Exchange are listed in Chapter 9A, Appendix (A) below.

Note: Specific reference to contract aggregation requirements prescribed in Chapter 9A, Appendix (A). Further, the Exchange may apply Accountability Compliance on a Futures Only basis to the base contracts which others "aggregate into" as per Appendix (A).

Option Contract Gross Option Quadrant Position Accountability Levels

Accountability levels for options cited in Appendix (A) are per quadrant (long call, long put, short call, short put) on a gross basis.

9A.26A Any One Month and /or All Months Position Limits for Soft Commodities

(A) No person may own or control a net long position or a net short position in any one month or all months combined for soft commodities in excess of the levels set forth in Chapter 9A, Appendix (A)

9A.27 Expiration and Current Delivery Month Position Limits

(A) No person may own or control a net long position or a net short position in the expiration or current delivery month (as defined in this Rule 9A.27 for energy, metals and soft contracts respectively) in excess of the levels set forth in Chapter 9A, Appendix (A) below under 9A.27 Expiration and Current Delivery Month Position Limits or Position Accountability.

Note: Specific reference to contract aggregation requirements prescribed in Chapter 9A, Appendix (A).

(B) The expiration position limits for energy contracts for those contracts enumerated in Appendix (A), Chapter 9A for which expiration month position limits are designated, are effective on the open of trading of the last three trading days of the futures contract. The expiration position limits shall be calculated on a net futures-equivalent basis.

(C) The expiration month position limits for the PJM and the Uranium contracts are effective on the opening of trading on all business days when a contract month becomes the first nearby month (or spot month) and continues on an intra-day basis thereafter until the conclusion of trading in the expiring contract. The expiration month position limit shall be calculated on a net futures-equivalent basis for the PJM contracts.

(D) The current delivery month position limits for physically-delivered metals contracts are effective as of the close of business on the business day prior to the first notice day for any delivery month. No person shall maintain any position which, when combined with the number of contracts for which a delivery notice has been tendered or accepted during the delivery month, exceeds the maximum permissible current delivery month position limit for such contract. The current delivery month position limits for COMEX London Metals Futures contracts shall be effective as of the open of business on the first business day of the expiring contract month.

(E) The current delivery month position limits for soft commodities shall be in effect as of the open of trading on the last three trading days of the expiring contracts.

9A.27A Expiration Position Accountability Levels

(A) Any person who owns or controls positions in excess of the levels cited in Chapter 9A, Appendix (A) below, under heading 9A.27A Expiration Position Accountability Levels, shall be subject to the following provisions pursuant to position accountability levels:

(1) promptly supply to the Exchange such information as the Exchange may request pertaining to the nature and size of the position, the trading strategy employed with respect to the position, and the hedging requirements (if any), provided, however, that if the principal or controller fails to supply such information as and when requested, the Compliance Department ~~President or his designee~~ may order the reduction of such position;

(2) agrees, upon request by the Compliance Department ~~President or his designee~~, not to increase the position owned or controlled as of the time the request was received;

(3) agrees to comply with any limit prescribed by the Compliance Department ~~President or his designee~~, and to decrease any open position if directed upon review of the information cited in item 1 above.

(B) The Expiration Position Accountability Levels for energy contracts, for those contracts enumerated in Appendix (A), Chapter 9A for which expiration accountability levels are designated, are effective on the open of trading of the last three trading days of the Penultimate and Last Day cash settled futures contracts. The expiration position accountability levels shall be calculated on a net futures-equivalent basis. A NYMEX Light Sweet Crude Oil miNY Futures Contract shall be deemed equivalent to .50 of a Crude Oil Financial Contract, a NYMEX Natural Gas miNY Futures Contract shall be deemed equivalent to .25 of a Henry Hub Penultimate Financial Futures Contract, a NYMEX miNY Gasoline Futures Contract shall be deemed equivalent to .50 of a RBOB Gasoline Financial Contract, and a NYMEX miNY Heating Oil Futures Contract shall be deemed equivalent to .50 of a Heating Oil Financial Futures Contract.

(C) The Expiration Position Accountability Levels for metals contracts, for those contracts enumerated in Appendix (A), Chapter 9A for which expiration accountability levels are designated, are effective on the open of trading on the last three trading days of such contracts. The expiration position accountability levels shall be calculated on a net futures-equivalent basis. A COMEX miNY Gold Futures Contract shall be deemed equivalent to .50 of a Gold future, a COMEX miNY Silver Futures Contract shall be deemed equivalent to a .50 Silver future, and a COMEX miNY Copper Futures Contract shall be deemed equivalent to a .50 Copper Future.

(D) Trading in the underlying physically delivered contract that is the basis for the settlement prices for all contracts subject to this rule shall additionally be subject to NYMEX Interpretive Notices 01-06 and

01-07. Note: Specific reference to contract aggregation requirements prescribed in Chapter 9A, Appendix (A).

9A.28 Exemptions from Position Limits for Bona Fide Hedging Transactions

(A) The limits set forth in Rule 9A.27 and 9A.26A shall not apply to bona fide hedging transactions as defined in §1.3(z)(1) of the Regulations of the Commission (17 C.F.R. §1.3(z)(1)), as it may be amended from time to time.

(B) Notwithstanding the provisions of Subsection (A) of this Rule 9A.28, any person who owns or controls a bona fide hedging position in excess of the levels set forth in Rules 9A.27 and 9A.26A must comply with the applicable provisions of Rules 9A.29, 9A.31, 9A.32 and this Rule 9A.28.

(C) Any person who owns or control bona fide hedge positions must initiate and liquidate positions in accordance with sound commercial practices and in an orderly manner; trading shall not be conducted in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. No person shall use hedge positions to attempt to violate or avoid the By-Laws and Rules or to impair the good name of the Exchange.

(D) Any person who received approval to own or control positions classified as bona fide hedge positions shall submit to the Exchange, upon the request of the Board, or the Compliance Department ~~Control Committee or the President~~, any information required by the Board or the Compliance Department, ~~the Control Committee or the President or his designee (collectively, the "President" for purposes of Rules 9.28-9.36).~~

(E) Whenever an order of the Board, the Compliance Department ~~of the Control Committee~~ or of any other Committee of the Exchange excludes from the operation of the order bona fide hedge positions or transactions, any person who desires his positions or transactions to be excluded must file a Hedge Notice with the Exchange as provided in this Chapter 9A.

(F) Nothing in this Chapter 9A concerning exemption from position limits or any related provision shall in any way limit (i) the authority of the Exchange to take emergency action or (ii) the authority of the ~~President~~ Compliance Department to review at any time the position owned or controlled by any person and to direct that a position be reduced to the level provided for by Rules 9A.26A or 9A.27.

9A.29 Exemptions from Position Limits for Exposure from Commodity Swap Transactions

(A) A person may apply to the Exchange for an exemption from the position limits set forth in Rules 9A.27 and 9A.26A where such exemption is necessary to reduce exposure resulting from commodity swap transactions that meet all the criteria of the Commodity Futures Trading Commission (the "Commission"), as stated in the Policy Statement Concerning Swap Transactions, 54 Fed. Reg. 30694 (July 21, 1989), or the Exemption of Swap Agreements 17 C.F.R. Part 35 (Jan. 22, 1993), as it may be amended or interpreted by the Commission.

(B) Applicants for an exemption under this Rule shall apply to the Compliance Department ~~President or his authorized representative (referred to as the "President")~~, on forms provided by the Exchange, not more than five (5) days after assuming a position in excess of position limits under this Rule.

The Application shall include: a list of the contracts for which exemption is requested; a full and complete explanation of the underlying swap exposure; an agreement to comply with the limits imposed with respect to the proposed transactions; audited financial statements or other financial statements in the form approved by the Compliance Department ~~President~~; an agreement to comply with the By-Laws and Rules of the Exchange; an agreement to submit a supplemental statement to the Exchange explaining any material change in circumstances or information provided in the application; and agreement to initiate and liquidate positions in accordance with sound commercial practices and in an orderly manner; and such other information, and representations as may be required by the Exchange.

(C) Any person who receives approval to own or control positions pursuant to this Rule, shall provide to the Exchange, upon the request of the Board, or the Compliance Department ~~Control Committee, or the President~~, any information or documentation requested relating to the exemption, the underlying swap transactions, or the financial condition of the applicant.

(D) The Compliance Department~~President~~ shall, on the basis of the application and supplemental information which the Exchange may request, determine whether an exemption from speculative position limits shall be granted. The Compliance Department~~President~~ may deny, condition or impose limitations upon an exemption request, based upon the applicant's business needs, financial status and integrity, the bona fides of the underlying swap transactions, on the liquidity, depth and volume of the market for which the exemption is sought, and on such factors as the Compliance Department~~President~~ deems appropriate. The Compliance Department~~President~~ may review at any time exemptions granted under this Rule, and may modify, revoke or place limitations on the exemption.

(E) Nothing in this Rule shall in any way limit (i) the authority of the Exchange to take emergency action; or (ii) the authority of the Compliance Department~~President~~ to review at any time the position owned or controlled by any person and to direct that a position be reduced to the level provided for by Rules 9A.26A and/or 9A.27.

(F) Any person who has received from the Compliance Department~~President~~ written authorization to exceed position limits imposed under Rules 9A.27 or 9A.26A must file with the Exchange an updated application annually, no later than the anniversary date of the initial authorization, or waive the exemption.

9A.29A Exemptions from Position Limits for Exposure Associated with NYMEX Physical versus Cash Settled Arbitrage Transactions

(A) A person may apply to the Exchange for an exemption from the position limits set forth in Rule 9A.27 related to contracts CL, NG, HO, HU RB, GC, SI, and HG, where such exemption is in connection with open arbitrage positions in the associated Penultimate Cash-Settled Contracts (WS, HP, NP, BH, RT), miNY Contracts (QM, QG, QH, QU, QO, QI, QC), Last Day Cash-Settled Contracts (HH, NN) and Cash-Settled Penultimate Options (LC, LN, LB, LG).

(B) Applicants for an exemption under this Rule shall apply to the Compliance Department~~President or his authorized representative (referred to as the "President")~~, on forms provided by the Exchange, not more than two (2) days after assuming a position in excess of position limits under this Rule.

The Application shall include: a list of the contracts for which exemption is requested; an agreement to comply with the limits imposed with respect to the proposed transactions; an agreement to comply with the By-Laws and Rules of the Exchange; agreement to initiate and liquidate positions in accordance with sound commercial practices and in an orderly manner; and such other information, and representations as may be required by the Exchange.

(C) Any person who receives approval to own or control positions pursuant to this Rule shall provide to the Exchange, upon the request of the Board, ~~or the Compliance Department Control Committee, or the President~~, any information or documentation requested relating to the exemption.

(D) The Compliance Department~~President~~ shall, on the basis of the application and supplemental information which the Exchange may request, determine whether an exemption from speculative position limits shall be granted. The Compliance Department~~President~~ may deny, condition or impose limitations upon an exemption request based upon the applicant's business needs, financial status and integrity, the bona fides of the underlying swap transactions, on the liquidity, depth and volume of the market for which the exemption is sought, and on such factors as the Compliance Department~~President~~ deems appropriate. The Compliance Department~~President~~ may review at any time exemptions granted under this Rule, and may modify, revoke or place limitations on the exemption.

(E) Nothing in this Rule shall in any way limit: (i) the authority of the Exchange to take emergency action; or (ii) the authority of the Compliance Department~~President~~ to review at any time the position owned or controlled by any person and to direct that a position be reduced to the level provided for by Rule 9A.27.

(F) Any person who has received from the Compliance Department~~President~~ written authorization to exceed position limits imposed under Rule 9A.27 must file with the Exchange an updated application annually, no later than the anniversary date of the initial authorization, or waive the exemption.

9A.30 Hedge Notice

(A) Any person who owns or controls a bona fide hedge position in excess of the levels set forth in Rule 9A.27 must file with the Exchange a written Hedge Notice accompanied by audited financial statements or other financial statements in the form approved by the Compliance Department President, not more than five (5) business days after assuming such a position provided that the President or his designee may in special circumstances authorize the late filing of any Hedge Notice.

(B) Any Hedge Notice must, except as otherwise authorized by the Compliance Department President, provide the following statements and information:

(i) A representation that the transactions will be bona fide hedging transactions as defined in Regulation §1.3(z)(1) of the Commission (17 C.F.R. §1.3(z)(1)) as it may be amended from time to time;

(ii) A representation that the transactions will be necessary or advisable as an integral part of such person's business; and, in that connection, a full and complete explanation of the nature and extent of such business;

(iii) A representation that the person has complied with any applicable Federal requirement relating to hedging; and, that the person has received approval, where necessary, from the Commission;

(iv) A schedule of the maximum number of contracts, long and short, which the person will establish as a hedge;

(v) An agreement to comply with whatever limits are imposed with respect to the proposed transactions; to submit a supplemental statement explaining any change in circumstances which affect the nature of such position; and, to comply with the By-Laws and Rules; and

(vi) A statement from the person's carrying firm that the transactions will be identified as hedging transactions on the books of such firm.

(C) Any person who has received from the Compliance Department President or his designee written authorization to exceed position limits imposed by Rule 9A.27 must file with the Exchange an updated Hedge Notice annually.

9A.31 Revised Hedge Notice

Whenever the positions which a person desires to classify as a bona fide hedge exceed the limits imposed by the Compliance Department President or exceed the maximum number of contracts previously identified by such person in the Hedge Notice such person shall file with the Exchange, not more than five (5) business days after the date on which such person has exceeded such amounts, a Revised Hedge Notice accompanied by audited financial statements or other financial statements in the form approved by the Compliance Department President provided, however, that the Compliance Department President or his designee may in special circumstances authorize the late filing of any Hedge Notice.

9A.32 Action by the Exchange

(A) The Compliance Department President shall determine whether the transactions or positions described in the Hedge Notice are bona fide hedging transactions or positions.

(B) The Compliance Department President may impose such limits on bona fide hedge transactions or positions, as in his discretion are commensurate with market conditions, the person's business needs, financial ability and integrity.

(C) The Compliance Department President may review, from time to time, any approvals of hedge transactions and positions; and the Compliance Department President may revoke, or place limitations on, any approval. Any person who is adversely affected by a determination of the Compliance Department President may request the Business Conduct Control Committee to review such determination.

(D) No Clearing Member shall maintain or clear any position which taken alone or when aggregated in accordance with the provisions of this Chapter 9A exceeds the position limits permitted under Rules 9A.27 or 9A.26A, except as otherwise authorized pursuant to this Chapter 9A.

(E) In the event that the Compliance Department~~President~~ learns that a Member or customer maintains positions in accounts with more than one Clearing Member, such that aggregating positions in all such accounts exceeds the position limits established by this Chapter 9A, the Compliance Department~~President~~ will notify each Clearing Member maintaining or carrying such accounts that it is in violation of Section (D) of this Rule 9A.32. A Clearing Member receiving notification from the Compliance Department~~President or his designee~~ that it is in violation of Subsection (D) of this Rule 9A.32 shall reduce any above-limit position as directed by the Compliance Department~~President~~, provided that reduction of an aggregated position which is maintained by two or more Clearing Members shall be proportional unless otherwise directed by the Compliance Department~~President~~.

9A.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 9A.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 Chief Regulatory Officer 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 9A.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 Chief Regulatory Officer 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) 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 9A.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 9A.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) 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 9A.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) All Clearing Members, omnibus accounts and foreign brokers for the purposes of sections (A), (B), (D) and (E) above, shall report to the Exchange each account in excess of the levels established in Rule 9A.34 by a unique numeric designation. The unique numeric designation shall be established by filing with the Vice President 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.

9A.34 Reporting Levels

(A) The quantities fixed for the purposes of filing a report under Rule 9A.33 are listed in Chapter 9A, Appendix (A) below, under heading 9A.34 Reporting Levels:

9A.35 Aggregation

In determining whether any person has exceeded the limits established by this Chapter 9A, all positions held in accounts owned or controlled by such person, including those positions in accounts for which such person by power of attorney or otherwise, directly or indirectly, controls trading shall be included with the positions of such person; such limits upon positions shall apply to positions held by two or more persons acting pursuant to an express or implied agreement or understanding, the same as if all of the positions were held by a single person.

9A.36 Penalties

(A) Definition of a Speculative Limit Violation. For purposes of this Rule, the ownership or control over, as well as the carrying by a Clearing Member of, a position in excess of that allowed under Rules 9A.26 - 9A.35 shall be deemed a speculative position limit violation; provided, however, that a Clearing Member shall not be deemed to be in violation for carrying the position of another person for whom the Clearing Member does not exercise trading discretion unless the position exceeds the speculative position limit as of the close of trading on two successive business days. Each business day on which a customer, Member, or Clearing Member, as the case may be, is in excess of the limits allowed under Rules 9A.26 - 9A.35 shall be considered a separate speculative position limit violation. Where an overage results from the aggregation of two or more customer accounts, the overage shall not be deemed a speculative position limit by the Clearing Member, provided that the Clearing Member demonstrates to the satisfaction of the Compliance Department ~~President or his designee~~ that: (1) it did not carry any individual customer account which held an excessive position; (2) it took timely and appropriate remedial action upon discovery or notification of the violation (whichever occurs first); and, where applicable, (3) it employs systems and procedures reasonably calculated to discover whether positions held in two or more accounts carried by it should be aggregated under the rules of the Exchange.

(B) First Violation. The first occurrence of a speculative position limit violation will not be deemed a rule violation. However, the occurrence of a first violation will result in a warning letter being issued by the Compliance Staff ~~Department~~ to the customer (includes any Member or non-Member customer), and the warning letter shall be copied to the carrying Clearing Member(s). Where the carrying Clearing Member(s) has also committed a speculative position limit violation as set forth in paragraph (A) of this Rule 9A.36 by carrying such positions, a warning letter shall be separately issued to such Clearing Member(s).

(C) Subsequent Violation.
(1) Automatic Fine

The occurrence of a second speculative position limit violation by a non-Member customer, Member, or Clearing Member within 12 months of any previous speculative position limit violation shall be a rule violation which shall subject such non-Member customer, Member, or Clearing Member to an automatic fine, and, in the case of a speculative position limit violation by a Member or Clearing Member, to a cease and desist order issued by the Compliance Department ~~President or his designee~~. Fines levied pursuant to this Paragraph (C)(1) shall be assessed by the Compliance Department ~~President, or his designee~~, against the Member, Clearing Member, or in the case of a non-Member customer, against the non-Member customer's Clearing Member, in accordance with the fine schedule in Paragraph (D) of

this Rule 9A.36.

(2) Violation by Clearing Member or Member after 12 Months

The occurrence of a second position limit violation by a Member or Clearing Member more than 12 months after any previous speculative position limit violation may subject such Member or Clearing Member, as the case may be, to a cease and desist order issued by the Compliance Department ~~President, or his designee~~.

(3) By Customer

In addition to automatic fines levied against a customer pursuant to paragraph (C)(1) of this Rule 9A.36, the occurrence of a second speculative position limit violation by a customer will subject the customer to a warning letter issued by the Compliance Department ~~President, or his designee~~, stating that any future violation by the customer of the speculative position limit rules may result in extraordinary sanctions, including, but not limited to, conditioning, limiting, or denying access of such customer to the market. Imposition of any such extraordinary sanction shall be preceded by a hearing conducted before a panel of the Business Conduct Committee.

(D) Automatic Fine Schedule for subsequent speculative limit violation within a 12-month period.

Situation	Fine	Assessed Against
(1) Member account up to 25% over speculative position limits.	\$5,000	Member and/or Clearing Member
(2) Member account in excess of 25% over speculative position limits.	\$15,000	Member and/or Clearing Member
(3) Non-Member customer account up to 25% over speculative position limits.	\$5,000	Clearing Member
(4) Non-Member customer account in excess of 25% over speculative position limits.	\$15,000	Clearing Member
(5) House account up to 25% over speculative position limits.	\$5,000	Clearing Member
(6) House account in excess of 25% over speculative position limits.	\$15,000	Clearing Member
(7) Clearing Member carries an account up to 25% over speculative position limits.	\$5,000	Clearing Member
(8) Clearing Member carries an account in excess of 25% over speculative position limits.	\$15,000	Clearing Member

With respect to a customer account that is carried with multiple Clearing Members that taken together exceed applicable position limits, the applicable fine may be assessed, at the sole discretion of the Compliance Department ~~President or his designee~~: (1) equally among such carrying Clearing Members; (2) on a pro rata basis among carrying Clearing Members; (3) solely against one or more such carrying Clearing Members.

(E) Additional Penalties. Any other provision of these Rules notwithstanding, a panel of the Business Conduct Committee may take other actions or impose additional penalties against any customer, Member or Clearing Member, including, but not limited to, limiting conditioning or denying access to the market, in the following cases:

(1) Where the violation involves a position which is more than 150 percent of the speculative or approved hedge position limits;

(2) Where the violation is the third offense within any 12-month period;

(3) Where a Clearing Member fails to promptly comply with an instruction by the Compliance Department ~~President or his designee~~ to reduce any position; or

(5) Where the Compliance Department ~~President or his designee~~ deems the violation to constitute a severe abuse of Exchange rules.

(F) Alternative Position Limit Violation Evaluation. If a position exceeds speculative position limits at the close of trading when evaluated using the previous day's NYMEX Risk Factors, but does not exceed speculative position limits when evaluated using the NYMEX Risk Factors as of that day's close of trading, then the position shall not be deemed to violate the speculative position limits contained herein.

(G) Multiple Clearing Members. A customer or member who maintains positions at more than one Clearing Member which taken together exceed the speculative position limit will be deemed to have waived confidentiality regarding his positions, and the Clearing Members carrying the excessive positions may be informed of the overall position and required to make reductions on a pro rata basis.

9A.36A Appeal / Settlement

(A) Any fine imposed in accordance with Rule 9A.36 may be appealed to a Panel of the Business Conduct Appeals Committee ("Panel"). To appeal a fine, a Member or Clearing Member shall file a typewritten notice of appeal with the Compliance Department within ten (10) business days after receipt of the notice of such fine. The notice of appeal shall set forth the grounds for the appeal and any relevant documents shall be attached. A failure to appeal within such time limit shall operate as a waiver of all rights of appeal.

(B) The Compliance Department shall deliver to the appellant within ten (10) days of the date of delivery of the Notice of Appeal, a written memorandum in response to the Notice of Appeal.

(C) The appellant may deliver to the Compliance Department, within ten (10) days from receipt of the response of the Compliance Department, a written reply memoranda. Such memoranda must be limited to the matters contained in the response of the Compliance Department.

(D) In its discretion, the ~~Appeal~~ Panel may decide the appeal on the basis of the notice of fine and memoranda of the Respondent and the Compliance Department or may require the parties to make oral presentation. The ~~Appeal~~ Panel shall issue a written decision which shall include an order to affirm, reverse or modify the terms of the summary fine issued.

(E) The ~~Appeal~~ Panel may approve or reject offers of settlement between the appellant and the Compliance Department which may decrease the fine or otherwise modify the terms of the summary fine issued.

Appendix A Position Limits, Accountability Levels and Reportable Levels

Appendix (A), Chapter 9A

The entirety of existing Appendix (A) from former NYMEX Chapter 9 is being relocated to new NYMEX Chapter 9A (Position Limits)

Revisions to Existing NYMEX Rulebook

Chapter 1 Definitions

1.13 Closing Range

(A) Except as provided in Section (B) of this rule, the term "closing range" shall mean, for each respective commodity futures and options contract that is listed for trading during the Regular Trading Hours trading session on the floor of the Exchange, the final two minutes (2) of trading; provided that with respect to the final day of trading in energy futures contracts for delivery in the current delivery month, closing range shall mean the last half hour of trading in such contracts.

~~(B) The term "closing range" shall mean, for each respective NYMEX electricity and Middle East Sour Crude Oil futures and options contract that is listed for trading solely on NYMEX ACCESS@, the final 10 minutes of the trading session on NYMEX ACCESS@ for such contract.~~

Chapter 2 Membership Rules

2.15 ~~Financial and Reporting Requirements for Futures Commission Merchants; Reports; Fees~~Reserved

~~(A) Each Member and Member Firm registered with the Commission as a futures commission merchant shall maintain an adjusted net capital equal to the amount prescribed in Commission Regulation 1.17.~~

~~(B) Each Member and Member Firm registered with the Commission as a futures commission merchant shall file with the Audit Department such reports and other documents as are required by Commission Regulation §1.10 or otherwise or by the Exchange at such time as required by such regulation or by the Exchange.~~

~~(C) (1) If, for any reason, the "Adjusted Net Capital", as defined by CFTC Regulation 1.17 (c)(5), of a Member or Member Firm registered as a futures commission merchant declines below the minimum required by Rule 2.15(A), the Member or Member Firm futures commission merchant shall give immediate telephonic notice, to be confirmed by written notice of the fact by telegraphic or facsimile transmission, to Audit Department.~~

~~(2) If, for any reason, the "Net Capital", as defined by CFTC Regulation 1.17(c)(1), of a Member Firm registered as a futures commission merchant or "Tentative Net Capital" of a Member Firm also registered as a Broker-Dealer, declines by a factor of 20% or more from that last reported to the Exchange, the Member or Member Firm futures commission merchant shall give formal written notice of such event to the Audit Department within two business days of its occurrence. This "Notice of Capital Impairment" should state the date of the decline and an applicable reason for the decline of the Member futures commission merchant's net capital.~~

~~(3) Any planned reduction of a Member futures commission merchant's "Excess Net Capital" (defined as Net Capital per CFTC Regulation 1.17(c)[1] or "Excess Net Capital" of a Member Broker-Dealer, less the minimum capital required by Rule 2.15(i)(A) of 30% or more from that last reported to the Exchange shall be prefaced, at least two business days in advance of its occurrence, by a formal written notice of such event(s) to the Audit Department. Such notification should state the date of an applicable reason for the planned reduction of the member futures commission merchant's excess net capital.~~

~~(D) Each Member Firm registered with the CFTC as a Futures Commission Merchant shall develop and implement a written anti-money laundering program approved in writing by senior management reasonably designed to achieve and monitor the Member's compliance with the applicable requirements of the Bank Secrecy Act (31 U.S.C. 5311, et. seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury and, as applicable, the Commodity Futures Trading Commission. That anti-money laundering program shall, at a minimum,~~

~~(1) Establish and implement policies, procedures and internal controls reasonably designed to assure compliance with the applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder;~~

- ~~(2) Provide for independent testing for compliance to be conducted by Member personnel or by a qualified outside party;~~
~~(3) Designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program; and~~
~~(4) Provide ongoing training for appropriate personnel. Member FCMs must also supervise and ensure that their guaranteed introducing brokers are in compliance with the anti-money laundering provisions contained in this Rule.~~

2.17 Cessation and Inactivation of Membership Privileges

A Member Firm may relinquish or inactivate its privileges provided that:

- (A) the Exchange has received written notice of the Member Firm's intention to relinquish or inactivate its privileges, including the name of each Member guaranteed by the Member Firm pursuant to Exchange Rules 2.21 and/or 2.23 and the name and number of each non-Member account guaranteed by the Member Firm pursuant to Rule 9.04(B).

[The remainder of the rule is unchanged.]

2.21 ~~Guarantee by Primary Clearing Member~~Reserved

~~(A) Each Floor Member must be guaranteed to trade on the floor by a Primary Clearing Member ("PCM"). To guarantee a Floor Member, the PCM must execute such guarantees and other documents as required by the Exchange. No Floor Trader may be guaranteed by two (2) PCMs at the same time.~~

~~(B) In order to guarantee a Floor Member, the PCM shall:~~

~~(1) agree to accept and clear all trades executed by the guaranteed Floor Member which are not otherwise accepted for clearance;~~

~~(2) agree to accept financial responsibility for the trades held in an account in the record name and for the benefit of the guaranteed Floor Member which have been accepted for clearance by another Clearing Member authorized by the PCM to clear trades for the Floor Member pursuant to Rule 2.31, provided that the other clearing member has notified the PCM and the Audit Department of any deficit in the guaranteed floor member's account by 12:00 P.M. on the next trading day after the deficit arose;~~

~~(3) agree to accept financial responsibility for all trades determined through the Exchange adjudication or arbitration process to have been executed by the guaranteed Floor Member, whether for his own account or for the accounts of others;~~

~~(4) execute such guarantees and other documents as the Exchange shall require in connection with the PCM's guarantee of a Floor Member and shall file said documents with the Membership Department; and~~

~~(5) comply with the financial requirements for guarantors as set forth in Rule 2.30 and in Rule 9.21.~~

~~(C) The guarantee shall be in writing, filed by the PCM with the Membership Department and may only be withdrawn by means of a written notice of revocation filed with the Exchange in accordance with the provisions of Section (A) ("Regular Trading Hours") of Rule 2.33.~~

2.22 Floor Member Training

[Sections (A) and (B) are unchanged.]

(C) In order for a Floor Member to maintain Floor Member privileges, every three years a Member must attend a Continuing Education Program approved by the Training and Education Committee. Failure of a Floor Member to attend shall result in the automatic suspension of Floor Member and NYMEX-ACCESS® trading privileges. Such suspension shall commence on the business day following the expiration of three years from the date a member last completed an approved Continuing Education and Ethics Program, and continue until proof of completion of a Continuing Education and Ethics Program.

2.32 Duties of Guarantors and Primary Clearing Members

(A) Monitoring of Guaranteed Members

[The first two paragraphs are unchanged.]

The financial guarantee referred to in the paragraph above must be filed with the Exchange's Audit Department on the same date it is executed. For each financial guarantee issued, the applicable Primary Clearing Member must maintain working capital in excess of that required by Rules 2.14 and 2.15 in amounts equal to \$50,000 for NYMEX Division Lease Members and \$25,000 for COMEX Division Lease Members.

[The remainder of the rule is unchanged.]

2.43 ~~Lawsuits Brought Against the Exchange~~ LIMITATION OF LIABILITY, NO WARRANTIES

- A. EXCEPT AS PROVIDED BELOW, THE EXCHANGE AND CHICAGO MERCANTILE EXCHANGE INC. (CME) (INCLUDING THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, LICENSORS, MEMBERS, AND CLEARING MEMBERS, SHALL NOT BE LIABLE TO ANY PERSON FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE, AND DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES), ARISING FROM:
- (i) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER CAUSE, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE SYSTEMS AND SERVICES OF THE EXCHANGE OR CME, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING WITHOUT LIMITATION ELECTRONIC ORDER ENTRY/DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY MEMBERS AND AUTHORIZED EMPLOYEES OF MEMBERS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE, FIRMWARE AND PRINTERS RELATING THERETO; OR
 - (ii) ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER CAUSE, OF ANY SYSTEM OR SERVICE OF THE EXCHANGE OR CME, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, CAUSED BY ANY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS; OR
 - (iii) ANY ERRORS OR INACCURACIES IN INFORMATION PROVIDED BY THE EXCHANGE OR CME OR ANY OR ANY OF THE EXCHANGE'S OR CME'S SYSTEMS, SERVICES OR FACILITIES; EXCEPT FOR INCORRECT ORDER STATUSING INFORMATION AS PROVIDED IN ~~CME-RULE 11G.579 (GLOBEX CONTROL CENTER-AND-ORDER STATUSING)~~; OR
 - (iv) ANY UNAUTHORIZED ACCESS TO OR UNAUTHORIZED USE OF ANY OF THE EXCHANGE'S OR CME'S SYSTEMS, SERVICES OR FACILITIES BY ANY PERSON.

THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER A CLAIM ARISES IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, CONTRIBUTION OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD PARTY CLAIM.

THE FOREGOING LIMITATION OF LIABILITY SHALL BE SUBJECT TO THE COMMODITY EXCHANGE ACT AND REGULATIONS THEREUNDER. A PARTY WHO HAS BEEN FINALLY ADJUDICATED TO HAVE ENGAGED IN WILLFUL OR WANTON MISCONDUCT MAY NOT AVAIL ITSELF OF THE PROTECTIONS IN THIS RULE.

- B. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS (INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE) PROVIDED BY THE EXCHANGE, THE CME (INCLUDING THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, AND LICENSORS RELATING TO ANY SYSTEMS OR SERVICES OF THE EXCHANGE OR CME OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING THE GLOBEX SYSTEM.
- C. ANY DISPUTE ARISING OUT OF THE USE OF SYSTEMS OR SERVICES OF THE EXCHANGE OR CME OR SERVICES, EQUIPMENT, OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES IN WHICH

THE EXCHANGE OR CME (INCLUDING THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS OR LICENSORS IS A PARTY SHALL BE ARBITRATED PURSUANT TO RULE 621 ("CERTAIN CLAIMS AGAINST THE EXCHANGE INVOLVING TRADING SYSTEMS OR SERVICES"). ANY ARBITRATION SHALL BE BROUGHT WITHIN THE PERIOD PRESCRIBED BY EXCHANGE RULES. ANY OTHER ACTIONS, SUITS OR PROCEEDINGS AGAINST ANY OF THE ABOVE MUST BE BROUGHT WITHIN TWO YEARS FROM THE TIME THAT A CAUSE OF ACTION HAS ACCRUED. THIS PARAGRAPH C SHALL IN NO WAY BE CONSTRUED TO LIMIT A PARTY'S OBLIGATION TO ARBITRATE ITS CLAIM OR TO CREATE A CAUSE OF ACTION AND SHALL NOT AUTHORIZE AN ACTION THAT WOULD OTHERWISE BE PROHIBITED BY CME EXCHANGE RULES. IF FOR ANY REASON, A COURT OF COMPETENT JURISDICTION FINDS THAT SUCH DISPUTE IS NOT ARBITRABLE, SUCH DISPUTE MAY ONLY BE LITIGATED IN THE COUNTY OF COOK IN THE STATE OF ILLINOIS AND WILL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS WITHOUT REGARD TO ANY PROVISIONS OF ILLINOIS LAW THAT WOULD APPLY THE SUBSTANTIVE LAW OF A DIFFERENT JURISDICTION.

- D. THE CME OR THE EXCHANGE, MAY, IN THEIR RESPECTIVE SOLE DISCRETION, ASSUME RESPONSIBILITY FOR DIRECT, OUT-OF-POCKET LOSSES DIRECTLY CAUSED BY THE NEGLIGENCE OF GLOBEX CONTROL CENTER OR OTHER EXCHANGE STAFF AND/OR ORDER STATUS ERRORS PROVIDED BY THE GLOBEX CONTROL CENTER OR A CME OR EXCHANGE SYSTEM, SERVICE OR FACILITY. NOTWITHSTANDING THE ABOVE, I) THE EXCHANGE'S AND CME'S TOTAL COMBINED AGGREGATE OBLIGATIONS SHALL NOT EXCEED \$100,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED ON A SINGLE DAY; \$200,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE CALENDAR MONTH; AND \$2,400,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED IN A SINGLE CALENDAR YEAR. ANY DISPUTED CLAIM PURSUANT TO THIS PARAGRAPH D MUST BE ARBITRATED PURSUANT TO RULE 621 ("CERTAIN CLAIMS AGAINST THE EXCHANGE INVOLVING TRADING SYSTEMS OR SERVICES").
- E. IN NO EVENT SHALL THE EXCHANGE'S AND CME'S TOTAL COMBINED AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF ANY FAILURES, MALFUNCTIONS, FAULTS IN DELIVERY, DELAYS, OMISSIONS, SUSPENSIONS, INACCURACIES, INTERRUPTIONS, TERMINATIONS, ORDER STATUSSING ERRORS OR ANY OTHER CAUSES, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE EXCHANGE'S OR CME'S SYSTEMS OR SERVICES, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, OR THE NEGLIGENCE OF EXCHANGE OR CME STAFF EXCEED \$2,400,000 IN ANY GIVEN CALENDAR YEAR.

IF THE NUMBER OF ALLOWED CLAIMS ARISING OUT OF ANY FAILURES OR MALFUNCTIONS ON A SINGLE DAY OR SINGLE MONTH CANNOT BE FULLY SATISFIED BECAUSE OF THE ABOVE DOLLAR LIMITATIONS, ALL SUCH CLAIMS SHALL BE LIMITED TO A PRO RATA SHARE OF THE MAXIMUM AMOUNT FOR THE RESPECTIVE PERIOD.

A CLAIM AGAINST THE EXCHANGE OR CME, ARISING OUT OF ANY FAILURE OR MALFUNCTION SHALL ONLY BE ALLOWED IF SUCH CLAIM IS BROUGHT IN ACCORDANCE WITH THIS RULE.

1. For purposes of these Rules (a) the term "Claimant" shall mean any individual or legal entity that is presently, or was formerly, subject to the jurisdiction of the New York Mercantile Exchange or New York Mercantile Exchange, Inc. (collectively, "NYMEX") or their respective parent companies, subsidiaries (direct and indirect) or affiliates, (including the Class B member), including but not limited to Class A members, Commodity Exchange, Inc. ("COMEX") Division Members, Class A Lessees, COMEX Division Lessees, Class A Member Firms, COMEX Division Member Firms Class A Clearing Members, COMEX Division Clearing Members, Permit Holders, Floor Brokerage Billing Entities, Electronic Traders and Authorized Terminal Users as both terms are defined in Chapter 11 in connection with NYMEX ACCESS®, Option Members, Aluminum Members and Eurotop Members, NYMEX Equity Members, COMEX Equity Members, Users and User Agents as both terms are defined in Chapter 11 in connection with NYMEX ClearPort® Trading, or any other individual or legal entity with some or all of the rights and privileges of membership or ownership in NYMEX or any of its subsidiaries (direct or indirect) or affiliates, (including the Class B member), or which has the right to trade in commodities or conduct business operations including but not limited to use of clearing services for products listed only for clearing on NYMEX or any of their respective parent companies, subsidiaries (direct or indirect), and any of their employees, including but not limited to clerks and Authorized Terminal Users.

(b) the term "Exchange" shall include NYMEX, and its respective parents, (including the Class B member), subsidiaries (direct and indirect) or any of its respective affiliates, members, successors, assigns, directors, governors, officers, committee members, employees, consultants or agents.

2. Floor Trading. Claimant acknowledges that floor trading at the Exchange is accomplished by open-out cry in a trading "ring" or "pit" and that the Trading Floor is an environment of close physical proximity to others that may result in substantial physical contact with others. Claimant further acknowledges that such conditions on the Trading Floor may be exacerbated by volatility in trading or contract expiration. Claimant assumes all risk of loss, damage or injury, personal or otherwise, caused by reason of conditions on the Trading Floor and hereby waives (to the extent permissible under law) any claim based upon such conditions.

3. Except to the extent such loss, expense, damages or claims have been finally adjudicated to be attributable to willful or wanton misconduct of the Exchange, and except as otherwise expressly provided in these Rules, the Exchange shall not have liability to any Claimant for any loss, expense, damages (including direct, indirect, consequential and punitive damages) or claims resulting from or relating to:

(a) any personal injury or medical condition (and death resulting therefrom) that arise out of (i) the use or employment of the facilities or services at the Exchange, regardless of whether such services or facilities are provided by the Exchange or a third party, or (ii) any interruption in or failure or unavailability of any such facilities, services, regardless of whether such services or facilities are provided by the Exchange or a third party, or (iii) any action or failure to act by the Exchange.

(b) any error, omission or delay in calculating or disseminating any current, closing or settlement prices, values, transactions in, quotations for or other information about futures contracts and options contracts traded on the Exchange.

(c) the use of data transmitted or disseminated by or on behalf of the Exchange or any reporting authority designated by the Exchange, including but not limited to reports of transactions in, quotations for or other information about futures contracts and option contracts or reports of index values or related data; and, in connection with the use of such data, the Exchange makes no express or implied warranties as to such data, including but not limited to (i) the result to be obtained or (ii) the merchantability or fitness for a particular purpose or use.

(d) any suspension, inaccuracy, interruption or termination, or any other cause, relating to the furnishing, performance, operation, maintenance, use of or inability to use any or all portion of Exchange systems, or services and facilities used to support the Exchange systems and services related thereto, regardless of whether such services or facilities are provided by the Exchange or a third party. In addition, the Exchange shall have no liability for errors or inaccuracies in information provided by Exchange systems or for losses or other injury or damages resulting from unauthorized access or any other misuse of any Exchange systems by any person.

(e) The foregoing limitation of liability and disclaimers shall be in addition to any other limitation of liability provision contained in these Rules, and, to the extent that they are inconsistent, the provisions of this Rule shall control.

(f) The foregoing limitation of liability shall be subject to the Commodity Exchange Act and Regulations thereunder.

(g) The limitation of liability set forth in these rules shall not apply to or affect the rights or remedies of either any Claimant or the Exchange with respect to violations of the commodities laws and regulations.

4. Any Claimant that institutes a lawsuit or other similar proceeding against the Exchange in any court of law or otherwise and that fails to prevail in such lawsuit or proceeding shall pay to the Exchange any and all reasonable expenses and disbursements of the Exchange, including reasonable attorney's fees, incurred by the Exchange in the defense of such lawsuit or proceeding in addition to any statutory costs incurred by the Exchange.

5. Any claim may only be litigated in the County of Cook in the State of Illinois and will be governed by the laws of the State of Illinois without regard to any provisions of Illinois law that would apply the substantive law of a different jurisdiction. No action against the Exchange shall be commenced except in those courts located in the County of Cook in the State of Illinois. Claimant waives personal service and consents to service of process by registered or certified mail to the most recent address provided by Claimant to the Membership Department. Nothing in these Rules shall affect the right of the Exchange to serve legal process in any other manner permitted by law or affect the right of the Exchange to bring any action or proceeding against Claimant or Claimant's property in a court of any other jurisdiction.

6. The Exchange and Claimant waive their right to trial by jury in any action or proceeding between them. To the extent permissible by law, Claimant waives the right to punitive damages, consequential damages, multiple damages

and attorneys' fees in any such action or proceeding.

7. This Rule shall be construed and enforced in accordance with the laws of the State of Illinois without regard to conflict of any other laws, except to the extent pre-empted by Federal law. Each provision of this Rule shall be viewed as legally separate and distinct from the other provisions contained herein and if any provision of this Rule is held invalid, that provision shall not effect the legality and enforceability of any other provision.

2.60 A-B-C Agreements

[Sections (A) – (B)(v) are unchanged.]

(vi) An A-B-C Agreement shall provide that any and all controversies arising out of or in connection with the agreement, its negotiation, interpretation or termination shall be submitted to arbitration under the rules of the Exchange arbitrated in accordance with the provisions of Chapter 5 of the Rules.

2.62 Reserved Definitions for Purposes of Rules 2.62 through 2.69C

As used in Rules 2.62 through 2.69C, the following terms have the meanings set forth in this Rule:

(A) The term "claimant" shall mean a person who has filed a Notice of Claim;

(B) The term "Notice of Claim" shall mean a notice of claim against the proceeds of a sale of a membership;

(C) The term "Class A Member" shall include, as applicable, Class A Members and Member Firms and employees of Class A Members and of Member Firms.

(D) The term "Reportable Emergency Event" shall mean, with respect to any Class A Member:

(1) the filing of a petition, answer or other document, or the taking of any other action, by such Class A member with respect to itself or against such Class A member, seeking liquidation, reorganization or other relief from creditors under the provisions of the U.S. Bankruptcy Code (11 U.S.C. §§101 et seq.), as it may be amended, or under the provisions of any other state or federal law for the relief of insolvent debtors;

(2) the dissolution of such Class A Member;

(3) the insolvency (as defined by any applicable state or federal statute) of such Class A Member;

(4) the failure of such Class A Member to meet any applicable financial requirements of the Exchange, any self-regulatory organization or any state or federal regulatory agency;

(5) the failure of such Class A Member to meet, when due, any margin call issued by the Clearing House, any clearing organization or any other exchange, or any person;

(6) the failure or inability of such Class A Member to comply with any of his contracts or the default by such Class A Member under any commodity contracts on the Exchange; or

(7) the imposition or service of any lien, attachment, execution or other levy or any injunction or other restraint against such Class A Member or Member Firm or their assets by any court, government agency, arbitrator or judgment creditor, which injunction or restraint may affect the ability of such Class A Member to perform his contracts or otherwise to engage in business.

(E) The term "Financial Emergency" shall mean, with respect to any Class A Member, any situation in which, in the sole discretion of the President of the Exchange or the President of the Clearing House, the financial condition of such Class A Member is not adequate for such Class A Member to meet his or its financial obligations or otherwise to engage in business; or, is such that it would not be in the best interests of the Exchange for such Class A Member to continue in business.

2.63 Reserved Duty to Report Emergency Event

~~(A) If a Reportable Emergency Event occurs with respect to any Class A member, then such Class A member shall advise the Exchange of the occurrence of the Reportable Emergency Event by the fastest available means of communication and shall also immediately deliver to the Exchange by the fastest available means, a written notice. Such notice shall specify:~~

~~(1) the nature of the Reportable Emergency Event;~~

~~(2) the date and time of occurrence;~~

~~(3) whether such Class A Member consents to a summary suspension pursuant to this Rule and, if so, whether such Class A Member waives a hearing with respect thereto; and~~

~~(4) whether such Class A member consents to a suspension that includes a prohibition against employment by another Class A member as a floor employee.~~

~~(B) A Class A Member who is insolvent shall provide to the Exchange, within 30 days of his insolvency and in addition to the Notice provided for in subsection (A) above, a sworn statement of his business affairs as they existed at the time of his insolvency.~~

2.64 Summary Suspension Pursuant to Consent

If a Class A member consents to a summary suspension as provided in Rule 2.63, in writing, then such Class A Member shall be immediately suspended in accordance with the terms of the consent and the Exchange shall notify the membership of such suspension.

2.67 Creditors of Insolvent Class A Members

~~(A) Reserved Unless the President of the Clearing House shall direct otherwise, all futures and options contracts traded on the Exchange, made with or carried for a Class A Member suspended under this Chapter shall be liquidated by the party carrying the contracts. Such liquidation shall take place in the open market. If such contracts cannot be liquidated due to the closing of the Exchange for any reason, then such contracts shall be liquidated on the next day on which the Exchange is open. The period within which such contracts must be liquidated shall not include any period during which the provisions of the Rules limiting price fluctuations would prevent such liquidations.~~

(B) Within 10 days of the announcement of suspension of a Class A Member, any Class A Member who has a claim against such suspended Class A Member shall deliver to the Membership Department a Notice of Claim that details all contracts liquidated under this Rule and the net debit or credit balance resulting therefrom and that details any other claims that such Class A Member may have against the suspended Class A Member.

(C) Failure to file a Notice of Claim within such period shall bar such Class A Member from participating in any proceeds that result from any sale of the membership of the suspended Class A Member.

2.68 Establishment of Valid Claims

(A) The Membership Department shall furnish the suspended Class A Member and all Class A Members who have filed Notices of Claim as required by Rule 2.67 with copies of all Notices of Claim filed under Rule 2.67 ~~and the sworn statement of the suspended Class A Member filed under Rule 2.63(B).~~ The Membership Department shall also specify a date not more than 10 business days from the date on which such Notices of Claim are furnished to such Class A Members by which the suspended Class A Member or any claimant Class A Member may file an objection to any claim.

[Section (B) is unchanged.]

(C) In the event that any claim is disputed, the validity of such claim shall be determined by arbitration under the rules of the Exchange in accordance with Chapter 5 of the Rules. ~~The arbitration shall proceed as if the objecting Class A Member has filed a Demand for Arbitration. The objecting Class A Member shall pay the fee prescribed in Rule 5.37.~~ The arbitrators shall determine whether and to what extent such claim is valid; and, in accordance therewith whether a claimant is entitled to participate in the proceeds of a sale of the Membership of such suspended Class A Member, pursuant to Rule 2.69B.

2.69C Reinstatement of Suspended Class A Member

[Sections (A) – (C) are unchanged.]

(D) The vote of a majority of the panel is required to reinstate the suspended Class A Member. ~~Where a Class A Member has failed, however, to give timely the notice required by Rule 2.63, a vote of two-thirds of the entire Board is required to reinstate the suspended Class A Member.~~

[The remainder of the rule is unchanged.]

2.71 Terms of Lease Agreement

[Sections (A)(i) – (A)(v) are unchanged.]

(vi) any and all controversies arising out of, or in connection with the lease, its negotiation, interpretation or termination shall be submitted to arbitration under the rules of the Exchange ~~arbitrated in accordance with the provisions of Chapter 5 of the Rules; and~~

[The remainder of the rule is unchanged.]

2.80 Membership Denial Procedures

(A) In the event that a subcommittee of the Membership Committee votes to disapprove an application for membership, the subcommittee shall issue a recommended decision for the consideration of the applicable Panel of the Membership Committee (“Membership Committee”), ~~as described in Rule 3.34.~~

[Section (B) is unchanged.]

(C) Within ten (10) days after the subcommittee’s recommendation for disapproval is communicated to the Membership Committee, the Compliance Department shall issue and serve on the applicant, ~~in the manner set forth in Rule 8.04(A),~~ a Notice of Recommendation for Membership Denial which shall set forth the acts, practices or conduct on which the recommendation is based and notify the applicant that (1) he is entitled to a hearing on his application; (2) he must request, in writing, such a hearing and file an answer to the Notice of Recommendation for Membership Denial with the Compliance Department within ten (10) days of the receipt of the Notice; (3) failure to file an answer and request for hearing on a timely basis will result in the application for Membership being withdrawn.

[The remainder of the rule is unchanged.]

Chapter 3 Committee Rules

[Current NYMEX Chapter 3 is being replaced by new NYMEX Chapter 3 – Exchange Committees]

3.00 Rules of Order; Committee Composition

~~(A) The Business Conduct Committee shall be a Regular Committee and shall be divided into a Class A Member Business Conduct Committee Panel and a COMEX Division Business Conduct Committee Panel. Each Panel shall consist of a Chairman who is a Class A Member, ten additional Committee members and four alternates. The ten Committee members shall include at least three people who are neither Members of the Exchange nor employed by a Member or Member Firm (“Public Committee Members”); the balance shall be Members or persons employed by Member Firms, balanced as equally as practicable among representatives of the categories: Floor Broker, Local, Trade and FCM (off the floor representative). The Class A Member Business Conduct Committee Panel shall be comprised of 70% Class A Members and 30% COMEX Division Members. The COMEX Division Business Conduct Committee Panel shall be comprised of 70% COMEX Division Members and 30% Class A Members. There shall be no restriction on the affiliations or categories of the alternates. The Committee members and alternates shall be appointed by the Chairman, subject to the approval of the Board.~~

~~(B) The Business Conduct Committee shall hold such meetings as, in the discretion of the Chairman of the Committee, are necessary to review matters pertaining to Exchange disciplinary actions, including but not limited to, Board policy and disciplinary precedents. Six Members of the Business Conduct Committee shall constitute a quorum for the purposes of exercising the powers of the Committee, provided that at least three of these six Members must be Public Committee Members.~~

(C) The Business Conduct Committee shall make a report to the Board at least twice a year. The report shall detail the activities of the Committee for the period covered by such report and shall describe all disciplinary actions taken by the Committee during such period.

(D) In the event that any committee: 1) succeeds to all or any part of the functions of a committee subject to specifically designated percentages of Class A Members and COMEX Division representation ("Established Committee"); or 2) is created with responsibility for functions that significantly impact the COMEX Division ("New Committee"); COMEX Division Members shall be represented on the committee, in the case of a committee succeeding to the functions of an Established Committee, to the same extent they are represented on an Established Committee and, in the case of a New Committee, in a ratio of seven Class A Members to three COMEX Division Members.

3.01 Powers of Committees to Question Members

The Board of Directors and any Committee, when engaged in the examination of any subject over which it has jurisdiction, has the power to summon and examine any Member of the Exchange and any employee, officer or partner of a Member or Member Firm. The Board or any Committee may require such Member or other individual to submit a sworn statement of his information. Members and Member Firms shall comply with the foregoing provisions.

3.02 Restrictions on Governing Board Members, Committee Members, Consultants, and Other Persons Who Possess Material, Non-Public Information

(A)(1) No member of the Board of Directors or any Committee of the Exchange or any Consultant shall use or disclose, for any purpose other than the performance of such person's official duties relating to the Board, Committee, or as a Consultant, material non-public information obtained as a result of such person's participation on the Board, Committee, or as a Consultant.

(2) No person shall trade for such person's own account, or for or on behalf of any other account, in any commodity interest, on the basis of any material, non-public information that such person knows was obtained in violation of Subsection (A)(1) of this rule from a governing board member, committee member, or consultant.

(B) The terms "material information" and "non-public information" shall have the same meaning as defined for those terms in Commission Regulation 1.59, as it may be in effect from time to time.

(C) Definitions:

(1) "Governing board member" means a member, or functional equivalent thereof, of the board of governors of a self-regulatory organization.

(2) "Committee member" means a member, or functional equivalent thereof, of any committee of a self-regulatory organization.

(3) "Consultant" means a person who serves in the capacity of a consultant for either the Board of Directors or the Exchange.

3.03 Disqualification from Board and Committee Service

(A) No person shall serve on the Board of Directors or any Board level committee, the Clearing House Committee, or any committee or subcommittee or panel thereof that is authorized by a self-regulatory organization to issue disciplinary charges, to conduct disciplinary proceedings, to settle disciplinary charges, to impose disciplinary sanctions or to hear appeals thereof

(1) who is found by a final decision or settlement agreement (or absent a finding in the settlement agreement if any acts charged included a disciplinary offense) to have committed a disciplinary offense, as defined in Section (B) below; or

(2) whose CFTC registration in any capacity has been revoked or suspended; or

(3) who is subject to an agreement with the CFTC or any self-regulatory organization not to apply for registration or membership; or

(4) who is subject to a denial, suspension or disqualification from serving on a disciplinary committee, oversight committee, arbitration panel or governing board of any self-regulatory organization as that term is defined in Section

3(a)(26) of the Securities Exchange Act of 1934; or

(5) who has been convicted of any felony listed in Section 8a(2)(D)(ii) through (iv) of the Commodity Exchange Act;

for a period of three years from the date of such final decision or for such a time as the person remains subject to any suspension, expulsion or has failed to pay any portion of a fine imposed for committing a disciplinary offense, whichever is longer.

(B) "Disciplinary offense" is defined as a:

(1) Violation of any Exchange rule or the rules of a self-regulatory organization (as defined in CFTC Regulation 1.63(a)(1)), except those violations: (a) that are based solely on (i) decorum or attire, (ii) financial requirements, or (iii) reporting, recordkeeping, or position limit requirements which receive cumulative fines of \$5,000 or less within any twelve-month period; or (b) that receive cumulative fines of \$5,000 or less within any twelve-month period;

(2) Notwithstanding paragraph (1) above, a "disciplinary offense" shall include a violation of any Exchange rule or rule of another self-regulatory organization which: (a) involves fraud, deceit or conversion; or (b) results in an access denial, suspension or expulsion;

(3) Violation of the Commodity Exchange Act or CFTC regulations; or

(4) Failure to exercise supervisory responsibility in violation of the Rules of the Exchange, the rules of other self-regulatory organizations, the Commodity Exchange Act or CFTC regulations with respect to activities that involved fraud, deceit or conversion.

A Member who serves on any of the committees described in 3.03(A) shall inform the Exchange if he or she is currently ineligible, and shall immediately inform the Exchange if he or she later becomes ineligible, to serve on such committees under the standards set forth above with respect to disciplinary offenses. Violation of this rule shall be an act detrimental to the interest or welfare of the Exchange.

3.04 Voting By Board and Committee Members on Certain Matters

This Rule 3.04 shall apply to the Board of Directors of the New York Mercantile Exchange Inc., the COMEX Governors Committee and to each Disciplinary Committee and Oversight Panel when the Board, the Governors Committee, or any such Disciplinary Committee or Oversight Panel takes any significant action as defined by this Rule 3.04 or has under consideration a matter as to which a member of the Board, the Governors Committee, a Disciplinary Committee or Oversight Panel, as the case may be, is, or is related to, a named party in interest.

The decision that any action is subject to this Rule may be made by the Chairman of the Board or the Governors Committee or the Chairman of the affected Disciplinary Committee or Oversight Panel or by a third of the Board, Governors Committee, Disciplinary Committee or Oversight Panel members present.

(A) Definitions: For purposes of this Rule:

(1) "Disciplinary Committee" means any person or committee of persons, or any subcommittee thereof, that is authorized to issue disciplinary charges, to conduct disciplinary proceedings, to settle disciplinary charges, to impose disciplinary sanctions, or to hear appeals thereof in cases involving any violation of the rules of the Exchange except those cases where the person or committee is authorized summarily to impose minor penalties for violating rules regarding decorum, attire, the timely submission of accurate records for clearing or verifying each day's transactions or other similar activities. The term "Disciplinary Committee" shall include but is not limited to the Adjudication Committee, the Business Conduct Committee, the Control Committee, the Appeals Committee and the Floor Committee.

(2) A person's "family relationship" means the person's spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law.

(3) "Board" means the Board of Directors of the New York Mercantile Exchange, Inc. or any subcommittee thereof.

(4) "Governors Committee" means the COMEX Governors Committee or any subcommittee thereof.

(5) "Oversight Panel" means any panel, or any subcommittee thereof, authorized by the Exchange to recommend or

establish policies or procedures with respect to the self-regulatory organization's surveillance, compliance, rule enforcement, or disciplinary responsibilities. The term Oversight Panel shall include, but is not limited to, the Compliance Review Committee.

(6) "Member's affiliated firm" is a firm in which the member is a "principal," as defined in Commission Regulation §3.1(a), or an employee.

(7) "Named party in interest" means a person or entity that is identified by name as a subject of any matter being considered by the Board, Governors Committee, Disciplinary Committee, or Oversight Panel.

(8) "Significant action" includes any of the following types of actions or rule changes that can be implemented by the Exchange without the Commission's prior approval:

(a) any actions or rule changes which address an "emergency" as defined in Commission Regulation §1.41(a)(4)(i) through (iv) and (vi) through (viii); and,

(b) any changes in margin levels that are designed to respond to extraordinary market conditions such as an actual or attempted corner, squeeze, congestion or undue concentration of positions, or that otherwise are likely to have a substantial effect on prices in any contract traded or cleared at the Exchange but does not include any rule not submitted for prior Commission approval because such rule is unrelated to the terms and conditions of any contract traded at the Exchange.

(B) Relationship with a Named Party in Interest

(1) A Member of the Board, the Governors Committee, a Disciplinary Committee or Oversight Panel must abstain from any deliberations and vote on any matter involving a named party in interest where such member:

(a) is a named party in interest;

(b) is an employer, employee, or fellow employee of a named party in interest;

(c) is associated with a named party in interest through a "broker association" as defined in Commission Regulation 156.1;

(d) has any other significant, ongoing business relationship with a named party in interest, not including relationships limited to executing futures or option transactions opposite of each other or to clearing futures or option transactions through the same clearing member; or,

(e) has a family relationship with a named party in interest.

(2)(a) Prior to the consideration of any matter involving a named party in interest, each member of the Board, Governors Committee, Disciplinary Committee or Oversight Panel, as the case may be, must disclose to the Exchange Employee designated by the Chairman of the Board, Governors Committee, Disciplinary Committee or Oversight Panel for such purpose whether or not he or she has one of the relationships listed in subparagraph (B)(1) of this rule with a named party in interest.

(b) In addition, taking into consideration the exigency of the Board's, Governors Committee's, Disciplinary Committee's or Oversight Panel's action with regard to a named party in interest, the Exchange Employee shall review any records which are held by, and reasonably available to, the Exchange to ascertain whether any Board, Governors Committee, Disciplinary Committee or Oversight Panel member has a relationship of the type set forth in subparagraph (B)(1) of this Rule with a named party in interest. Upon completion of the disclosure required by this Rule and any review of Exchange records, the Exchange Employee shall report to the Chairman of the Board, Governors Committee, Disciplinary Committee or Oversight Panel any member's relationship with a named party in interest.

(3) Any Board, Governors Committee, Disciplinary Committee or Oversight Panel member having a relationship with a named party in interest of the type set forth in subparagraph (B)(1) above or who chooses not to make any such disclosure shall abstain from deliberating and voting on any matter involving a named party in interest and withdraw from the meeting until such time as the matter involving the named party in interest has been disposed of.

(4) In any case where an issue as to whether or not a Board, Governors Committee, Disciplinary Committee or Oversight Panel member has a relationship with a named party in interest exists, the Board, Governors Committee,

Disciplinary Committee or Oversight Panel shall appoint an ad hoc committee composed of at least three members who have no relationship with the named party in interest who shall then determine based on the information obtained pursuant to subparagraph (B)(2) of this Rule whether such member has a relationship with a named party in interest and therefore must abstain from deliberating and voting on any matter involving such named party in interest.

(C) Financial Interest in a Significant Action

(1) A member of the Board, the Governors Committee, a Disciplinary Committee, or an Oversight Panel must abstain from any deliberations and vote on any significant action if the Board, Governors Committee, Disciplinary Committee or Oversight Panel member knowingly has a direct and substantial financial interest in the result of the vote based upon either Exchange or non-Exchange futures or options positions that could reasonably be expected to be affected by the action.

(2) Prior to the consideration of any significant action, the Board, Governors Committee, Disciplinary Committee or Oversight Panel, as the case may be, shall determine the number of positions that may be held in any commodity's delivery month or months which may be affected by the significant action that shall be considered a de minimis position such that a member shall be deemed not to have a direct and substantial financial interest in the result of the vote of such action.

(3) Each member of the Board, the Governors Committee, a Disciplinary Committee or Oversight Panel shall disclose to the Exchange Employee designated by the Chairman of the Board, Governors Committee, Disciplinary Committee or Oversight Panel for such purpose the following futures and options position information with respect to any commodity's delivery month or months affected by the significant action that is known to him or her at the time:

(a) gross positions held at the Exchange in the member's personal accounts or "controlled accounts," as defined in Commission Regulation 1.3(f);

(b) gross positions held at the Exchange in proprietary accounts, as defined in Commission Regulation §1.17(b)(3), at the member's affiliated firm;

(c) gross positions held at the Exchange in accounts in which the member is a principal, as defined in Commission Regulation §3.1(a);

(d) net positions held at the Exchange in "customer" accounts, as defined in Commission Regulation §1.17 (b)(2), at the member's affiliated firm; and

(e) any other types of positions, whether maintained at the Exchange or elsewhere, held in the member's personal accounts or the proprietary accounts of the member's affiliated firm that the Board, Governors Committee, Disciplinary Committee or Oversight Panel reasonably expects could be affected by the significant action.

(4) In addition to the position information disclosed pursuant to subparagraph (C)(3) above, and taking into consideration the exigency of the significant action, the Exchange Employee shall obtain and review with respect to any Board, Governors Committee, Disciplinary Committee or Oversight Panel member who makes a disclosure of position information the following information:

(a) the most recent large trader reports and clearing records available to the Exchange; and

(b) any other pertinent information that is held by, and reasonably available to, the Exchange.

The Exchange Employee shall then report such position information to the Chairman of the Board, Governors Committee, Disciplinary Committee or Oversight Panel.

(5) Upon a review of the position information obtained pursuant to subparagraph (C)(3), and subparagraph (C)(4) of this rule, any Board, Governors Committee, Disciplinary Committee or Oversight Panel member holding more than a de minimis position or who chooses not to make the disclosure required by subparagraph (C)(3) shall be advised that he or she must abstain from deliberating and voting on the significant action and shall withdraw from the meeting until such time as the matter involving the significant action has been disposed of.

(6) In any case where an issue whether a Board, Governors Committee, Disciplinary Committee or Oversight Panel member has a direct and substantial financial interest in a significant action as defined by this rule exists, the Board,

Governors Committee, Disciplinary Committee or Oversight Panel shall appoint an ad hoc committee of at least three members holding no positions or a de minimis position in any commodity's delivery month or months which may be affected by the significant action. The ad hoc committee will review the position information obtained pursuant to subparagraph (C)(3) and subparagraph (C)(4) of this Rule and advise the Board, Governors Committee, Disciplinary Committee or Oversight Panel whether such member has a direct and substantial financial interest in the significant action and therefore must abstain from deliberating and voting on such significant action.

(D) Participation in Deliberations

(1) Notwithstanding any other provision of this Rule, the Board, Governors Committee, Disciplinary Committee or Oversight Panel may permit a member to participate in deliberations prior to the vote on a significant action for which the member would otherwise be required to abstain if such participation is consistent with the public interest and the member does not vote on such action.

(2) In making a determination as to whether to permit a member to participate in deliberations on a significant action for which he or she otherwise would be required to abstain, the Board, Governors Committee, Disciplinary Committee or Oversight Panel, as the case may be, shall appoint an ad hoc committee of at least three members which shall consider the following factors:

(a) whether the member's participation in deliberations is necessary for the Board, Governors Committee, Disciplinary Committee or Oversight Panel to achieve a quorum in the matter; and

(b) whether the member has unique or special expertise, knowledge or experience in the matter under consideration.

(3) Prior to any determination pursuant to this subparagraph, the ad hoc committee appointed by the Board, Governors Committee, Disciplinary Committee or Oversight Panel must fully consider the position information which is the basis for the member's direct and substantial financial interest in the result of a vote on a significant action obtained pursuant to subparagraph (C)(3) and subparagraph (C)(4) of this Rule.

(E) Documentation of Determination

The Board, Governors Committee, a Disciplinary Committee and Oversight Panel and any ad hoc committee appointed pursuant to this rule, shall reflect in its minutes or otherwise document any determinations made with respect to a member's ability to participate in, or abstain from, the deliberations and vote on any significant action.

Such documentation shall include:

(1) the names of all members who attended the meeting or who otherwise were present by electronic means;

(2) the name of any member who voluntarily recused himself or was required to abstain from deliberations and/or voting on a matter and the reason for the recusal or abstention, if stated; and

(3) any position information that was reviewed for each member, and

(4) the names of all members of any ad hoc committee.

3.05 Reserved

3.06 Reserved

3.07 Reserved

3.08 Reserved

3.09 Reserved

3.10 Adjudication Committee

(A) The Adjudication Committee shall be a Regular Committee and shall consist of a Chairman who is a Class A Member and four Hearing Panels ("Hearing Panels"). Each panel shall contain at least three persons who are neither Members of the Exchange nor employed by a Member, Member Firm or the Exchange ("Public Committee

Members") and shall otherwise be balanced as equally as practicable among representatives of the Member categories: Floor Broker, Local, Trade and FCM (off the floor representative). There shall be no restriction on the affiliations or categories of alternates. The panel members and alternates shall be appointed by the Chairman, subject to approval of the Board.

(B) (1) Two of the Hearing Panels shall be designated to hear matters pertaining to New York Mercantile Exchange Inc., ("NYMEX Inc.") and two of the Hearing Panels shall be designated to hear COMEX Division matters ("COMEX Hearing Panels"). Each panel shall consist of 10 regular panelists and as many alternates as the Chairman of the Committee shall designate.

(2) The NYMEX Inc. members on the NYMEX Panels will consist of 70% Class A Members and 30% COMEX Division Members. The NYMEX Inc. members on the COMEX Hearing Panels will consist of 70% COMEX Division Members and 30% Class A Members.

(C) One person on each Hearing Panel shall serve as its Chairman and shall be designated by the Board as a Co-Vice Chairman of the Adjudication Committee. Six members of a Hearing Panel shall constitute a quorum for the purpose of exercising the powers of the Hearing Panel, provided that three Public Committee Members must be present. Alternates will be selected by the Chairman to replace any Member of a Hearing Panel unable to serve on any case, subject to the provisions of paragraph (A) above.

(D) The Adjudication Committee shall hold such meetings as, in the discretion of the Chairman of the Committee are necessary to review matters pertaining to Exchange disciplinary actions, including but not limited to, Board policy and disciplinary precedents.

(E) The Adjudication Committee shall make a report to the Board at least twice a year. The report shall detail the activities of the Committee for the period covered by such report and shall describe all disciplinary actions taken by the Committee during such period.

3.11 Appeals Committee

(A) The Appeals Committee shall be a Regular Committee and shall consist of such number of Members or persons employed by Members or Member Firms as the Chairman may appoint, subject to the approval of the Board. Panels of the Appeals Committee shall be appointed in accordance with the disciplinary rules of the Exchange, as applicable and for any appeal of a decision of a COMEX Hearing Panel, the Appeal Panel shall consist of at least one COMEX Division Member and at least one Public Member.

(B) The Appeals Committee shall make a report to the Board at least twice a year. The report shall detail the activities of the Committee for the period covered by such report and shall describe all disciplinary actions taken by the Committee during such period.

3.11A Hearing Procedures

(A) At least one Public Director of the Board, and/or at least one Public Committee Member of the Adjudication Committee or the Appeals Committee, as applicable, must participate in the consideration of a major disciplinary action before the Board, the Adjudication Committee, the Appeals Committee, or a panel of any, as applicable, in which:

(i) the subject of the action is a Member of the Board, the Adjudication Committee or the Appeals Committee; or

(ii) any of the charged, alleged or adjudicated Exchange rules involve: (a) manipulation or attempted manipulation of the price of a commodity, a futures contract or an option on a futures contract; or (b) conduct which directly results in financial harm to a person who is not a member of the Exchange.

(B) Whenever a major disciplinary action before the Executive Committee involves either of the circumstances set forth in sub-paragraphs (A)(i) and (ii) above, at least one Public Director of the Board or at least one Public Committee Member of the Business Conduct Committee or the Adjudication Committee, shall serve with the Executive Committee, or any panel thereof, in consideration of the matter.

(C) In any matter before the Board, the Executive Committee, the Adjudication Committee, the Appeals Committee, or a panel of any, with respect to a major disciplinary action, more than fifty percent (50%) of the Board, the committee or panel shall be comprised of person representing membership interests other than that of the subject of the disciplinary proceeding being considered.

(D) For the purposes of this rule, the following definitions shall apply:

(i) "membership interest" shall mean:

(a) floor brokers,

(b) floor traders,

(c) futures commission merchants,

(d) producers, consumers, processors, distributors, and merchandisers of commodities traded on the Exchange;

(e) participants in a variety of pits or principal groups of commodities traded on the Exchange; and

(f) other market users or participants.

(ii) "major disciplinary action" shall mean a matter before the Board, the Executive Committee, the Adjudication Committee, the Appeals Committee, or a panel of any, which pertains to a hearing, settlement, the imposition of sanctions or an appeal, in cases involving a disciplinary offense as defined in Rule 3.03(A)(5)(i).

3.12 Arbitration Committee

The Arbitration Committee shall be a Regular Committee and shall consist of such number of Members or persons employed by Members or Member Firms as the Chairman may appoint, subject to the approval of the Board. The Arbitration Committee shall be comprised of 70% Class A Members and 30% COMEX Division Members. Panels of the Arbitration Committee shall be appointed in accordance with the arbitration rules of the Exchange, as applicable, and for any arbitration of a matter relating to the COMEX Division of the Exchange, the Arbitration Panel shall consist of at least one COMEX Division Member.

3.13 Reserved

3.14 Business Conduct Committee

(A) The Business Conduct Committee shall be a Regular Committee and shall be divided into a Class A Member Business Conduct Committee Panel and a COMEX Division Business Conduct Committee Panel. Each Panel shall consist of a Chairman who is a Class A Member, ten additional Committee members and four alternates. The ten Committee members shall include at least three people who are neither Members of the Exchange nor employed by a Member or Member Firm ("Public Committee Members"); the balance shall be Members or persons employed by Member Firms, balanced as equally as practicable among representatives of the categories: Floor Broker, Local, Trade and FCM (off the floor representative). The Class A Member Business Conduct Committee Panel shall be comprised of 70% Class A Members and 30% COMEX Division Members. The COMEX Division Business Conduct Committee Panel shall be comprised of 70% COMEX Division Members and 30% Class A Members. There shall be no restriction on the affiliations or categories of the alternates. The Committee members and alternates shall be appointed by the Chairman, subject to the approval of the Board.

(B) The Business Conduct Committee shall hold such meetings as, in the discretion of the Chairman of the Committee, are necessary to review matters pertaining to Exchange disciplinary actions, including but not limited to, Board policy and disciplinary precedents. Six Members of the Business Conduct Committee shall constitute a quorum for the purposes of exercising the powers of the Committee, provided that at least three of these six Members must be Public Committee Members.

(C) The Business Conduct Committee shall make a report to the Board at least twice a year. The report shall detail the activities of the Committee for the period covered by such report and shall describe all disciplinary actions taken by the Committee during such period.

3.15 Reserved

3.16 Clearing House Committee

The Clearing House Committee shall be a Regular Committee and shall consist of such persons who are appointed by the Chairman of the Board.

(A) Jurisdiction and General Provisions

The Clearing House Committee (or any subcommittee thereof) (collectively, "CHC"), shall determine whether an applicant satisfies the qualifications for status as a Clearing Member. The CHC decision shall be subject to appeal to

the Board by an applicant. The CHC may adopt regulations regarding qualifications for admission to membership in the Clearing House, which regulations, when approved by the Board, shall have the same effect as rules of the Exchange. The CHC shall act upon applications for clearing membership, and, when approved by the CHC, shall be effective and thereafter ratified by the Board.

The CHC shall have at least two co-chairmen, who shall be members of the Board, and at least seven additional individuals, five who shall be Clearing Member representatives and at least one who shall be a non-member.

The CHC may conduct investigations, issue charges and consider settlement offers on its own initiative or by referral from Exchange staff or the Business Conduct Committee. Hearings on charges issued by the CHC will be conducted by the Adjudication Committee pursuant to the provisions of Exchange rules governing hearing procedures.

If the CHC determines that a Clearing Member is in a financial condition which jeopardizes or may jeopardize the integrity of the Exchange, the CHC may, by majority vote:

(1) Order the Clearing Member or its customers to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;

(2) Prescribe such additional capital or other financial requirements as it deems appropriate;

(3) Impose position limits on Clearing Members based on their regulatory capital and such other criteria as it deems appropriate;

(4) Suspend a Clearing Member, subject to approval of any two of the following individuals: the Chief Executive Officer, the President, the President of the Clearing House, the Chairman of the Board, the Chairman of the CHC or the Chief Operating Officer; and/or

(5) Order the Clearing Member to cease and desist from the conduct found to be contrary to the best interests of the Exchange.

No person shall serve on the CHC unless he has agreed in writing that he will not publish, divulge, or make known in any manner, any facts or information regarding the business of any person or entity or any other information which may come to his attention in his official capacity as a member of the CHC, except when reporting to the Board or to a committee concerned with such information or Exchange staff authorized to receive such information, when requested by the CFTC or other governmental agency or when compelled to testify in any judicial or administrative proceeding.

All information and documents provided to the CHC and all deliberations and documents related thereto shall be treated as non-public and confidential and shall not be disclosed, except as necessary to further an Exchange investigation or as required by law.

The CHC shall have jurisdiction to enforce rules pertaining to the following:

(1) Financial integrity of Clearing Members; and

(2) Business conduct of and compliance with Exchange rules by Clearing Members and by any Member who is an officer or a principal or who has assigned his membership on behalf of a Clearing Member, in connection with such Clearing Member's activities, except insofar as jurisdiction over matters relating to conduct, trading practices, trading ethics and certain sales practices of Members, and market manipulations or other actions that threaten the integrity of the market are within the purview of other Exchange committees.

(B) Settlement Offers

A respondent that is the subject of an investigation or charges may submit for consideration by the CHC a written offer of settlement in disposition of such investigation or charges. A respondent may submit a settlement offer without admitting or denying the rule violations upon which the penalty is based; provided, however, that an offer must include a consent to entry of findings by the CHC regarding the conduct and rule violations at issue and to the penalty to be imposed.

If the Audit or Compliance Department does not oppose the respondent's offer of settlement, the respondent's written offer of settlement and the Audit or Compliance Department's supporting statement shall be submitted to the CHC for consideration.

If the Audit or Compliance Department opposes an offer of settlement, the Respondent's written offer and the Audit or Compliance Department's written opposition shall be submitted to the CHC. The CHC's consideration of the offer of settlement shall be based upon the written offer and opposition filings, as well as the evidence presented to the CHC in determining to issue the charges.

The respondent may withdraw his offer at any time prior to final acceptance of the offer by the CHC. If the CHC accepts the offer, a written decision setting forth the CHC's findings and sanction shall be issued, and written notice of the decision shall be given to the respondent.

If the CHC rejects the offer, the respondent will be notified of the rejection and the offer will be deemed withdrawn. If an offer is withdrawn or rejected by the CHC, the respondent shall not be deemed to have made any admissions by reason of the offer and shall not otherwise be prejudiced by having submitted the offer. The CHC chairman may decline to convene the CHC to consider a settlement offer.

In submitting a settlement offer, the respondent waives his right to a hearing and to appeal the CHC's decision if the offer is accepted; the respondent also waives any claim of bias or prejudgment on the part of the CHC. If a respondent submits an offer within 14 days of a scheduled Adjudication Committee hearing on the charges, or after the Adjudication Committee hearing has begun, the offer shall not stay the Adjudication Committee hearing unless otherwise determined by the chairman of the Adjudication Committee. Any settlement offer submitted within 14 days of a scheduled Adjudication Committee hearing will be directed to the Adjudication Committee in the first instance. The Adjudication Committee may determine to accept or reject the settlement offer, or the Adjudication Committee may refer the settlement offer to the CHC, in which case the CHC will determine whether to accept or reject the offer.

(C) Emergency Actions

(1) The CHC is authorized to determine whether an emergency exists and whether emergency action is warranted. The following events and/or conditions may constitute emergencies:

(a) Any circumstances which may materially affect the performance of contracts traded on the Exchange, including failure of the payment system;

(b) Any action taken by the United States or any foreign government or any state or local government body, any other contract market, board of trade, or any other exchange or trade association (foreign or domestic), which may have a direct impact on trading on the Exchange;

(c) The actual or threatened bankruptcy or insolvency of any Member or the imposition of any injunction or other restraint by any government agency, court or arbitrator upon a Member of the Exchange which may affect the ability of that Member to perform on its contracts;

(d) Any circumstance in which it appears that a Member or any other person or entity has failed to perform contracts, is insolvent, or is in such financial or operational condition or is conducting business in such a manner that such person or entity cannot be permitted to continue in business without jeopardizing the safety of customer funds, Members, and/or the Exchange; and/or

(e) Any other circumstances which may have a severe, adverse effect upon the functioning of the Exchange.

(2) In the event that the CHC determines, in the good faith exercise of its sole discretion, that an emergency exists, it may take any of the following emergency actions or any other action that may be appropriate to respond to the emergency:

(a) Order the Clearing Member or his customer to deposit such additional performance bond with the Clearing House as deemed appropriate to protect the integrity of open contracts;

(b) Prescribe such additional capital requirements as it deems appropriate;

(c) Prescribe such position limitations as it deems appropriate;

(d) Order special or advance performance bond or funds to be deposited with the Clearing House from Members or from longs, shorts or both; and/or

(e) Order such performance bond changes as it deems appropriate.

All actions taken pursuant to this subsection shall be by majority vote of the committee members present. A Member affected by the action taken shall be notified in writing of such action. As soon as practicable, the Board and the CFTC shall be promptly notified of the emergency action in accordance with CFTC regulations. Nothing in this section shall in any way limit the authority of the Board, other committees, or other appropriate officials to act in an emergency situation as defined by these rules.

3.17 Reserved

3.18 Reserved

3.19 Control Committee

(A) The Control Committee shall be a Regular Committee and shall consist of such number of Members as the Chairman may appoint, subject to the approval of the Board. The Control Committee shall be comprised of 70% Class A Members and 30% COMEX Division Members.

(B) The Chairman of the Committee shall, for each commodity for future delivery traded on the Exchange, appoint from members of the Control Committee, Subcommittees of three members to exercise the powers of the Control Committee with respect to such commodity. Members of the Control Committee may serve on more than one Subcommittee and the same Subcommittee may be appointed for more than one commodity. Each Subcommittee for a commodity traded on the COMEX Division of the Exchange shall consist of at least one COMEX Division Member.

(C) The Chairman of the Board may appoint a Member to the Control Committee to fill any vacancy, permanent or temporary, in the Control Committee and such appointment shall be subject to the approval of the Board at its next meeting. The Chairman of the Control Committee shall replace any member of a Subcommittee with another member of the Control Committee when it appears to him that such member has an interest in the subject matter over which the Subcommittee has jurisdiction. It shall be the responsibility of a member of a Subcommittee to inform the Chairman of the Control Committee or the Chairman of any Subcommittee of any such personal interest or any such interest, known to him, of another Member of the Committee or of any Subcommittee as soon as it becomes known to him.

(D) Functions of the Control Committee.

It shall be the function of the Control Committee, acting through its Subcommittees, to endeavor to correct any circumstances which interfere with or might interfere with the normal functioning of the market.

(i) Circumstances which interfere with the normal functioning of the market include: events, conditions or positions which threaten or might threaten a free, open and orderly market, the fair and orderly trading in any commodity futures or options contracts, the orderly liquidation of any commodity futures or options contract or delivery pursuant to any futures contract; a distortion of prices; a congestion, squeeze or corner or circumstances or positions which might result therein; positions of any person or group of persons which might lead to any of the foregoing results or which are out of proportion to his or their ability to perform their contracts; or any events, and, circumstances or positions which threaten or might threaten the best interests of the Exchange or the public.

(E) Powers of Subcommittees.

Each Subcommittee of the Control Committee shall have the following powers:

(i) To assemble information with respect to open positions in such contract at such time prior to maturity as it deems advisable.

(ii) To obtain from the Clearing House details as to all open positions held by Clearing Members for themselves and their customers, directly or indirectly, together with information as to their intentions respecting liquidation or delivery. Such information shall be furnished in code. However, when requested by the Subcommittee, the Clearing House shall obtain from Clearing Members and furnish to the Subcommittee the names, positions and intentions of the Clearing Members and their customers holding such open positions.

(iii) To summon any Member or Member Firm, its partners, directors, officers or employees to give such information as may be required and to examine, or cause to be examined, such books and records as it may deem relevant to its investigation.

(F) Report to the Board.

If a Subcommittee is unable to bring about the correction of a circumstance which interferes with or might interfere with the normal functioning of the market it shall report its findings and recommendations to the Board and such circumstances may be dealt with by the Exchange as an emergency pursuant to the Bylaws and Rules or Regulations of the Commodity Futures Trading Commission.

(G) No Member of the Control Committee or of any of its Subcommittees shall disclose to any person any information received by such Member as a result of his membership on the Control Committee or any of its Subcommittees except as required by this Rule §3.19. No Member of the Control Committee or of any of its Subcommittees shall make use of, directly or indirectly, any of the information received by such Member as a result of his membership on the Control Committee or any of its Subcommittees. Violation of this Rule §3.19(G) shall be a major offense.

3.20 Reserved

3.21 Delivery Committee

The Delivery Committee shall be a Regular Committee and shall consist of such persons as the Chairman appoints, subject to the approval of the Board.

3.22 Electronic Trading Advisory Committee

(A) The Electronic Trading Advisory Committee shall be a Regular Committee and shall consist of such number of Exchange employees as the Chairman may appoint, subject to the approval of the Board.

(B) The Committee shall have jurisdiction to review the circumstances surrounding NYMEX ACCESS® transactions, transactions on NYMEX ClearPort® Trading and transactions involving NYMEX Division contracts and COMEX Division contracts executed on CME's Globex® platform to determine whether a transaction was in error, and, if so, whether such trade should be cancelled.

3.23 Energy Advisory Committee

The Energy Advisory Committee shall be a Regular Committee and shall consist of such persons as the Chairman may appoint, subject to the approval of the Board.

3.24 Reserved

3.25 Facilities Committee

(A) The Facilities Committee shall be a Regular Committee and shall consist of such members as the Chairman shall appoint, subject to Subsections (B) and (C) below. The Chairman of the Facilities Committee shall be a Class A Member.

(B) The Facilities Committee shall consist of three subcommittees. The General Facilities Subcommittee, the Class A Member Booth Allocation Subcommittee and the COMEX Division Booth Allocation Subcommittee. A member may serve on one or more subcommittees.

(C) The Class A Member Booth Allocation Subcommittee shall be comprised of Class A Members and shall have jurisdiction over Class A Member booth allocations, subject to approval of the Board. The COMEX Division Booth Allocation Subcommittee shall be comprised of COMEX Division Members and shall have jurisdiction over COMEX Division booth allocations, subject to approval of the Board. The General Facilities Subcommittee shall be comprised of 70% Class A Members and 30% COMEX Division Members, shall be chaired by the Chairman of the Facilities Committee and shall have jurisdiction over all other facilities matters, subject to approval of the Board.

3.26 FCM Advisory Committee

The FCM Advisory Committee shall be a Regular Committee and shall be comprised of such persons as the Chairman may appoint, subject to approval of the Board.

3.27 Reserved

3.28 Floor/Settlement Price Committee

(A) The Floor/Settlement Committee shall be a Regular Committee and shall consist of such number of Floor Members and NYMEX staff members as the Chairman may appoint, subject to the approval of the Board. The Committee shall be divided into subcommittees for each commodity traded. To the extent possible, each subcommittee, except as provided in NYMEX Division Rule 6.51(B) and COMEX Division Rule 104.80, shall consist of three (3) Members representative of the commodity traded one of whom shall be a Floor Broker, one of whom shall be a Floor Trader, and one of whom shall represent the Trade.

(B) The Floor/Settlement Committee shall:

(i) Resolve any disputes arising out of bids or offers by action of any member of the Committee without notice to other members of the Committee.

(ii) Supervise practices relating to bids or offers and take steps to avoid disruptive practices or practices inconsistent with orderly trading procedures.

(iii) Supervise the conduct of members and others on the Floor of the Exchange and maintain good order and decorum.

(iv) Have such other powers as may be set forth in the Bylaws and Rules and such other functions as may be delegated to it by the Board.

(v) At the conclusion of the RTH trading session on the Exchange Floor each day, settlement prices shall be determined for every contract traded.

(C) The Chairman of the Floor/Settlement Committee shall designate a Ring Chairman for each trading ring on the Exchange. The Ring Chairman for all Class A Member products will be a Class A Member. The Ring Chairman for all COMEX Division products will be a COMEX Division Member. With respect to service on the Floor/Settlement Committee by Floor Members, the Ring Chairman will recommend to the Chairman of the Committee members to serve in each trading ring. Although NYMEX staff members on the Floor/Settlement Committee may not serve as a Ring Chairman, such staff members nonetheless shall be permitted to attend and to vote at Ring Chairman meetings, as well as at regular meetings of the full Floor/Settlement Committee. Where a decision of the Floor/Settlement Committee is contested, in those markets where the Floor/Settlement Committee includes members of Staff, Staff members on the Floor/Settlement Committee will have the authority to review and modify or uphold decisions made by the Floor/Settlement Committee, in accordance with procedures established by the Floor/Settlement Committee.

3.29 Floor Broker/Local Advisory Committee

The Floor Broker/Local Advisory Committee shall be a Regular Committee and shall consist of such number of Floor Brokers and Local Traders as the Chairman may appoint, subject to the approval of the Board.

3.30 Marketing Committee

The Marketing Committee shall be a Regular Committee and shall be comprised of such persons as the Chairman may appoint, subject to approval of the Board. The Committee shall be comprised 70% of Class A Members and 30% of COMEX Division Members.

3.31 Membership Committee

(A) The Membership Committee shall be a Regular Committee and shall consist of such number of Members as the Chairman may appoint, subject to the approval of the Board. The Membership Committee shall be divided into two panels, a Class A Membership Panel to review applications of Class A Members, the composition of which shall be left to the discretion of the Board of Directors (but will include the Vice Chairman of the COMEX Division Membership Panel), and COMEX Division Members, which shall be comprised of 70% COMEX Division Members and 30% Class A Members, and shall be chaired by the Chairman of the Class A Member Panel or his designee.

(B) The Membership Committee shall have jurisdiction on matters relating to applications for membership, conferring of membership privileges on non-clearing firms and the transfer of memberships.

3.32 Metals Advisory Committee

The Metals Advisory Committee shall be a Regular Committee and shall consist 30% of persons appointed by the Chairman and 70% of persons appointed by the COMEX Governors Committee subject to approval of the Board. The COMEX Governors Committee shall designate the Vice Chairman of the Metals Advisory Committee from among its members.

3.33 NYMEX Charitable Foundation Committee

The NYMEX Charitable Foundation Committee shall be a Regular Committee and shall consist of such persons as the Chairman may appoint, subject to the approval of the Board.

3.34 Options Advisory Committee

The Options Advisory Committee shall be a Regular Committee and shall consist 70% of persons appointed by the Chairman of the Board and 30% of persons appointed by the COMEX Governors Committee. The Chairman and Vice Chairman of the Committee shall be Class A Members.

3.35 Political Action Committee

The Political Action Committee shall be a Regular Committee and shall be comprised of such persons as the Chairman may appoint, subject to approval of the Board.

Chapter 4 Margins

[Current NYMEX Chapter 4 is being replaced by new NYMEX Chapter 4 – Enforcement of Rules]

4.00 Margins

(A)(1) The Board or its designee shall establish and cause to be announced the minimum margins which Member Firms must require of customers, and shall, from time to time, change the requirements whenever it deems such change necessary. Unless stated otherwise, any and all changes to customer margin requirements will be deemed retroactive and will apply to open positions initiated both before and after the date of any such change.

(2) Additional margins may be required of each Clearing Member and of any and all customers of any Clearing Member on all open trades in such commodity contracts and in such amounts as the President, in his discretion, may deem necessary.

(B) In the case of a straddle which is not an arbitrage position under Rule 4.01(I) where the same Clearing Member carries both sides of the straddle, but one side of the straddle is on another Exchange, for the same customer, the initial margin required from the customer for the Exchange's side of the straddle shall be not less than the amount of initial margin required of the Clearing Member for a one-sided transaction. It is the responsibility of the Clearing Member to determine that the transaction is part of an intermarket straddle.

4.01 Customer's Margins

(A) Initial margin at least equal to the level set for customers shall be required of all customers. In no case shall a customer's initial margin be less than a specified amount per contract, or a specified percentage of the market value at which any commodity is bought or sold, such customer's margin to be determined and announced by the Board of Directors or its designee.

(B) Once the required initial margin has been deposited for each individual transaction, such trade and such margin shall, for the purposes of this rule, lose their individual identity and be commingled with all other trades and margins in the same commodity for the same customer account.

(C) When the margin (Net Liquidating Value plus Non-Cash Deposits) in a customer's account declines below the maintenance margin requirement applicable to the open positions carried in such account, the Member Firm carrying said account is required to collect (call) from the customer such funds, which when deposited, will restore it to the then-prevailing initial margin requirement.

(D) A Member Firm shall not accept orders for new trades on behalf of an undermargined customer account other

than those which reduce its initial margin requirement unless such Member Firm has been given assurances by said customer that funds sufficient to restore the account to its then prevailing initial margin requirement are forthcoming and will be received in a reasonable amount of time not to exceed one business day for Floor Members and three business days for all other customers.

(E)(1) A Member Firm may accept deposits from its customers in one or more of the following forms as margin to cover open NYMEX and COMEX Division positions:

(a) United States Currency; or any currency freely convertible to United States currency; provided that if foreign currency is deposited, its value shall be calculated so that at the current rate of exchange the U.S. dollar equivalent of the foreign currency satisfies the customer's margin obligation.

(b) 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. Such securities shall be valued at ninety five percent (95%) of par value.

(c) Fully paid equity securities which are listed for trading on the New York Stock Exchange, Inc., the American Stock Exchange, Inc., or Nasdaq, provided that such securities; (i) are free from liens and encumbrances; (ii) represent no more than 5% of the issued and outstanding shares of any one issuer; and (iii) have a market value of at least \$10 per share. Such equity securities shall be valued at 75% of the market value. Clearing members may not accept as margin from their customers equity securities issued by said customer or those of the customer's affiliates.

(d) Letters of credit in favor of a clearing member carrying an account, or in the case of any letter of credit to be used on a pass-through basis with the Clearing House a letter of credit in favor of the Exchange. All letters of credit shall be issued in such form as may be prescribed by the Exchange and by a depository which has been approved by the Exchange for issuance and confirmation of letters of credit drawn in favor of the Clearing Members or in favor of the Exchange, as applicable. Clearing Members may not accept from their customers letters of credit issued by said customer, the customer's affiliates, the Clearing Member, or the Clearing Member's affiliates.

(e) Deliverable warehouse receipts for commodities traded on the Exchange provided that such receipts will be valued as margin at no more than 75% of the value of the commodity.

(2) Calls issued by Member Firms for additional margin from customers may only be met by deposits conforming to the requirements of Rule 4.01(E) or favorable market movements which, when taken into consideration and combined with any other monies available, enable the customer's margin to equal or exceed the then prevailing initial margin requirement.

(F) Withdrawals of margin from a customer's account may only be permitted by a Member Firm carrying such account if the remaining funds in such account are equal to or in excess of the then prevailing initial margin required of the applicable open positions at the time of said withdrawal request.

(G) The customer's response to a margin call issued by a Member Firm must be timely and complete. A Member Firm may call, at any time, for margins above and beyond the minimums required by the Exchange. A Member Firm may liquidate any or all positions maintained by a customer for failure to meet a margin call. The customer will be liable for any loss or deficiency resulting therefrom.

(H) The margin requirements established by the Board or its designee may vary for different commodities and may be changed from time to time by the Board or its designee, and in the discretion of the Board or its designee, may be made applicable to all open trades as well as new trades.

(I) Arbitrage

(1) For the purposes of Exchange margin requirements, an arbitrage position is a purchase or sale of an Exchange futures contract in one delivery month which futures contract is offset by a futures contract to sell or to purchase a similar quantity of a related commodity in the same or different delivery month which offsetting futures contract is executed on or subject to the rules of a different exchange. In order to qualify as an arbitrage position, each contract long and short must be carried by the same member firm for the same account.

(2) The Board of Directors, by resolution, may identify those futures contracts, that are executable on and/or subject to the rules of a different exchange, which shall be deemed to qualify as part of an arbitrage position.

(3) The Board of Directors or its designee may set levels of margin for arbitrage positions at a rate less than

applicable to outright positions; provided, however, that except for interdivision straddles, no such rate shall be lower than the rates established for clearing members' margins.

[back to top](#)

4.02 Member Accounts

(A) Each Floor Member, Permit Holder and Electronic Trader shall be responsible to have, and at all times maintain, in each trading account maintained by such person margin in the amounts and in the form required under Rule 4.01 for customer accounts.

(B) Both the Floor Member, Permit Holder or Electronic Trader and the Clearing Member carrying such person's trading account shall, within three (3) business days of occurrence, notify the Vice President of the Exchange's Compliance Department in writing, of any deficit in such person's trading account or any trading-related debt from such person to the Clearing Member in excess of \$50,000.

(C) For the purposes of this Chapter 4 ("MARGINS"), the term "customer" is meant to include Floor Members, Permit Holders and Electronic Traders as well as all other non-proprietary trading accounts maintained at a Member Firm.

4.03 Unsecured Loans

Clearing Members shall not be permitted to make loans to any customers for the purpose of financing margins unless such loans are secured, as such term is defined in Section 1.17 of the regulations of the Commodity Futures Trading Commission.

4.04 Mandatory Implementation of SPAN Margin System

Member Firms are required to collect from their customers margin for open positions based on the SPAN (Standard Portfolio Analysis of Risk) margining system as modified from time to time by the Exchange.

4.05 Gross Margins for Omnibus Accounts

(A) Each Member Firm must collect from any domestic or foreign omnibus account it carries for another equity margins on a gross basis.

(B) If the Member Firm which carries an open position for another domestic or foreign entity on an omnibus basis allows a position to be margined as a spread position, the carrying Member Firm must obtain and retain for recordkeeping purposes a written representation from the other entity for which the omnibus account is being maintained that each such position is entitled to be so margined.

4.06 Joint Accounts

If a Clearing Member or Member Firm has a joint account with a non-Clearing Member, each trade carried for such account shall be clearly indicated as such and the Clearing Member or Member Firm shall require the non-Clearing Member to deposit full initial margin on the proportion of the positions held in the account equal to such non-Clearing Member's proportionate interest in the account.

4.07 Cash Disbursements to Customers

Clearing Members are prohibited from disbursing cash to any of their customers. For the purpose of this Rule, "customer" is deemed to include any person or entity that maintains a futures trading account with the respective Clearing Member.

Chapter 5 **Arbitration Rules Reserved**

[Current NYMEX Chapter 5 is being deleted in its entirety. New Arbitration Rules are being adopted into new NYMEX Chapter 6A.]

5.01 Scope of Rules

(A) Except as noted below, these Rules govern the resolution of all disputes, claims, grievances and controversies between Members, Members and employees of Members and between customers and Members and employees of Members.

(B) For purposes of these Rules, the term "Members" shall include Class A Members, COMEX Division Members, Member Firms, COMEX Division Member Firms, Permit Holders, Floor Brokerage Billing Entities, Electronic Traders, Authorized Terminal Users who are also designated as Electronic Traders, Option Members, Aluminum Members and Eurotop Members. The term "employees of Members" shall include Authorized Terminal Users for NYMEX ACCESS@.

5.02 Non-Waiver of Exchange Objects and Purposes

The submission of any matter to arbitration under these Rules shall in no way limit or preclude any right, action or determination by the Exchange which it would otherwise be authorized to adopt, administer or enforce.

5.03 Legal Proceedings

No party shall, during the arbitration of any matter, prosecute or commence any suit, action or proceeding against any other party touching upon any of the matters referred to arbitration pursuant to these Rules.

5.04 Required Submission

(A) Member Controversies

Members and Member Firms shall arbitrate any dispute, claim, grievance or controversy between or among Members or Member Firms (including Members or Member Firms that were Members at the time such dispute, claim, grievance or controversy arose) wholly or partially arising, directly or indirectly, out of, in connection with, or as a result of:

- (1) Any transaction executed on the Exchange (including Exchange For Physicals transactions and deliveries against Exchange Contracts); and
- (2) The business of such Member or Member Firm on the Exchange.

(B) Customer Controversies

Any dispute, claim, grievance or controversy between a customer and a Member or between a customer and an employee of a Member or Member Firm that wholly or partially arises, directly or indirectly, out of, in connection with or as a result of any transaction on or subject to the Rules of the Exchange shall be arbitrated under these Rules, as provided by an enforceable written agreement or, upon the demand of the customer. No Member or Member Firm shall enter into any agreement or understanding pursuant to which any customer who is not a Member as defined in Rule 5.01(B) above agrees, prior to the time a claim or controversy arises, to submit a claim or controversy for arbitration pursuant to this subsection (B) of Rule 5.04 unless such agreement or understanding is in accordance with the provisions of 17 C.F.R. 180.3, as from time to time amended, modified or interpreted by the Commission.

5.05 Permissive Submissions

Any other dispute, claim, grievance, or controversy which involves (i) a Member or Member Firm or employee of a Member or Member Firm or customer of a Member and a Member or Member Firm; (ii) a Member or Member Firm that is a User of NYMEX ClearPort@ Trading and a Non-Member User of NYMEX ClearPort@ Trading; or (iii) or which only involves Non-Member Users of NYMEX ClearPort@ Trading may be arbitrated under these Rules as provided by an enforceable Agreement to Arbitrate or Submission Agreement, but the Arbitrators shall have the right to decline the use of the Exchange's arbitration facilities in any dispute, claim, grievance or controversy, where, having due regard for the purposes of the Exchange, such dispute, claim, grievance or controversy is not a proper subject matter for arbitration under these Rules.

5.06 Appointment of Panels

The Chairman of the Arbitration Committee shall appoint the individuals who shall serve as arbitrators, including the panel Chairman, to conduct the arbitration of any matter properly submitted under these Rules.

5.07 Composition of Panels

(A) Member Controversies

Except as otherwise provided in the Rules, in all arbitration matters between or among Members or persons employed by Members, a panel shall consist of no fewer than one (1) nor more than three (3) Arbitrators, all of whom shall be Members or persons employed by Members. If no request is made the matter will automatically be heard by an arbitration panel that shall consist of members or employees of members.

(B) Customer Controversies
Except as otherwise provided in the Rules, in all arbitration matters involving customers, other than those asserting claims for less than \$2,500 subject to Rule 5.09, the Chairman of the Arbitration Committee, upon request of a customer, shall appoint an Arbitration Panel that shall consist of three (3) arbitrators, at least a majority of whom shall not be members of, or associated with a member of, any commodities exchange.

5.08 Hearing Requirements – Waiver of Hearing

(A) Except as otherwise provided in these Rules, any dispute, claim, grievance or controversy shall require a hearing unless all parties waive such hearing in writing and request that the matter be resolved solely upon the pleadings and documentary evidence.

(B) Notwithstanding a written waiver of a hearing by the parties, a majority of the arbitrators may call for and conduct a hearing.

5.09 Procedure for Claims Less Than \$2,500

Any dispute, claim, grievance or controversy involving a dollar amount not exceeding \$2,500 in the aggregate, exclusive of costs and interest, shall be decided entirely upon written submissions. The dispute, claim, grievance or controversy shall be submitted to a single arbitrator appointed by the Chairman of the Arbitration Committee. In all arbitration claims involving customers, upon the request of the customer, the arbitrator appointed to hear and decide the case shall not be a member of, or associated with a member of, any commodities exchange. Unless the arbitrator calls a hearing, the arbitrator shall decide the dispute solely upon the pleadings and evidence submitted by the parties. Any requests for a hearing must accompany the pleadings.

5.10 Time Limitation Upon Submission

No dispute, claim, grievance or controversy shall be eligible for submission to arbitration under these Rules in any instance where two (2) years have elapsed from the occurrence or event giving rise to the act or the dispute, claim, grievance or controversy.

5.11 Tolling of Time Limitation for the Institution of Legal Proceedings

Where permitted by applicable law, any limitation which would otherwise run or accrue for the institution of legal proceedings shall be tolled when all the parties shall have filed duly executed Statement of Claim and Answer upon the dispute, claim, grievance or controversy submitted to arbitration. The tolling shall continue for such period as the Exchange shall retain jurisdiction upon the matter submitted.

5.12 Withdrawal and Dismissal of Proceedings

(A) A Statement of Claim may be withdrawn at any time prior to the filing of Respondent's Answer. Thereafter, the Statement of Claim may be withdrawn only upon the consent and mutual agreement of all parties submitted in writing to the Panel.

(B) At any time during the course of an arbitration, the arbitrators may dismiss the proceeding, with or without prejudice where cause exists, either upon their own initiative, or at the request of a party.

5.13 Settlements

All settlements upon any matter shall be at the election of the parties. The arbitrators, upon the request of the parties, may set forth the terms of a mutually agreed settlement in an Award.

5.14 Arbitrator Disclosure and Requests for Disqualification of Arbitrators

(A) Prior to the first hearing session, and throughout the arbitration proceeding, each arbitrator shall disclose to the Chairman of the Arbitration Committee ("Chairman") any direct or indirect financial or personal interest in the outcome of the arbitration and any existing or past professional, family or social relationships with any party, its counsel or any individual whom they have been told will be a witness, which are likely to affect such arbitrator's impartiality or might reasonably create an appearance of partiality or bias.

(B) The Chairman shall inform all parties of any such disclosures prior to the commencement of the first hearing session, and may, at the request of a party and for good cause shown, disqualify an arbitrator. In making such a determination the Chairman shall refer to and be guided by the Code of Ethics for Arbitrators in Commercial Disputes, published by the American Arbitration Association (the Code of Ethics"), as well as the Exchange's own Ethics Guidelines.

(C) For conflicts not able to be discovered before the commencement of the first hearing session, as promptly as possible after learning of grounds for disqualification, any party may submit to the Chairman of the Arbitration Committee, with a notice and copy to the opposing party, a request to disqualify an arbitrator. The request shall specify the facts and circumstances that the party believes are likely to affect an arbitrator's impartiality, and be resolved as follows:

(1) Within five (5) days of receiving notice of the request, the non-requesting party shall respond to the request to disqualify by informing the Exchange, and the requesting party, of its consent or opposition to the request. Upon the consent of the non-requesting party, the arbitrator shall be removed from the Panel and a substitute appointment, if any, shall be made in accordance with Rule 5.15;

(2) In the event the non-requesting party opposes the removal of the arbitrator, or fails to respond, the Chairman shall rule on the request in accordance with the Code of Ethics and the Exchanges' Ethics Guidelines.

5.15 Disqualification or Other Disability of Arbitrators

In the event that any arbitrator, after the commencement of the first session but prior to the making of an Award, should become disqualified, resign, die, refuse or be unable to perform or to discharge his duties, the Chairman of the Arbitration Committee, upon such proof as he deems satisfactory, either may (a) with the consent of the parties, appoint a new member to the panel to replace such arbitrator, or (b) without the consent of the parties, direct that the arbitration proceed without the substitution of a new arbitrator.

5.16 Notice of Selection of Arbitrators

The Exchange shall notify the parties in writing of the name and business affiliation of each arbitrator at least twenty (20) business days prior to the date fixed for the initial hearing session. Within ten (10) business days after the receipt of such notice, any party may file written objections with the Exchange to one or more of the arbitrators so designated, specifying the basis for such objection. The Chairman of the Arbitration Committee shall refer to and be guided by the Code of Ethics for Arbitrators in Commercial Disputes published by the American Arbitration Association, as well as the Exchange's ethics guidelines, when considering and ruling upon the objection. If any objection is sustained, the Chairman of the Arbitration Committee shall designate an additional arbitrator or arbitrators. Nothing in this Rule 5.16 shall limit a party's rights under Rule 5.14 should grounds for disqualifying an arbitrator arise during the course of an arbitration.

5.17 Designation of Time and Place of Hearings

The time and place of all hearings shall be determined by the Exchange. Notice of the time and place for the initial hearing shall be given at least ten (10) business days prior to the date fixed for the hearing by mail to each of the parties or hand delivery unless the parties shall, by their mutual consent, waive the notice provisions under this Section. Notice for each hearing thereafter shall be given as the Panel may determine. Attendance at a hearing waives notice thereof.

5.18 Initiation of Proceedings

(A) Except as otherwise provided herein, an arbitration proceeding under these Rules shall be instituted as follows:

(1) Statement of Claim

(a) The party desiring to submit a matter to Arbitration (the "Claimant") shall file with the Exchange three (3) executed copies of a Statement of Claim setting forth a concise description of the claim, dispute, grievance or controversy and the name and address of the persons from whom relief is sought (the "Respondent"), together with any documents and name of witnesses upon whom Claimant intends to rely to support the claim. The Statement of Claim should specify the relevant facts, the remedies sought (including the method of the party's damage computation), and the basis upon which relief is sought. In customer controversies, the statement shall specify whether the customer wishes the controversy to be heard by a Panel that is comprised of a minority of persons not associated with a member of any commodities exchange. The Secretary shall promptly furnish to the Respondent or Respondents the Statement of Claim.

(2) Answer-Defenses, Counterclaims and Third-Party Claims

(a) A Respondent, within twenty (20) business days from receipt of the Statement of Claim, shall file an Answer and any Counterclaim with the Exchange. The Answer shall respond to each of the allegations in the Statement of Claim, shall designate all available defenses to the Statement of Claim and may set forth any related Counterclaim a Respondent may have against the Claimant and related Third-Party Claims against any other party or person upon any existing dispute, claim, grievance or controversy subject to arbitration under these Rules. The Exchange shall furnish a copy of the Answer to the Claimant. Respondent should attach to the Answer any documents and names of witnesses upon whom Respondent intends to rely in defending the claim or asserting a Counterclaim or Third-Party Claim. Where no Answer is filed, the allegations in the Statement of Claim shall be deemed to be denied.

(b) Any Counterclaim of a Member Respondent against a Customer Claimant may be brought only if the Counterclaim arises out of the transaction or occurrence which is the subject of the customer's dispute, claim, grievance or controversy and does not require for adjudication the presence of essential witnesses, or third persons over whom the Exchange or the parties do not have jurisdiction. Other Counterclaims are permissible where the customer agrees to the submission after the counterclaim has arisen and if the aggregate monetary value of the claim is capable of calculation.

(c) If a Third-Party Claim has been filed, the Exchange shall promptly furnish a copy of the Statement of Claim and its Third-Party Statement of Claim to such third party who shall respond in the manner and the time provided for an Answer to the Claim.

(d) Within ten (10) business days of an Answer asserting a Counterclaim, a Claimant shall file a Reply to any Counterclaim with the Exchange and the Secretary shall promptly furnish a copy of the Reply to the Respondent(s). Where no reply to a Counterclaim is filed, the allegations of the Counterclaim shall be deemed to be denied.

(e) Parties submitting responses to Counterclaims and Third-Party Claims should provide the Exchange with copies of any documents and names of witnesses upon whom the party intends to rely in defending the Counterclaim or Third-Party Claim.

(f) The time period to file any document, whether such be denominated as a Statement of Claim, Answer, Counterclaim, Reply or Third-Party Claim, may be extended for such further period as may be granted by the Chairman of the Arbitration Committee.

(B) Attendance at Hearings

The attendance or presence of all persons at hearings including witnesses shall be determined by the arbitrators. However, all parties to the arbitration and their counsel shall be entitled to attend all hearings.

(C) Joinder and Consolidation

(1) With respect to any dispute, claim, grievance or controversy submitted to arbitration, any party or person eligible to submit a claim under these Rules shall have the right to proceed in the same arbitration against any other party or person upon any claim directly related to such dispute.

(2) For purposes of this subsection, the Chairman of the Arbitration Committee shall be authorized to determine whether another claim is directly related to the matter in dispute and to join any other parties to the dispute and to consolidate another matter for hearing and award purposes.

(D) Service of Papers

Service of all papers by either the parties or the Exchange, including the initial pleadings, discovery requests and responses and any other materials relating to a claim, may be accomplished by hand delivery, or by first class or certified mail, or by use of a generally recognized overnight delivery service to the party's last known address on record with the Exchange. All time periods set forth in the Arbitration Rules within which a party must respond shall commence upon service of the relevant papers. When service is made by mail, three (3) business days shall be added to the time to respond.

5.19 Representation by Counsel

A party is not required to be represented by counsel in any arbitration proceeding. Each party has the right to be fully represented by counsel and may claim such right at any stage of the arbitration. Any party who wishes to be represented by counsel shall so notify and provide the Exchange with such counsel's name and address in the complaint, answer or reply or subsequent to the filing of any such papers, by written notice to the Exchange and other party or parties. Upon receipt of notification that a party is to be represented by counsel, the Exchange shall serve papers in the proceeding upon such party's counsel.

5.20 Failure to Appear

(A) If the Claimant, after due notice, fails to appear at a hearing session, the arbitrators may dismiss the claim in accordance with the provisions of Rule 5.12.

(B) If the Respondent, after due notice, fails to appear at a hearing session, the arbitrators may, in their discretion, proceed with the arbitration of the controversy. In such cases, all decisions shall be rendered as if each party had entered an appearance at the hearing. However, an award in claimant's favor shall not be made solely because of Respondent's default, but shall be subject to the following:

(1) The arbitrators shall require the Claimant to submit such evidence and present such arguments in support of the Statement of Claim as the arbitrators deem necessary to issue a decision.

(2) An award rendered against a Respondent shall not become effective, and the compliance provision contained in Rule 5.36(F) shall not operate, until thirty (30) days from the time the award is delivered to Respondent.

(3) During the thirty (30) day period following the issuance of an award, the Respondent may submit to the arbitrators a written request to present evidence and arguments in opposition to the Statement of Claim. Respondent must demonstrate good cause for post-hearing submissions by clear and convincing evidence that gross injustice and extreme hardship would result from denial of the request.

(4) The receipt of Respondent's evidence and arguments, if permitted, shall be upon such terms and conditions as the arbitrators may direct.

5.21 Adjournments

The arbitrators may, in their discretion, adjourn any hearing either upon their own initiative or upon the request of any party to the arbitration. The Chairman of an arbitration panel is authorized to act on the panel's behalf in responding to requests for an adjournment. When a party requests and is granted an adjournment, the Chairman of the arbitration panel may assess such fees as may be reasonable after giving due consideration to the reason for the adjournment and the number of prior adjournments, if any, which have been granted to the requesting party. In no event shall the fees exceed \$250 for each adjournment.

5.22 Procedures Governing Discovery

(A) Informal Document and Information Requests

Prior to the first hearing session, the parties shall cooperate in the voluntary exchange of documents and information concerning the issues raised in the Statement of Claim, Answer, and any other related pleading.

(B) Additionally, a party may request from the Exchange copies of non-confidential documents that are relevant to the proceeding. Such requests shall be submitted to the Office of the Secretary, which shall provide copies of the request, and any documents produced, to the other party.

(C) Formal Document and Information Requests

(1) A party may serve upon any other party a written request for relevant documents and information twenty (20) business days following service of the Statement of Claim, or at the time of service of Respondent's Answer, whichever occurs earlier. The party upon whom the request is served shall have twenty (20) calendar days following service to respond. Any objections to the request must be served within ten (10) calendar days following receipt of the request. The requesting party may respond to any such objections within ten (10) calendar days following service. The parties shall provide the arbitrators with copies of all discovery requests, objections and responses.

(2) The arbitration panel or, in his discretion, the Chairman of the panel shall rule on all objections to, and resolve all disputes arising out of, discovery requests. The panel Chairman may grant such extensions of time to respond to discovery requests as do not interfere with the scheduling of a hearing date. At his election, the Chairman may resolve discovery disputes on the written submissions of the parties, or at a pre-hearing conference.

(3) Failure to Produce

A party who unreasonably and unjustifiably withholds documents or information may be precluded from introducing or relying upon such documents and information at the hearing.

5.23 Pre-Hearing Conference

In appropriate cases, the Chairman of the arbitration panel may call a pre-hearing conference to resolve discovery disputes, resolve scheduling matters, facilitate the preparation of a hearing plan and address any other matter for the purpose of expediting the hearing. A hearing plan shall include such matters as the panel requires, including, where appropriate, a summary of the issues in dispute, a listing of facts and documents which the parties agree to stipulate to as being true and authentic, and a list of witnesses and documents the parties intend to rely upon at the hearing. If necessary, the parties shall make written submissions to the arbitrators addressing legal and factual questions relating to the dispute. The panel may, in its discretion, permit the pre-hearing conference to be conducted by telephone.

5.24 Pre-Hearing Evidence Submission

At least five (5) calendar days prior to the hearing date, all parties shall provide to the Exchange and all other parties copies of the documents they intend to use at the hearing and the names of all witnesses who may testify on their behalf at the hearing. Where the arbitrators have directed the parties to prepare a hearing plan, the parties shall provide the Exchange with a copy of such plan, at least five (5) calendar days prior to the hearing date. The arbitrators may preclude a party from using documents or presenting witnesses if not provided and identified in accordance with this Rule. Pre-hearing evidence submission does not apply to documents and witnesses used for cross-examination and rebuttal.

5.25 Subpoena Process

The arbitrators and an attorney for any of the parties have the power of the subpoena process as provided by applicable law. If not represented by an attorney, a party may request the arbitrators to issue a subpoena on his behalf. However, the parties shall produce witnesses and present proofs to the fullest extent possible without resort to the issuance of the subpoena.

5.26 Power to Direct Appearances

(A) The arbitrators, at the request of any party, shall be empowered without resort to the subpoena process to direct the appearance of any Member or any person employed by or associated with any Member who is not a party to the arbitration or to direct the production of any records in the possession or control of such persons. Unless the arbitrators direct otherwise, the party requesting the appearance of a person or the production of documents under this Rule shall bear all reasonable costs of such appearance or production.

(B) The arbitrators also are empowered without resort to the subpoena process to direct the appearance of any Member or any person employed by or associated with any Member or the production of any records in the possession or control of such persons or Members.

5.27 Evidence

(A) The arbitrators shall determine the materiality, weight and relevance of any evidence proffered and shall not be bound by formal rules governing the admissibility of evidence.

(B) The arbitrators may, for good cause shown by the requesting party, and subject to objections by any opposing party, review and consider evidence of witnesses by affidavit. Such affidavits shall receive only such weight as the Arbitrators deem it entitled.

(C) In their discretion, and subject to whatever conditions may be necessary and appropriate, the arbitrators may permit parties and witnesses to participate in an oral hearing by telephone.

5.28 Conduct of Hearings

(A) The initial hearing shall be opened by the filing of the Oath of the Arbitrators and by the recording of the place, time and date of the hearing, the presence of the arbitrators and parties, and counsel, if any, and by the introduction of the Statement of Claim and other pleadings, if any.

(B) The complaining party shall then present its claim and proofs and its witnesses, who shall submit to questions or other examination, including cross examination. The defending party shall then present its defense and counterclaim, if any, and proofs and its witnesses, who shall also submit to questions or other examination, including cross examination. The arbitrators have discretion to vary this procedure but shall afford full and equal opportunity to all parties for the presentation of any material or relevant proofs. Exhibits, when offered by either party, may be received in evidence by the arbitrators. The names and addresses of all witnesses and exhibits in order received shall be made a part of the record.

(C) Ex parte contacts regarding the arbitration proceeding by the parties with the arbitrators are prohibited.

5.29 Interpretation of Rules

The arbitrators shall be empowered to interpret and determine the applicability of all provisions of these Rules which interpretation shall be final and binding upon the parties.

5.30 Determination of Arbitrators

Except where the panel Chairman or one arbitrator is authorized to make a ruling or determination on behalf of the panel, all rulings and determinations of the panel shall be by a majority of the arbitrators.

5.31 Record of Proceedings

Unless requested ten (10) days prior to the first hearing date by the arbitrators or a party or parties to a dispute, no record of an arbitration proceeding is required to be kept. If a record is kept, it shall be a verbatim record. If a party or parties to a dispute elect to have the record transcribed, the cost of such transcription shall be borne by the party or parties making the request who shall also bear the cost of a transcription of the record for the arbitrators.

5.32 Oaths of the Arbitrators and Witnesses

Prior to the commencement of the first session, an oath or affirmation shall be administered to the arbitrators. All testimony shall be under oath or affirmation.

5.33 Amendments

No amendment to the pleadings shall be permitted after receipt of a responsive pleading except upon the consent of the arbitrators and upon such terms and conditions as they may direct.

5.34 Closing of Hearings

The arbitrators shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the arbitrators shall declare the hearings to be closed. If briefs or other memoranda are to be filed, the hearings are to be declared closed as of the final date set by the arbitrators for receipt of briefs or memoranda. The time limit within which the arbitrators are required to make an Award shall begin to run, unless otherwise agreed by the parties, upon the closing of the hearings. The conclusion of hearings, and the closing

of the record, shall be subject to the provisions relating to the failure of a party to appear at a hearing session contained in Rule 5.20.

5.35 Reopening of Hearings

Where permitted by applicable law, the hearings may be reopened by the arbitrators on their own motion or in the discretion of the arbitrators upon application of a party at any time before the award is executed by the arbitrators. A party wishing to reopen a hearing shall provide the Exchange with a written basis for such request and shall notify the Exchange that such party will appear at any subsequent hearing.

5.36 Awards

(A) All awards shall be in writing and signed by a majority of the arbitrators or in such manner as is required by law. Such awards may be entered as a judgment in any court of competent jurisdiction. In addition to the damages sought, the panel may assess against the losing party arbitration fees, expenses and costs associated with the hearing. The panel may assess against a party all or any portion of the reasonable attorney fees incurred by any other party only upon a finding that it advanced a frivolous claim or defense, or engaged in willful acts of bad faith during the course of the arbitration.

(B) All awards rendered pursuant to these Rules shall be final and not subject to review or appeal, except as provided by applicable law. Within ten (10) calendar days of service of the award, a party may make a written request to the arbitrators to modify or correct an award if:

- 1) there was a miscalculation of figures or mistake in the description of any person, thing or property referred to in the award;
- 2) the arbitrators have awarded upon a matter not submitted to them and the merits of the decision upon the issues properly before the panel will not be affected by correcting the award; or
- 3) the award fails to satisfy the form requirements of 5.36(A).

(C) The Exchange shall promptly furnish to all parties a copy of the modification request. Any objection to a request for modification of an award must be submitted in writing to the arbitrators within five (5) calendar days of receipt of such request.

(D) The Exchange shall endeavor to deliver a copy of the award: (i) by registered or certified mail upon all parties, or their counsel, at the address of record; or (ii) by personally serving the award upon the parties. In the event that an award against a Member is issued in the amount of \$5,000 or more, the Exchange shall forward a copy of the award to the Compliance Department for investigative review, if in its discretion, investigative review is warranted.

(E) The arbitrators shall endeavor to render an award within thirty (30) business days from the date the record is closed.

(F) The failure of a Member, Member Firm or employee thereof to comply with an award; or to pay the full amount of the award to the Exchange as escrow agent pending a good faith consideration of appeal rights, within ten (10) days of such member's receipt of the award shall be a violation of the Rules of the Exchange and shall be grounds for automatic suspension from all rights and privileges of membership until the arbitration award is paid in full or is otherwise satisfied. In addition, failure by a Member Firm that is a Clearing Member to comply with an award or to pay the full amount of the award to the Exchange as escrow agent pending a good faith consideration of appeal rights, within ten (10) days of such member's receipt of the award, in any arbitration proceeding involving a delivery obligation shall be deemed by the Exchange to constitute a failure of the Clearing Member to discharge an obligation to the Clearing House. Any award escrowed with the Exchange, plus accrued interest, shall be released to the prevailing party as soon as practicable ninety one days after notice of the award is issued unless a timely motion to vacate, modify or correct the award has been filed with a court of competent jurisdiction, in which case the Exchange shall hold the amount in escrow and disburse such amount, together with accrued interest, upon the entry of, and in accordance with, a final order disposing of the motion. Any party escrowing an award who thereafter decides not to file an appeal shall immediately notify the Exchange, which shall then release the amount in escrow, with accrued interest.

(G) A party to an arbitration shall notify the Exchange if that party learns that judicial review of the proceeding is being sought by any party.

5.37 Schedule of Fees

(A) At the time of filing a Statement of Claim, a Claimant (whether such claim is a counterclaim or a third party claim) shall pay to the Exchange a fee in the amount indicated below:

Amount in Dispute Deposit

(Exclusive of interest and expenses)

\$5,000 or less 3% (\$100 minimum)

Above \$5,000 but less than \$10,000 \$150 plus 2% of excess

over \$5,000

\$10,000 or more but less than \$100,000 \$250 plus 1% of excess

over \$10,000

\$100,000 and over \$1,150 plus .5% of

excess over \$100,000

(B) If the dispute, claim, grievance or controversy does not involve a money claim or involves a claim for money but such claim is not capable of exact determination, the amount to be paid by the Claimant (whether such claim is a counterclaim or a third party claim) shall be \$100 or such amount as the Chairman of the Arbitration Committee may require, but shall not exceed \$550. At the time any claim for money is determined, the Claimant shall pay the fee provided in Section (A) of this Rule less the amount already deposited.

(C) Any matter submitted and thereafter settled or withdrawn may be subject to a refund of all but \$25 of fees deposited with the Panel. Where no Panel has been appointed the Chairman of the Arbitration Committee shall make the determination.

5.38 Prohibition on Public Disclosure

At no time while serving on an arbitration panel or following the closing of the record shall an arbitrator publicly discuss or reveal or engage in any conversation that he knows or reasonably should know will lead to the public disclosure of any information regarding the conduct of the arbitration, the evidence and testimony submitted during the hearing or the panel's deliberation, unless required to do so by law.

5.39 Certain Claims against the Exchange Involving Trading Systems

(A) General

All claims arising out of or relating to the following matters shall be arbitrated in accordance with the specific requirements of this Rule 5.39A and, to the extent not inconsistent with such requirements, the rules of this Chapter:

- 1) receipt of an incorrect order status or the failure to have received an appropriate order status;
- 2) the negligence of Globex Control Center ("GCC") personnel or any other Exchange staff; or
- 3) Phantom Orders, as defined in Rule 11G.07.

Nothing in Rule 5.39(A) shall be construed to create a claim against the Exchange, to limit a defense available to the Exchange, or to obviate or modify any limitation of Exchange liability imposed by any other rule.

5.39.B. Initial Liability Claim and Demand for Arbitration

The initial claim of loss, including a detailed description of any loss suffered, must be made to the Exchange within

ten business days of the date of the incident that caused the loss. The Exchange shall have 30 business days to pay or deny the claim in whole or in part. If the Exchange denies the claim in whole or in part, the claimant must file a written demand for arbitration with the Compliance Department within ten business days after the Exchange has notified the claimant of such denial. A claimant's failure to pursue its claim within these time limits shall bar any recovery on such claim.

5.39.C. Selection of Arbitration Panel

The arbitration panel shall consist of three arbitrators selected from a list of arbitrators maintained by the National Futures Association ("NFA"). The Exchange and the claimant shall each select one arbitrator. If the Exchange and the claimant are unable to agree on the third arbitrator, the President of the NFA or his delegate shall choose the third arbitrator.

5.39.D. Related Claims

All claims arising out of the same system failure, event or alleged negligent act shall, to the extent practicable in the determination of the chairman, be consolidated for a single hearing.

5.39.E. Award

Within 30 days of completion of the hearing, the panel shall issue a written decision. The award shall be limited to the lesser of the actual loss or the loss that would have been incurred if the claimant had used its best efforts to mitigate the loss. Punitive damages, loss of profits, loss of use, and indirect, incidental or consequential damages shall not be awarded. The decision of a majority of the panel shall be final and binding, and there shall be no appeal to the Board of Directors. A party may move, within three business days of the award, that the award be corrected to remedy any miscalculation or misdescription or where the award is otherwise imperfect in a matter of form not affecting the merits of the award.

5.39.F. Satisfaction of Award by Exchange

The Exchange shall satisfy any award against it subject to its limitation of liability rules and the rules respecting proration among claimants where damages allowed for a defined period of time exceed any limit imposed by Exchange rules. The Exchange may delay paying any award until such time as any applicable proration or limitation can be finally calculated.

Chapter 6 Floor Rules

[The following rule will become effective on 12/15/08.]

6.01 Reserved Trading Floor Telephone Calls and Electronically Conveyed Message Retention

(A) Each Member, Member Firm and employees of the foregoing shall keep all trading floor transaction records, including electronically conveyed records. Electronically conveyed records, include but are not limited to instant messages and e-mail, received on or originating from the trading floor of the Exchange. All trading floor transactions records, including instant messages, e-mail and any other form of electronic communication must be retained for a minimum of five years in permanent form, and shall at all times be open to the inspection of Exchange Staff, or any representative of the Commodity Futures Trading Commission or the United States Department of Justice.

(B) Each Member, Member Firm and employees of the foregoing shall enter into a trading floor telephone services Subscriber agreement with the Exchange under which the Subscriber agrees to pay the Exchange to record and archive all communications conveyed via Exchange maintained and authorized trading floor telephone lines. Pursuant to the agreement, the Exchange will record and archive phone calls for a minimum of ten business days from the date of the call, and the Exchange is permitted to inspect and allow the inspection of the archived calls by any representative of the Commodity Futures Trading Commission or the United States Department of Justice. Repeated failures to pay a monthly trading floor telephone services fee may result in the disruption of a Subscriber's trading floor telephone services.

6.12 Resolution of Floor Trading Disputes

[Sections (A) – (B)(i) are unchanged.]

(ii) As soon as possible, but no later than during the opening call on the Exchange trading floor on the next business day, (or in the case of a dispute involving options, within the first five minutes after the opening) effect transaction to cover the claim. Any gain or loss resulting from such covering transaction shall be the subject of arbitration under the rules of the Exchange~~Chapter 5 of these Rules~~.

[The remainder of the rule is unchanged.]

6.17 Errors and Omissions in Handling Orders

[The only change to this rule is in Section I.]

(I) Arbitration. Nothing shall preclude the resolution of a dispute arising from or in connection with an error or out-trade by means of arbitration under the rules of the Exchange~~in accordance with Chapter Five of these rules~~.

6.18 Numbering and Time Stamping Orders

[Sections (A) and (B) are unchanged.]

(C) Floor Members who execute customer and Type 3 orders on the Exchange floor must retain one ply or copy of the customer order memorandum or Type 3 order memorandum, if applicable, ~~in accordance with Exchange Rule 8.50(A)~~. Floor Members may be exempt from this requirement if written notice, from an FCM or Member Firm, is given to the Compliance Department acknowledging that it is the custodian of a Floor Member's daily trading records.

[As of 12/15/08, Section (C) will be amended as set forth below.]

(C) Floor Members who execute customer and Type 3 orders on the Exchange floor must retain one ply or copy of the customer order memorandum or Type 3 order memorandum, if applicable, in accordance with Exchange Rule 6.01(A). Floor Members may be exempt from this requirement if written notice, from an FCM or Member Firm, is given to the Compliance Department acknowledging that it is the custodian of a Floor Member's daily trading records.

6.19 Type Indicator Codes

Floor Trading Members shall be responsible for reporting to the Exchange ~~on the Trade Allocation System, appropriate CTI and indicator codes for transactions executed on the Exchange. Authorized Terminal Users shall be responsible for reporting to the Exchange, on NYMEX ACCESS@, appropriate CTI and indicator codes for transactions executed on NYMEX ACCESS@.~~ Appropriate CTI and indicator codes shall include a combination from Sections A and B below:

(A) CTI Codes:

(1) When a Floor Trading Member executes trades for his/her personal account, for an account he/she controls, or for an account which he/she has an ownership or financial interest, he/she shall designate the trades as CTI 1.

(2) When a Floor Trading Member ~~or Authorized Terminal User~~ executes trades for the trading account of a Member Firm or Clearing Member, he/she shall designate the trades as CTI 2. However, if the executing Floor Trading Member has either an interest in or discretionary control over such Member Firm or Clearing Member trading account, the indicator codes of subdivision (1) shall apply.

(3) ~~(a)~~ When a Floor Trading Member executes trades for the personal account of another Floor Trading Member, or for an account that the Floor Trading Member knows is controlled by another Floor Trading Member, he/she shall designate the trades as CTI 3.

~~(b) When an Authorized Terminal User executes trades on NYMEX ACCESS@ for the personal account of a Floor Trading Member, or for an account that the Authorized Terminal User knows is controlled by a Floor Trading Member, he/she shall designate such orders as CTI 3.~~

(4) When a Floor Trading Member or Authorized Terminal User executes trades for any account, other than those listed in Subdivisions (1), (2), (3), he/she shall designate the trades as CTI 4.

[Section (B) is unchanged.]

(C) It shall be an ~~Major Offense~~ for Floor Trading Members and Authorized Terminal Users to knowingly assign false indicator codes to trades executed on the Exchange Floor or on NYMEX ACCESS@.

6.20 ~~Transfer Trades, Office Trades~~ Reserved

(A) ~~Transfer trades are limited to trades made upon the books of a Member or Member Firm for the purpose of:~~

~~(i) transferring existing trades from one account to another within the same office, or between different offices of such Member or Member Firm, where no change in ownership is involved;~~

~~(ii) transferring existing trades from the record of one Member or Member Firm to the record of another futures commission merchant when no change in ownership is involved, provided that no such transfer shall be made after receipt from the Clearing House of notice of intention to deliver on such trades or the issuance by such Member or Member Firm of a Notice of Intention to Accept, or in the case of options contracts after receipt from the Clearing House of notice of exercise and assignment on such trades;~~

~~(iii) transferring existing trades in connection with, or as a result of, a merger, asset purchase, consolidation or similar non-recurring transaction between two or more entities where one or more entities become the successor in interest to one or more other entities upon the prior approval of the President or his designee.~~

~~(iv) transferring existing trades for other special circumstances upon prior approval of the President or his designee may be made between accounts such that a change in ownership results. Such approval may be granted by the President or his designee at his sole discretion for reasons including, but not limited to, the permanent disability of an account owner, the preservation of an orderly marketplace, or where such transfer is in the best interest of the Exchange.~~

(B) ~~Provided that a transfer of existing trades is permitted under either (A)(i), (ii), (iii) or (iv) above, the transferred trade must be recorded and carried on the books of the receiving Member or Member Firm either:~~

~~(a) at the prior day's settlement value of the futures contracts transferred, or zero premium for options contracts transferred;~~

~~(b) at the original date and price of the futures contracts transferred, or premium for options contracts transferred; or~~

~~(c) as otherwise approved in advance by the exchange, on the books of the receiving Member or Member Firm.~~

(C) ~~Every person handling, executing, clearing, or carrying trades or contracts which are not competitively executed, shall identify and mark by appropriate symbol or designation all such transactions or contracts and all orders, records, and memoranda pertaining thereto.~~

6.21 Exchange of Futures for, or in Connection with, Product

[Sections (A) – (D) are unchanged.]

(E) A report of EFP transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such submission shall be made by its inclusion in the daily Large Trader Reporting to the Exchange of each reportable customer, pursuant to Rule 9A.33, and identified as an EFP within the Large Trader file format. The reporting of EFP transactions via Large Trader shall identify the reportable customer who executed the EFP and the kind and quantity of the futures cleared.

[Sections (F) and (G) are unchanged.]

(H) All omnibus accounts and foreign brokers shall submit a signed EFP reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department. Such Agreement shall provide that any omnibus account or foreign broker identified by a Clearing Member (or another omnibus account or foreign broker) as the buyer or seller of an EFP pursuant to Rule 6.21(C), shall supply the name of its customer and such other information as the Exchange may require. A report of EFP transactions shall be submitted to the Exchange by each omnibus account and foreign broker representing the buyer and/or seller. Such submission shall be made by its inclusion in

the daily Large Trader Reporting to the Exchange of each reportable customer, pursuant to Rule 9A.33, and identified as an EFP within the Large Trader file format. The reporting of EFP transactions via Large Trader shall identify the reportable customer who executed the EFP and the kind and quantity of the futures cleared. Failure by an omnibus account or foreign broker to submit either the agreement or the particular EFP information to the Exchange may result in a hearing by the Business Conduct Committee to limit, condition or deny access of such omnibus account or foreign broker to the market.

6.21A Exchange of Futures for, or in Connection with, Swap Transactions

[Sections (A) – (C) are unchanged.]

(D) A report of EFS transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such submission shall be made by its inclusion with EFP transactions in the daily Large Trader Reporting to the Exchange, pursuant to Rule 9A.33, within the Large Trader file format. The reporting of EFS transactions via Large Trader shall identify the reportable customer who executed the EFS and the kind and quantity of the futures cleared.

[Section (E) is unchanged.]

(F) All omnibus accounts and foreign brokers shall submit a signed EFS reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department. Such Agreement shall provide that any omnibus account or foreign broker identified by a Clearing Member (or another omnibus account or foreign broker) as the buyer or seller of an EFS pursuant to Rule 6.21A(C), shall supply the name of its customer and such other information as the Exchange may require. A report of EFS transactions shall be submitted to the Exchange by each omnibus account and foreign broker representing the buyer and/or seller. Such submission shall be made by its inclusion with EFP transactions in the daily Large Trader Reporting to the Exchange, pursuant to Rule 9A.33, within the Large Trader file format. The reporting of EFS transactions via Large Trader shall identify the reportable customer who executed the EFS and the kind and quantity of the futures cleared. Failure by an omnibus account or foreign broker to submit either the agreement or the particular EFS information to the Exchange may result in a hearing by the Business Conduct Committee to limit condition, or deny access of such omnibus account or foreign broker to the market.

6.21B ~~[Reserved]~~ Exchange of NYMEX Futures

[Reserved]

6.21B.A. Exchange of NYMEX miNY Futures for, or in Connection with, NYMEX Futures Transactions

1. General Requirements. An exchange of futures for, or in connection with, mini futures (EFM) consists of two discrete, but related transactions: a purchase (sale) transaction in a NYMEX/COMEX miNY futures contract and a sale (purchase) transaction in the related NYMEX futures contract. At the time such transaction is effected, the buyer (seller) of the NYMEX/COMEX miNY shall be the seller (buyer) of the related NYMEX/COMEX futures contract in the ratio designated by the Board of Directors.
2. Final Deadline for Transactions. An EFM involving an expiring NYMEX/COMEX miNY futures contract month is permitted at any time up to and must be reported to the Exchange by the close of trading on the expiration date of the NYMEX/COMEX miNY contracts.
3. Contract Month and Quantity. An EFM transaction may only be effected for the same contract month in both of the applicable NYMEX/COMEX futures contracts. The quantity of contracts to be exchanged in the EFM transaction must be consistent with the size ratio then in effect between the applicable NYMEX/COMEX miNY NYMEX futures contract listed for trading on Globex® and the regular size NYMEX/COMEX contract listed for trading at NYMEX.
4. Transaction Price. An EFM transaction may be transacted at the settlement price for the Physical NYMEX/COMEX futures contract for the trading session in which the EFM transaction was reported to the Exchange, or at a differential to the settlement price for the Physical NYMEX/COMEX futures contract for the trading session in which the EFM transaction was reported to the Exchange.

5. Floor Reporting Requirements and Deadlines. A report of each EFM transaction must be given and notice thereof must be posted on the Floor of the Exchange. The report of an EFM transaction must be given on the Floor prior to the end of the trading session on the day that the agreement was made, or if such agreement was made after the close of trading, then during the trading session on the next business day.
6. Clearing. EFM transactions shall be cleared through the Exchange in accordance with normal procedures, shall be clearly identified and marked in the manner provided by the Exchange, and shall be recorded by the Exchange and by the Clearing Members involved.

6.21B.B. Exchange of NYMEX Cash Settled "Penultimate Big" Futures for, or in Connection with, NYMEX "Physical" Futures Transactions

1. General Requirements. An exchange of futures for, or in connection with, cash settled "Penultimate Big" futures (EFB) consists of two discrete, but related transactions; a purchase (sale) transaction in a NYMEX cash settled Penultimate Big futures contract and a sale (purchase) transaction in the related NYMEX "Physical" futures contract. At the time such transaction is effected, the buyer (seller) of the NYMEX cash settled Penultimate Big shall be the seller (buyer) of the related NYMEX Physical futures contract.
2. Final Deadline for Transactions. An EFB involving an expiring NYMEX cash settled Penultimate Big futures contract month is permitted at any time up to and must be reported to the Exchange by the close of trading on the expiration date of the NYMEX cash settled Penultimate Big Crude, Natural Gas, Heating Oil and RBOB Gasoline contracts.
3. Contract Month and Quantity. An EFB transaction may only be effected for the same contract month in both of the applicable NYMEX futures contracts.
4. Transaction Price. An EFB transaction may be transacted at the settlement price for the Physical NYMEX futures contract for the trading session in which the EFB transaction was reported to the Exchange or at a differential to the settlement price for the Physical NYMEX futures contract for the trading session preceding the session in which the EFB transaction was reported to the Exchange.
5. Floor Reporting Requirements and Deadlines. A report of each EFB transaction must be given and notice thereof must be posted on the Floor of the Exchange. The report of an EFB transaction must be given on the Floor prior to the end of the trading session on the day that the agreement was made, or if such agreement was made after the close of trading, then during the trading session on the next business day and otherwise in compliance with section (B) above.
6. Clearing. EFB transactions shall be cleared through the Exchange in accordance with normal procedures, shall be clearly identified and marked in the manner provided by the Exchange, and shall be recorded by the Exchange and by the Clearing Members involved.

6.21C Block Trades

[Sections (A)(1) – (A)(6) are unchanged.]

(7) Clearing members and members involved in the execution of block trades must maintain a complete record of the transaction in accordance with Exchange Rule 8.50.

[The remainder of the rule is unchanged.]

[As of 12/15/08, Section (7) will be amended as set forth below.]

(7) Clearing members and members involved in the execution of block trades must maintain a complete record of the transaction in accordance with Exchange Rule 6.01.

6.27 NYMEX Personnel – Limitation of Liability Reserved

(A) The Exchange shall provide employees in the NYMEX ACCESS@ Control Center ("NACC") and elsewhere to perform certain services for Members, Member Firms, Clearing Members, Electronic Traders and NYMEX ACCESS@ Operators with respect to NYMEX ACCESS@. Such employees may not always be available to assist Members, Member Firms, Clearing Members, Electronic Traders and NYMEX ACCESS@ Operators. The Exchange shall be liable when such employees negligently: (1) cancel, or fail to cancel, orders resting in NYMEX ACCESS@; (2) terminate an Electronic Trader's privileges, in which case only those orders that were resting in the system at the time of deactivation may be basis for an allowable claim; (3) fail to terminate an Electronic Trader's privileges pursuant to valid instructions, in which case those orders that were entered or matched after the instruction was received by the NACC, but before the NACC has had a reasonable period of time to act upon such instruction, shall not form the basis for an allowable claim; and (4) issue passwords to unauthorized persons.

(B) The liability of the Exchange for the above shall be limited as follows:

(1) \$10,000 for any single claim; and

(2) \$100,000 for all claims arising out of the negligent actions or failures to act of all NYMEX employees on any single day.

(C) A single claim shall mean a loss resulting from all actions or failures to act as described above that were performed negligently by all NYMEX employees with respect to a single order entered through NYMEX ACCESS@, or multiple orders entered through NYMEX ACCESS@ for a single customer. Such claim may be brought by the Member, Member Firm, Clearing Member, Electronic Trader or NYMEX ACCESS@ Operator who (or whose customer) was damaged.

(D) If the number of allowed claims arising out of the negligent actions or failures to act of all NYMEX employees on a single day cannot be fully satisfied because of the above limitations, all such claims shall be limited to a pro rata share of the maximum per day amount.

(E) **ARBITRATION OF CLAIMS**—A claim against the Exchange for the negligent actions or failures to act enumerated above of the NACC employees shall only be allowed if such claim is brought pursuant to and in accordance with this Rule.

(1) **Notice of Claim**

(a) A written notice of the claim, including the amount of the loss incurred as a result of the alleged negligent action, must be presented to the Exchange within ten days following the NYMEX ACCESS@ trading session during which the negligent action allegedly occurred.

(b) The Exchange shall have twenty days from receipt of such notice to satisfy, agree to pay subject to the limits in this Rule or dispute the claim. No payment in satisfaction of a claim may exceed the limits in this Rule. The Exchange shall notify the Member, Member Firm, Clearing Member, Electronic Trader or NYMEX ACCESS@ Operator if the Exchange disputes the claim.

(2) **Filing a Claim/Answer**

(a) A Member, Member Firm, Clearing Member, Electronic Trader or NYMEX ACCESS@ Operator shall file a formal claim, on behalf of itself or a customer, within twenty days of notification that the Exchange disputes the claim. Failure to file a formal claim shall result in dismissal of the claim.

(b) The Exchange shall file an answer within twenty days of receipt of a formal claim. Failure to file an answer shall constitute an admission of liability, and the Exchange shall be required to pay the amount of the claim; provided however, that no such payment may exceed the limits in this Rule.

(3) **Arbitration Panel**

(a) All disputed claims shall be submitted to an arbitration panel for binding arbitration. The panel shall consist of the three panelists selected from a list of arbitrators maintained by the National Futures Association ("NFA"). The claimant and the Exchange shall each select one panelist. The President of NFA shall choose the third panelist.

(b) No person shall serve as a panelist unless and until he has first pledged to the Exchange that he will not publish,

divulge, or make known in any manner, any facts or information regarding the business of any person or any other information which may come to his attention in his official capacity as a member of the panel, except when called upon to testify in any judicial or administrative proceeding.

(e) Each person serving on the panel shall comply with the standards of the American Bar Association American Arbitration Association's "Code of Ethics for Arbitrators in Commercial Disputes", incorporated herein by reference.

(d) No person shall serve on an arbitration panel if he has a personal or financial interest in the matter under consideration.

(4) Hearing

(a) The panel shall consider all relevant testimony and documents submitted by the claimant and the Exchange. Each party has the right to be present at the hearing, to be represented by counsel at his own expense, to examine all relevant documents prior to and during the hearing, to present all relevant evidence in support of or as rebuttal to a claim or defense, and to question witnesses during the hearing. Testimony shall be taken under oath or affirmation.

(b) The panel may require any Member, Member Firm, Clearing Member, Electronic Trader or NYMEX ACCESS@ Operator, or any person employed by or associated with a Member, Member Firm, Clearing Member or Electronic Trader, or persons employed by the Exchange or other persons having an interest in the claim, to appear, to testify or to produce relevant documents. The panel shall have the power to issue and enforce subpoenas in accordance with the procedures of the American Arbitration Association. Whenever such production or appearance results from the request of a party, all reasonable costs incurred shall be borne by the party making the request, unless directed otherwise by the panel.

(c) The panel shall be the sole judge of the law and the facts, but if the panel is in doubt as to any questions of law, it may refer the question to Exchange legal counsel for an opinion. The panel shall not be bound by the formal rules of evidence. Ex parte contacts by any of the parties with persons on the arbitration panel shall not be permitted.

(d) An audio recording of the proceeding shall be made and maintained until the decision becomes final. A verbatim record of such recording shall not be transcribed unless requested by a party, who shall bear the cost of transcription.

(5) Decision

(a) Within thirty days of a completed hearing, the panel shall issue a written decision. The amount of any award issued by the panel shall be limited to the lesser of the actual loss or the loss that would have occurred if the claimant had diligently taken all necessary actions to mitigate the loss. The decision of a majority of the panel shall be final, and there shall be no appeal.

(b) An award shall be satisfied within three business days of receipt of the notice of decision. However, a party may, within three business days, request the arbitration panel to modify or correct its decision when there has been an obvious material miscalculation or misdescription or where the decision is imperfect in a matter of form not affecting the merits of the controversy.

(6) Applicability of Commodity Exchange Act

Notwithstanding the foregoing, this Rule shall in no way limit the applicability of any provision of the Commodity Exchange Act or the CFTC's regulations.

6.30 Access to the Trading Floor

(A)(1) No one, except a Member or a Permit Holder person otherwise authorized by the Exchange acting subject to the conditions and restrictions of the applicable permits such authority, shall execute, or attempt to execute, any transaction on the floor of the Exchange, provided, however that an Electronic Trader or a NYMEX ACCESS@ Operator may enter orders into NYMEX ACCESS@ from a computer terminal that is placed in a specified location and such location has been approved by the Exchange.

[The remainder of the rule is unchanged.]

6.31 Trading Prohibition of Certain Persons

Members, Member Firms, ~~Permit Holders, Electronic Traders, Authorized Terminal Users,~~ Users and User Agents are prohibited from directly or indirectly accepting or executing an order or, accepting trades for clearance or maintaining positions in contracts, for the delivery of any commodity traded or otherwise listed for clearing on the Exchange if such Member, Member Firm, ~~Permit Holder, Electronic Trader, Authorized Terminal Users,~~ User or User Agent knows, or with the exercise of reasonable care, should know, that the transaction was executed or carried for or on behalf of:

(A) An employee or public director of the Exchange.

(B) An employee of another Member, Member Firm, ~~Electronic Trader~~ or User without the prior written consent of such employer;

(C) A floor clerk, messenger, ~~Authorized Terminal User who is not also designated as an Electronic Trader~~ or User Agent who is not also designated as a User;

~~(D) An employee of AT&T or its successor with any employment responsibilities directly associated with NYMEX ACCESS@; or~~

~~(E) An employee of TMI.~~

6.31A Trading Prohibitions for Exchange Employees

(A)(1) For the purpose of this Rule 6.31A, "employee" shall mean any person hired or otherwise employed on a salaried or on a contract basis by the Exchange, but does not include:

(i) Any governing board member, or functional equivalent thereof, compensated by a self-regulatory organization solely for governing board activities; or

(ii) Any committee member, or functional equivalent thereof, compensated by a self-regulatory organization solely for committee activities; or

(iii) Any consultant hired by a self-regulatory organization, ~~and as defined in NYMEX Rule 3.02.~~

[The remainder of the rule is unchanged.]

6.32 ~~Trading Prohibitions: Representatives of Other Clearing Members~~ Reserved

~~(A) No Clearing Member shall accept or execute any trade for an employee, representative, person in joint account, person in partnership with, another Member, Electronic Trader, Authorized Terminal User, User or User Agent or for any qualified floor trader guaranteed by another Clearing Member, without the prior written consent, filed with the Exchange, of such other Clearing Member and in the case of the partner without the prior written consent of such other Clearing Member's partner. In addition, a Clearing Member accepting or executing any trade for any of the aforementioned persons must send a duplicate confirmation of the trade to the individual or firm from which prior written consent must be obtained.~~

~~(B) Members of the Clearing House shall not solicit, or accept, selling or buying orders from any employee of the Exchange; nor finance any employee of the Exchange in carrying trades, in any manner.~~

~~(C) For the purpose of this rule the Chairman of the Board, members of the Board and members of all Exchange Committees are not considered to be employees of the Exchange.~~

6.40C Average Price System ~~Calculations by Futures Commission Merchants~~

6.40C.A. Application of Average Prices

A proprietary Average Price System ("APS") developed by a clearing member allows a clearing member to confirm to customers an average price when multiple execution prices are received on an order or series of orders for futures, options or combination transactions. An order or series of orders executed during the same trading day at more than one price may be averaged pursuant to APS only if each order is for the same account or group of accounts and for the same product and expiration month for futures, or for the same product, expiration month, put/call and strike price for options.

6.40C.B. Requirements for APS Trades

The requirements enumerated below must be met for APS transactions.

1. The customer must have requested average price reporting.
2. Each individual trade must be submitted and cleared by the Exchange at the executed price.
3. A clearing member must compute and confirm the weighted mathematical average price, as set forth in Section C.
4. A clearing member must possess the records to support the calculations and allocations to customer accounts and must maintain these records pursuant to CFTC regulations.
5. A clearing member must ensure that its proprietary trades are not averaged with customer APS trades.

6.40C.C. Computation of Average Price

Upon receipt of an execution or match at multiple prices for an APS order, the weighted mathematical average must be computed by: (a) multiplying the number of contracts purchased or sold at each execution price by that price, (b) adding the results together and (c) dividing by the total number of contracts. An average price for a series of orders will be computed based on the average prices of each order in that series. The actual average price or the average price rounded to the next price increment may be confirmed to customers. If a clearing member confirms the rounded average price, the clearing member must round the average price up to the next price increment for a buy order or down to the next price increment for a sell order. The residual created by the rounding process must be paid to the customer. APS may produce prices that do not conform to whole cent increments. In such cases, any amounts less than one cent may be retained by the clearing member.

6.40C.D. Disclosure

Each clearing member that confirms an average price to a customer must indicate on the confirmation and monthly statement that the price represents an average price.

~~(A) Eligible Accounts. An FCM, subject to compliance with the conditions specified in this rule, may report and/or confirm to customers an average of multiple execution prices and may use its own proprietary system to make such average price calculations, regardless of whether the Exchange also provides a service for average price calculations for the applicable NYMEX Division contract, provided:~~

~~(a) that such prices were obtained as the result of the execution of an order or series of orders to purchase or sell the same futures and/or the same option series for the same account or group of accounts; or~~

~~(b) that such prices were obtained as the result of the execution of trades to purchase or sell the same futures and/or the same option series for the FCM's proprietary account(s), provided further however, that trades for such a proprietary account are not averaged with trades for any other account.~~

~~For purposes of this rule, eligible accounts may include multiple accounts that are part of a managed account program or other common investment program. Eligible accounts may include individual non-discretionary accounts, except that prices for non-discretionary accounts may not be averaged with prices for other non-discretionary accounts. Eligible accounts also may include individual discretionary accounts consistent with the provisions of Exchange Rule 6.41.~~

~~(B) An FCM may use its own system to calculate average prices for contracts executed on the Exchange provided that the following conditions are met for all such transactions:~~

- ~~1. The customer has requested average price reporting;~~
- ~~2. Each individual trade is submitted to and cleared by the Exchange at the executed price;~~
- ~~3. The FCM calculates and confirms to its customers a weighted mathematical average price, as calculated pursuant to the requirements of Section (C) below;~~
- ~~4. The FCM possesses the records to support the calculations and the allocations to customer accounts and maintains all such records pursuant to CFTC regulations and further makes such records available for inspection by affected customers upon request; and~~
- ~~5. The FCM identifies each trade to which an average price is assigned as having an average price on each confirmation statement and monthly statement on which the trade is reported to the customer.~~

~~(C) Calculation of Average Price. The weighted mathematical average price shall be computed by FCMs by:~~

- (a) multiplying the number of contracts purchased or sold at each execution price by that price;
- (b) adding the results together; and
- (c) dividing by the total number of contracts.

For a series of orders, the average price may be computed based on the average price of each order in that series.

FCMs may confirm to customers either the actual average price or the average price rounded to the next price increment, provided however, that in confirming the average price rounded to the next price increment, the FCM must round the average price up to the next price increment for a buy order or down to the next price increment for a sell order, and must pay any residual thus created to the customer, except that any residual amount of less than one cent may be retained by the FCM.

6.41 Trading Standards for Floor Brokers

[Sections (A) and (B) are unchanged.]

(C) No Trading Member shall execute any transaction or place an order in ~~NYMEX ACCESS®~~ for any account of another person for which buying or selling orders can be placed or originated or for which transactions can be executed by such member, without the prior specific consent of such other person (hereinafter referred to as "discretionary orders") regardless of whether the general authorization for such orders or transactions is pursuant to a written agreement, except that discretionary orders may be placed with another Member for execution.

[The remainder of the rule is unchanged.]

6.44 Registration for Billing of Floor and ~~NYMEX ACCESS®~~

[Sections A. – C. are unchanged.]

(D) It will be an ~~major~~ offense for any Member to receive payment for brokerage services rendered, unless duly registered with the Exchange as described herein. All brokerage must be billed through ATOM, as described in Rule ~~8519.37~~ Required Use of ATOM by Clearing Members and Floor Brokers.

E. It will be an ~~major~~ offense for any Member, Electronic Trader or Member Firm to pay non-registered entities for brokerage services rendered. It is the obligation of all Members, Member Firms and Electronic Traders to confirm that the brokerage businesses it utilizes are so registered with the Exchange.

F. For the purposes of this rule, the terms "Member" shall include Class A shareholders of the Exchange with floor or ~~ACCESS®~~ trading privileges on the Exchange and persons with floor trading privileges leasing trading rights from Class A members of the Exchange. "Member", "Member Firm" and "Floor Member" shall include COMEX Members who have NYMEX Division trading privileges, provided that the floor brokerage billed is limited to the NYMEX Division markets for which they have trading privileges to execute customer orders.

[The remainder of the rule is unchanged.]

6.50 Settlement Prices ~~Reserved~~

Except as provided in Rule 6.50A and Rule 11.37, the settlement price for each commodity futures contract shall be determined by the Settlement Price Committee using the procedures set forth in Rule ~~§§6.52 through 6.54~~, and for each commodity options contract using the procedures set forth in Rule ~~§6.55~~.

6.50A Settlement Prices for Contracts Accepted for Clearing that are Not Executed on the Exchange ~~Reserved~~

(A) The terms of this rule shall generally govern the establishment of settlement prices for contracts that are not listed for trading at the Exchange and are accepted for clearing.

(1) For cash settled contracts, this rule shall govern only for trade dates other than the final day in an expiring contract month, and final settlement following termination in an expiring contract month in such contracts shall be

~~determined in accordance with the chapter of rules for the applicable contract.~~

~~(2) For contracts involving physical delivery, this rule shall govern the establishment of settlement prices on every trade date for such contracts, including the final day of an expiring contract month. The Exchange presently provides clearing services for the following physical delivery contracts that are not listed for trading on the Exchange:~~

~~Light Louisiana Sweet Crude Oil
West Texas Sour Crude Oil
West Texas Intermediate-Midland Crude Oil
Mars Blend Crude Oil
Mid-Columbia Electricity
Palo Verde Electricity
PJM Electricity~~

~~(3) The Henry Hub Swap futures contract shall not be settled pursuant to this rule but rather shall be settled pursuant to the provisions of NYMEX Rule 6.52 ("Settlement Prices for Natural Gas Futures Contracts.") The Henry Hub Basis Swap futures contract shall be settled pursuant to the provisions of this rule.~~

~~(B) The settlement prices established pursuant to this rule 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").~~

~~(C) Except with respect to the contracts listed in Section (D) below, for each remaining contract, Staff in its sole discretion and judgment shall determine settlement prices for purposes of clearing and settlement for that contract. Staff shall determine such prices by considering market information deemed to be appropriate, and such information may include, but is not limited to:~~

- ~~(1) price data obtained from a cross-section of over-the-counter ("OTC") brokers collectively representing buyers and sellers in OTC markets;~~
- ~~(2) price data obtained from OTC market participants, considering both buyers and sellers in such markets;~~
- ~~(3) price data from other sources deemed to be reliable and accurate; and~~
- ~~(4) other relevant data and information.~~

~~(D) With respect to the contracts listed below, Staff shall determine settlement prices for purposes of clearing and settlement for that contract based upon settlement prices for the applicable futures contract trading on the Exchange:~~

~~West Texas Intermediate Crude Oil Calendar Swap
New York Harbor No. 2 Heating Oil Crack Calendar Swap
New York Harbor Unleaded Gasoline Crack Calendar Swap~~

~~(E) Following determination of the settlement prices for a contract pursuant to this rule, such prices shall be utilized in clearing and settlement in accordance with Exchange procedures and operations.~~

6.51 Settlement Price Committee Reserved

~~(A) Except as provided in Subsection (B) below, the Settlement Price Committee, which shall be a Regular Committee, shall consist of such members, permittees and representatives of non-member firms as the Chairman may appoint with the consent of the Board. Additionally, one (1) Exchange employee will be a voting member of the Committee in the PJM electricity futures contract, calendar spread options and crack spread options. The Exchange employee shall have final authority in all instances to veto and override price determinations made by the Committee. Further, in the Natural Gas, Crude Oil, Heating Oil, Unleaded Gasoline, and New York Harbor Gasoline Blendstock (RBOB) Futures contracts, an Exchange employee shall be a voting member of the Committee and shall have the right and authority to veto and override any decision by the Committee in conformance with Exchange Rule 6.52A(D) and 6.52 respectively. The Committee shall be divided into sub-committees for each futures and options contract traded. To the extent possible, each sub-committee shall consist of at least six (6) Members, at least one of whom shall be a Floor Broker, one of whom shall be a Floor Trader, and one of whom shall represent trade interests (either personal, of his employer, or of a substantial customer base).~~

~~(B) For all futures and options contracts traded solely on NYMEX ACCESS® or NYMEX Clearport® Trading, the Settlement Price Committee shall consist of such Exchange employees as the President shall designate from time to~~

time and such Members, Non Members, and representatives of Member and Non Member firms as may be appointed by the Chairman and approved by the Board.

(C) At the conclusion of the RTH trading session on the Exchange Floor each day, settlement prices shall be determined for every contract listed.

(D) The Settlement Price Committee, or any subcommittee thereof, shall have the authority to request from any member representing that certain market information should be considered in the determination of a settlement price, such documentation as it deems appropriate including, but not limited to, trading cards or records created using an Approved Handheld, and order tickets.

6.52 Settlement Prices for Crude Oil, Heating Oil, Gasoline, and New York Harbor Gasoline Blendstock (RBOB) Futures Contracts Reserved

(A) For crude oil, heating oil, gasoline, and New York Harbor Gasoline Blendstock (RBOB) futures contracts, the settlement price for each delivery month that:

(1) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and

(2) for which 30% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation, volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range.

(3) Additionally, TAS volume, if applicable, shall not be included as closing range volume for the purpose of item (2) above, to determine percentage of closing range volume in a delivery month. TAS volume shall not be used to calculate settlement.

(4) Notwithstanding the qualifications cited in items 1-3 above, the current delivery month or spot month will always be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically. Further, a month which may qualify for weighted average treatment pursuant to items 1-3 above, that is also eligible for TAS transactions, will be disqualified from weighted average treatment if the closing range volume in the contract month is not at least 25% of the TAS volume in such contract month.

(B) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (A), the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgement of the Settlement Price Committee with:

(a) greatest weight given to spreads executed on the trading floor by open outcry late in the trading day in large volumes, and

(b) lesser weight given to

(i) spreads traded on the trading floor by open outcry in lesser volumes,

(ii) spread bids and offers actively represented on the trading floor by open outcry late in the trading day, and

(iii) spread transactions, bids and offers from earlier in the trading day on the trading floor by open outcry, provided that, in any circumstance where the Committee is considering bids and offers for spreads, it shall consider the midpoint of the best bid and best offer and not the individual best bid or best offer. In the event of a "price spike in the closing range" in any contract month where the settlement price is determined by weighted average according to the open interest and volume criteria set forth in paragraph (A), the Settlement Price Committee may disregard the settlement price for a spiked month in considering spread relationships pursuant to this paragraph. For the purpose of this rule, a "price spike in the closing range" shall have occurred if, in the sole discretion of the Settlement Price Committee, a significant change in the spread relationships between the "spiked month" and the contract months immediately preceding and following such month occurred during the closing range. Notwithstanding the foregoing, no settlement price shall be established that would be lower than the best bid, or higher than the best offer that: (a)

was for at least 100 contracts for outright or at least 200 contracts for spreads in crude oil futures contracts or for at least 50 contracts (outright or spreads) for heating oil or gasoline futures contracts or for at least 10 contracts for coal futures, and (b) had been posted with the Exchange and remained available for execution and unfilled for the final fifteen (15) minutes of trading.

(C) If any settlement price, determined pursuant to paragraphs (A) or (B), is inconsistent with transactions that occurred during the closing range in other delivery months of the same futures contract or with market information known to the Settlement Price Committee, (including, but not limited to, either floor trading or electronic trading, (i) bids or offers for outright transactions and spreads that were unfilled during the closing range, (ii) bids, offers or transactions in strips, and (iii) outright transactions executed prior to the closing range) the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event the Committee shall prepare a written record of the basis for any settlement price so established.

(D) In the event that the Settlement Price Committee establishes a settlement price in accordance with paragraph (C) of this Rule; determines that a "price spike in the closing range occurred", in accordance with paragraph (B) of this Rule; or fails to determine a settlement price by unanimous agreement of the six Members designated by the Chairman to establish settlement prices pursuant to Rule 6.51, the Committee shall prepare a written record of the basis upon which it established such settlement price.

(E) Notwithstanding the above, the settlement price for the last day of trading in a contract month in the Exchange's Brent Crude Oil futures contract shall be determined in accordance with the rules in NYMEX Chapter 205 (Brent Crude Oil Futures Contract). Further, the settlement price used as the price for delivery for the Northwest Europe Gasoil futures contract shall be the final settlement price for the business day prior to the last trading day of the expiring delivery month.

6.52A Settlement Prices for Natural Gas Futures Contracts Reserved

Settlement prices will be determined as follows:

(A) The settlement price for each delivery month that: (1) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and (2) for which 30% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. (3) Additionally, trading at settlement (TAS) volume, if applicable, shall not be included as closing range volume for the purpose of item (2) above, to determine percentage of closing range volume in a delivery month. TAS volume shall not be used to calculate settlement.

(B) Notwithstanding the qualifications cited in items 1-3 above, the current delivery month or spot month will always be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically. Further, a month which may qualify for weighted average treatment pursuant to items 1-3 above, that is also eligible for TAS transactions, will be disqualified from weighted average treatment if the closing range volume in the contract month is not at least 25% of the TAS volume in such contract month.

(C) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (A), the settlement price, shall be determined in the best judgment of the Settlement Committee based upon trades or orders that are bid/offered and posted pursuant to prescribed procedures in the last 30 minutes of trading on the trading floor by open outcry: outright for a volume of 100 lots in any of the first 24 listed contract months, or outright for a volume of 100 lots beyond the 24th contract month that have reached a minimum open interest of 10,000 contracts based upon the open interest published at noon on a trading day; intracommodity spreads for a volume of 100 lots/month; and intracommodity strips for a volume of 30 lots/month for a yearly or 50 lots/month for a seasonal. Priority will be given first to outright, then spreads, then strips, that meet the criteria above. Provided further, that an order that met the original volume requirement and was partially filled with the balance still open, will be honored. Additionally, Floor Members posting any orders shall be held to filling them unless the order was cancelled during the posting period with appropriate notice to the market. Cancelled orders will not be honored for settlement purposes.

(D) For any contract months not otherwise addressed in Sections (A) and (B) of this rule, or if any settlement price, determined pursuant to paragraphs (A) or (B), is inconsistent with transactions that occurred during the closing range

in other delivery months of the same futures contract or with market information known to the Settlement Price Committee, (including, but not limited to, either floor trading or electronic trading), the Settlement Price Committee shall be bound to consider all relevant available data but shall not be bound by data from any one type of market information. Such other market information includes but is not limited to the following:

Executed trades, bids or offers for outrights, spreads and strips provided before the last 30 minutes of the trading day transactions including both floor trading and Electronic Trading, an Exchange settlement price model, and relevant OTC market data as further specified below;

The Exchange settlement price model will be calibrated so that it is generally mathematically consistent with market price information provided through Sections (A) and (B);

OTC market quotes, if available, may be considered for outrights, spreads and strips supplied by OTC brokers who are registered with NYMEX for NYMEX Clearport® Clearing;

The Committee shall prepare a written record for any settlement price determined pursuant to Section (C) of this rule. (E) A NYMEX staff member will be a voting member of the Settlement Price Committee with the ability to veto and change any determination by the Committee if the priorities cited in Sections (A), (B), or the exercise of judgment in Section (B) or the exercise of judgment based upon available data in Section (C) of this rule are not adhered to in the best judgment of the staff member.

(F) Notwithstanding the above, the settlement price for a delivery month in the Henry Hub Swap futures contract will be the settlement price for the corresponding delivery month in the Natural Gas futures contract, provided however that the final settlement for an expiring delivery month in the Henry Hub Swap futures contract will be determined in accordance with the terms of Chapter 225 (Henry Hub Swap).

6.52B Settlement Prices for Propane Gas Products Reserved

(A) For each propane futures contract, the settlement price for each delivery month that: (1) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and (2) for which 30% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation volume done during the closing range on the last day of trading in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If there are no such transactions in the closing range, the settlement price shall be the last trade price, unless a bid higher or offer lower than the last trade price is made in the closing range. Such higher bid or lower offer shall be the settlement price.

(B) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (A), the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Settlement Price Committee with: (a) greatest weight given to spreads executed on the trading floor by open outcry late in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded on the trading floor by open outcry in lesser volumes, (ii) spread bids and offers actively represented on the trading floor by open outcry late in the trading day, and (iii) spread transactions, bids and offers from earlier in the trading day on the trading floor by open outcry.

(C) If any settlement price, determined pursuant to paragraphs (A) or (B), is inconsistent with transactions that occurred during the closing range in other delivery months of the same futures contract or with market information known to the Settlement Price Committee, (including, but not limited to, either floor trading or electronic trading, (i) bids or offers for outright transactions and spreads that were unfilled during the closing range, (ii) bids, offers or transactions in strips, and (iii) outright transactions executed prior to the closing range) the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event, the Settlement Committee shall prepare a written record of the basis for any settlement price so established.

6.52C Settlement Prices for PJM Electricity Monthly Futures Contract Reserved

(A) For each PJM Electricity Monthly futures contract, the settlement price for each delivery month that: (1) as of the opening of business for that day has more than ten percent (10%) of the total open interest for all delivery months of the futures contract and (2) for which 10% of the closing range volume in that commodity is done in that delivery month (excluding, for the purposes of this calculation volume done during the closing range on the last day of trading

in an expiring contract), shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions in that delivery month which occur in the closing range.

(B) In all other delivery months for such futures contracts that do not satisfy the open interest and volume criteria set forth in paragraph (A), the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Settlement Price Committee with: (a) greatest weight given to spreads or strips executed late in the trading day in large volumes, and (b) lesser weight given to (i) spreads or strips traded in lesser volumes, (ii) spread or strip bids and offers actively represented late in the trading day, and (iii) spread or strip transactions, bids and offers from earlier in the trading day. Notwithstanding the foregoing, no settlement price shall be established that would be lower than the best bid, or higher than the best offer that: (a) was for at least 20 contracts for outrights or 20 contracts for spreads, and (b) had been posted with the Exchange and remained available for execution and unfilled for the final twenty (20) minutes of trading.

(C) If any settlement price, determined pursuant to paragraphs (A) or (B), is inconsistent with transactions that occurred during the closing range in other delivery months of the same futures contract or with market information known to the Settlement Price Committee, (including, but not limited to, (i) bids or offers for outright transactions and spreads that were unfilled during the closing range, (ii) bids, offers or transactions in strips, and (iii) outright transactions executed prior to the closing range) the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event the Committee shall prepare a written record of the basis for any settlement price so established.

6.52E Settlement Prices – e-miNY Contracts Reserved

(A) Crude Oil e-miNY: The settlement price for each contract month will be equal to the NYMEX Light, Sweet Crude Oil Futures contract settlement price for the corresponding contract month.

(B) Natural Gas e-miNY: The settlement price for each contract month will be equal to the NYMEX Natural Gas futures contract settlement price for the corresponding contract month.

6.53 Settlement Price Procedures for Platinum and Palladium Contracts Reserved

(A)(i) The term "base month" shall mean, with respect to Platinum, the January, April, July or October delivery months and, with respect to Palladium, the March, June, September, or December delivery months; (ii) The term "most active month" shall mean the nearest base month that has the largest daily trading volume, provided however, that if a base month other than the nearest base month has larger daily trading volume on any day, the most active month shall be such base month until the daily trading volume in such month is less than the next succeeding base month.

(B) The settlement price for the most active month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions that occur in the closing range including both trades executed on the trading floor by open outcry and trades executed electronically. If no outright transactions occur in the closing range, the settlement price shall be the last trade price, unless during the closing range a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.

(C) The settlement prices of all delivery months other than the most active month shall be the price relationships established by spread differentials between such most active month and such other month executed on the trading floor by open outcry. Spread differentials shall be determined by the last spread transaction. If no spread transaction occurred on such day such differential shall be the average of the last bid and offer for such spread. If no spread transactions have occurred on such day and there were no bids or offers for such spread on such day, the spread differential shall be the spread differential of the settlement prices for the previous business day.

(D) If any settlement price, determined pursuant to Paragraphs (B) or (C), is inconsistent with transactions that occurred during the closing range for other delivery months of the same futures contract or with other market information known to the Committee including but not limited to, either floor trading or electronic trading, the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event, the Committee shall prepare a written record of the basis for any settlement price so established.

(E) **Daily Settlement Prices for NYMEX Asian Platinum and Palladium Futures Contracts.** This Section (E) shall apply for determination of settlements prices for all trading days of a listed contract month in the applicable NYMEX

~~Asian futures contract 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) The settlement price for each NYMEX Asian Platinum contract month that is also listed for floor trading will be equal to the Platinum 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 500 grams. The settlement price for each NYMEX Asian Palladium contract month that is also listed for floor trading will be equal to the Palladium 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 500 grams.~~

~~(2) The settlement price for any contract month of a NYMEX Asian 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.~~

6.54 Settlement Prices for Potato Contracts Reserved

~~(A) The settlement price for each delivery month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions occurring in the closing range.~~

~~(B) If there are no transactions in the closing range, the settlement price shall be the last sale price, unless a bid higher or offer lower than the last sale price is made in the closing range. In that event, such higher bid or lower offer shall be the settlement price.~~

~~(C) If any settlement price, determined pursuant to Paragraphs (A) or (B), is inconsistent with transactions in other delivery months during the closing range or with market information known to the Settlement Price Committee, the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event the Committee shall prepare a written record of the basis for any settlement price so established.~~

6.55 Options Settlement Premiums Reserved

~~The Settlement premiums for option series shall be determined upon the following procedures:~~

~~(A) With the exception of the day of expiration, option settlement premiums shall be determined in accordance with the following:~~

~~1. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium shall be based on, but not limited to, (i) the price traded, (ii) volume traded, (iii) the underlying futures price, (iv) the bid/offer spread on the underlying future, and (v) the length of time between a trade and the close of trading.~~

~~2. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium will be determined consistent with the corresponding put (call) using an appropriate option pricing model.~~

~~3. A) For Natural Gas and European Natural Gas Options: Orders that are bid/offered and posted pursuant to prescribed procedures at least fifteen (15) minutes before the close and throughout the closing range shall be considered for settlement by the Settlement Committee (the "Committee") according to the following priority: Outrights for at least 200 lots, then Straddles for at least 100 lots, then Spreads for at least 200 lots, then strips which have a cumulative total of at least 250 lots. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid offer if requested by the Committee. Further, the Committee shall not consider any posted order referenced above which does not effect the output of the appropriate options pricing model at least three (3) ticks when settling the market _____ on _____ any _____ day.~~

~~B) For Crude Oil and European Crude Oil Options: Orders that are bid/offered and posted pursuant to prescribed~~

~~procedures at least fifteen (15) minutes before the close and throughout the closing range shall be considered for settlement by the Settlement Committee (the "Committee") according to the following priority: Outrights for at least 200 lots, then Straddles for at least 100 lots, then Spreads for at least 200 lots, then strips which have a cumulative total of at least 250 lots. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid offer if requested by the Committee. Further, the Committee shall not consider any posted order referenced above which does not effect the output of the appropriate options pricing model at least three (3) ticks when settling the market on any day.~~

~~C) For Calendar Spread Options: Orders that are bid/offered and posted pursuant to prescribed procedures at least fifteen (15) minutes before the close and throughout the closing range shall be considered for settlement by the Settlement Committee (the "Committee") according to the following priority: Outrights for at least 100 lots, then Straddles for at least 50 lots, then Spreads for at least 100 lots, then strips which have a cumulative total of at least 150 lots. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid offer if requested by the Committee. Further, the Committee shall not consider any posted order referenced above which does not effect the output of the appropriate options pricing model at least three (3) ticks when settling the market on any day.~~

~~D) For all other Options: Bids and offers for twenty-five (25) lots or more that have been posted at least ten (10) minutes before the close and throughout the closing range shall be considered for settlement, unless the Settlement Price Committee ("Committee") determines that it is unreasonable to do so given spread relationships at the close of trading. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid offer if requested by the Committee.~~

~~4. The Committee shall endeavor to use its best efforts to maintain appropriate price spread relationships between and within listed months.~~

~~B. On the day of option expiration, the option settlement premium shall be determined in accordance with the following:~~

~~1. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract the option settlement premium shall be the minimum tick size.~~

~~2. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract, the option settlement premium shall be determined on the basis of the absolute difference between the futures price and the strike price.~~

~~(C) If, using the procedures specified in Subsections (A) or (B) above, a settlement premium being considered for a particular option would not be consistent with (1) trades made during the closing range in other option series on the same underlying future, (2) the settlement price of the underlying future, or (3) market information (including but not limited to either open outcry trading or electronic trading) that is either known by Committee members or brought to their attention by Exchange officials, then the Committee may establish a settlement premium that is consistent with other trades, the settlement price of the underlying future, or market information. In all instances in which the Committee establishes a settlement premium pursuant to this Section (C), the Committee shall prepare a written record setting forth the basis for such settlement premium.~~

~~(D) After settlements for all contract months for a particular contract are completed by the Settlement Price Committee, there will be a ten minute period where members can object to a particular settlement. Following this ten minute period, members may no longer make objections to the settlement premiums.~~

6.60 Floor Offenses

[Sections (A) – (G) are unchanged.]

~~(H) The Floor Committee shall have the power to enforce this Rule as a Summary Action Rule.~~

Chapter 7 Metals Rules – NYMEX Division & COMEX Division

7.06 Rules for Warehouses Licensed for Storage of Metals

[Sections (a) – (g) are unchanged.]

(h) Each warehouse designated by the Exchange for the storage of aluminum, for which a warehouse receipt (warrant) has been issued, shall be responsible for the custody and safekeeping of the Chemical Analysis referred to in Rule 123.11, "Chemical Analysis", of the Aluminum Futures Contract. Such Chemical Analysis shall be maintained by the warehouse for a minimum period of five (5) years from the date of issue of the warehouse receipt or until such time that all the aluminum for which a warehouse receipt has been issued, whose quality is represented by that Chemical Analysis, has been shipped from the warehouse.

[The remainder of the rule is unchanged.]

Chapter 7a Metals Rules for Electronic Warrants

7A.02 DESIGNATION AND OBLIGATIONS OF SERVICE PROVIDERS

[Sections (A) – (B)(3) are unchanged.]

(4) Licensed Weighmaster. Commodities shall be weighed only by Licensed Weighmasters designated by the Exchange. The Licensed Weighmaster shall generate a Weight Certificate which complies with the specifications set forth in Rule 7A.01(gggs).

[The remainder of the rule is unchanged.]

7A.07 Obligations in Delivery and Dispute Resolution

[Sections (A) – (C) are unchanged.]

(D) Any claim for damages arising between a Buyer and a Seller, as a result of a delivery pursuant to this Chapter, shall be governed by the arbitration rules of the Exchange Chapter 5 of the NYMEX Rules except that the Chairperson of the Exchange or his designee shall appoint an Arbitration Panel composed of three Members of the Exchange.

Chapter 8 Disciplinary Rules

[Current NYMEX Chapter 8 is being replaced by new NYMEX Chapter 4 – Enforcement of Rules, and NYMEX Chapter 8 will become Clearing House and Performance Bonds]

8.00 Compliance Department

~~(A) All Class A Members, COMEX Division Members, Class A Member Firms, COMEX Division Member Firms, COMEX Division Option Members, COMEX Division Option Member Firms, COMEX Division Aluminum Members, Permit Holders, and Electronic Traders shall be subject to the jurisdiction of the Exchange for purposes of Chapter 8 of these Rules. For purposes of Chapter 8 of these Rules, except as stated otherwise in said rules or in these definitions, the following definitions shall apply: (i) the term "Member" shall include Class A Members, COMEX Division Members, COMEX Division Option Members, COMEX Division Aluminum Members, Permit Holders, Electronic Traders and Authorized Terminal Users who are also designated as Electronic Traders; (ii) the term "Member Firm" shall include Class A Member Firms, COMEX Division Member Firms, COMEX Division Option Member Firms, COMEX Division Aluminum Member Firms, NYMEX ACCESS@ Trade Firms and other entities with electronic trading privileges; and (iii) the term "employees of Members" shall include Authorized Terminal Users and clerks. Use of the term Member, as set forth herein, shall not connote Membership privileges for purposes of the Delaware General Corporate Law or any other applicable law, nor shall the use of the term Member in the definitions or the rules connote any of the Membership privileges as are specifically set forth in the Bylaws of the Exchange. Notwithstanding the above, a User or User Agent as both terms are defined in Chapter 11 of an Alternative Electronic Trading System who is neither a Member nor a Member Firm shall not be subject to the jurisdiction of the Exchange~~

for purposes of Chapter 8 of these Rules except as provided in Rule 8.99B (Summary Procedures for Denial of Access to Specified Alternative Electronic Trading System). For the purposes of this rule, the term "Alternative Electronic Trading System" shall mean any electronic trading system other than NYMEX ACCESS@ on which NYMEX Division or COMEX Division products are traded, but not including GLOBEX@.

(B) The Compliance Department shall consist of employees of the Exchange. Such employees may not be Members or persons otherwise subject to the jurisdiction of Chapter 8 of these Rules. The Exchange may also hire persons (who shall not be members or persons otherwise subject to the jurisdiction of Chapter 8 of these Rules) to assist the Compliance Department in carrying out its functions.

(C) The Compliance Department shall conduct investigations of Rule violations and suspected Rule violations.

(D) During the investigation of a Rule violation by the Compliance Department, the involved Member, or Member Firm or employee of the foregoing shall be advised of the investigation and permitted to present to the Compliance Department any facts which tend to exculpate the Member, Member Firm or employee of the foregoing and any defenses such person or entity may have. Any interview shall be conducted at the time, place and in the manner designated by the Compliance Department. For the purpose of any interview conducted pursuant to this sub-section (D), a Member, Member Firm or employee of any of the foregoing must be informed, in writing prior to the interview that he may have counsel present at the interview. However, procedures governing the conduct of the interview including the limitation on adjournments granted to accommodate an interviewee's counsel schedule to reasonable periods of time, shall be determined by the Compliance Department. Any interview conducted by the Compliance Department may be tape recorded or transcribed stenographically at the election of the Compliance Department.

(E) The Compliance Department shall investigate the conduct and transactions of Members, Member Firms and employees of any of the foregoing and may examine the books and records of Members, Member Firms and employees of the foregoing. Members, Member Firms and employees of any of the foregoing shall make their books and records available to the Compliance Department and shall respond to all inquiries of the Compliance Department at the time, place, and in the manner designated by the Compliance Department.

(F) The Compliance Department may issue warning letters to persons under investigation informing them that there may have been a rule violation and that such continued activity may result in more severe disciplinary sanctions. Such warning letter is not a penalty nor is it an indication that a finding of a rule violation has been made.

8.01 Investigative Report

When an investigation is completed, the Compliance Department or the Audit Department shall prepare an Investigative Report to be submitted to the Business Conduct Committee or the Clearing House Committee, as appropriate. The Investigative Report shall be in writing and shall set forth the reason the investigation was initiated, the relevant facts, and the conclusions and recommendations of the Compliance Department or Audit Department.

8.02 Business Conduct Committee

(A) Each Panel of the Business Conduct Committee shall have the power to direct the Compliance Department to investigate any suspected Rule violation within its jurisdiction.

(B) A Panel of the Business Conduct Committee shall meet at least monthly to review Investigative Reports. A member of a Panel of the Business Conduct Committee shall excuse himself from such review where he, or any person with whom he is affiliated, has a direct financial, personal or other interest in the matter under consideration.

(C) Each Panel of the Business Conduct Committee shall permit the Member, Member Firm or employee of any of the foregoing or any other person that is a subject of investigation (collectively, "Subjects") to present evidence on his or its behalf. Such presentation shall be conducted pursuant to the following procedures: the Investigative Report shall be provided by the Compliance Department to the Subject named in the report. The Subject may submit to the Panel a written statement together with any supporting documentation which is relevant to the investigation. Such statement shall be submitted to the Panel through the Compliance Department not later than 5 business days following service of the Investigative Report from the Compliance Department. Service on a Subject shall be complete when either personally delivered to the Subject named in the Investigative Report; or by first class or certified mail, or by use of a generally recognized overnight delivery service to the Subject at the last address filed with the Exchange. Filing with the Exchange shall be complete when either personally delivered to the offices of the Compliance Department or when actually received by the Compliance Department if sent by first class mail to the Exchange.

(D) The Compliance Department shall be present during the Panel's review of an Investigative Report, and shall respond to all inquiries of the Panel. Members, Member Firms or employees of any of the foregoing who have submitted a written response to the Panel in the manner set forth in Section (C) of this Rule, may, after the presentation of the Compliance Department's report and before deliberations of the Panel, personally appear before the Panel with the Compliance Department present, either with or without counsel, to make an oral presentation relevant to the Panel's review of the investigative report, and may answer any questions posed by the Panel provided, however, that the presentation be limited to matters raised in the written response submitted pursuant to Section (C) of this Rule.

(E) If the Panel concludes that a reasonable basis exists for finding a Rule violation occurred, it shall direct the Compliance Department to advise the Member, Member Firm or employee of any of the foregoing of that fact and take any one of the following actions:

(i) refer the matter to the Compliance Department with instructions for further action;

(ii) issue a warning letter to the Member, Member Firm or employee of any of the foregoing; or

(iii) direct the Compliance Department to issue a complaint

8.03 Settlements

(A) When the Compliance Department concludes that a Rule violation has occurred, and at any time prior to the submission of an Investigative Report to the Business Conduct Committee, the Compliance Department may negotiate with the Respondent and enter into a written Offer of Settlement with the Respondent. The Respondent may agree, without admitting or denying a Rule violation, to an Offer of Settlement which may provide for a cease and desist order, a censure, an order directing restitution to any injured person, a fine of not more than \$10,000 for each Rule violation alleged, or any combination of such penalties. Any such settlement is subject to the approval of the Business Conduct Committee.

(B) Concurrent with the review and consideration of an Investigative Report, a Panel of the Business Conduct Committee may also approve Offers of Settlement which have been submitted by the Respondent and recommended by the Compliance Department ("Joint Offers of Settlement") or have been unilaterally submitted by the Respondent ("Unilateral Offers of Settlement"). However, prior to the Respondent's submission of a Unilateral Offer of Settlement, the Respondent shall be required to file a written copy of the Unilateral Offer of Settlement with the Compliance Department. Thereafter, the Compliance Department may submit a written response to a Panel of the Business Conduct Committee. The Business Conduct Committee Panel has the sole discretion to determine whether it will hear oral arguments. The Business Conduct Committee Panel may either accept or reject both Joint and Unilateral Offers of Settlement. All Offers of Settlement approved by a Panel of the Business Conduct Committee under this section shall be accompanied by a written Complaint.

(C) Subsequent to a Panel of the Business Conduct Committee's consideration of an Investigative Report and directive that a written Complaint issue alleging such rule violations as the Committee determined a reasonable basis to believe existed (the "Complaint"), but prior to service of the Complaint on the Chairman of the Adjudication Committee or his designee, the Compliance Department may present a Joint Offer of Settlement to a Panel of the Business Conduct Committee. Alternatively, the Respondent may present a Unilateral Offer of Settlement to a Panel of the Business Conduct Committee. However, prior to the Respondent's submission of a Unilateral Offer of Settlement, the Respondent shall be required to file a written copy of the Unilateral Offer of Settlement with the Compliance Department. Thereafter, the Compliance Department may submit a written response to a Panel of the Business Conduct Committee. The Business Conduct Committee Panel has the sole discretion to determine whether it will hear oral arguments. The Business Conduct Committee Panel may either accept or reject both Joint and Unilateral Offers of Settlement. All Offers of Settlement approved by a Panel the Business Conduct Committee under this section shall be accompanied by a written Complaint, which sets forth the rules alleged to have been violated as determined by the Business Conduct Committee in its initial determination and directive to issue the Complaint.

(D) Any Offer of Settlement agreed to under Sub Sections (B) or (C) of this Rule may provide for a cease and desist order, a censure, an order directing restitution to any injured person, a fine of not more than \$1,000,000, an expulsion or suspension from all or some rights and privileges of membership, the ability to hold a permit, electronic trading privileges, employment on the Exchange Floor, or employment for the purposes of entering orders on any NYMEX electronic trading platform or any combination of such penalties for each Rule violation alleged. Reasons for any deviation from the guideline minimum or maximum shall be included in the record of the proceedings or in the written decision where applicable.

8.04 Complaint

(A) If a Panel of the Business Conduct Committee issues a complaint, the complaint shall be served either: (1) personally to the Respondent (as defined in paragraph (C) below) named in the complaint or, (2) by first class or certified mail to the Respondent named in the complaint or, (3) by use of a generally recognized overnight delivery service at the last address for the Respondent filed with the Exchange. Service of the complaint is complete when it is so mailed or delivered, as provided in Rule 8.02(C). The Compliance Department shall also file a copy of the Complaint with the Hearing Registrar (Legal Department).

(B) The Complaint shall (1) set forth the acts, practices or conduct in which the Respondent is alleged to have engaged; and, (2) state the Rules alleged to have been, or about to be, violated. (C) The term "Respondent" means a Member or Member Firm, as defined in Rule 8.00(A), or employee of any of the foregoing against which a complaint has been filed.

(D) The Compliance Department shall also notify the Respondent that the Respondent (1) is entitled to a hearing on the charges; (2) must request, in writing, a hearing and that failure to request a hearing within ten (10) business days after service of the complaint will operate as a waiver of a right to a hearing, unless good cause to the contrary is shown by the Respondent; (3) must file an answer to the complaint with the Compliance Department and the Hearing Registrar within ten (10) business days of service of the complaint; and (4) will have deemed to admit the allegations in the complaint if he does not so file an answer.

8.05 Answer

The Respondent may file with the Hearing Registrar and the Compliance Department, a written answer and a request for a hearing within ten (10) business days of service of the complaint. Any charges not denied in the answer shall be deemed admitted. If no answer is filed within such period, unless good cause is shown, all the charges will be deemed to have been admitted.

8.06 Reply

The Compliance Department may serve upon with the Respondent and file with the Hearing Registrar a written reply to any answer within five (5) days of the filing of the answer by the Respondent. Any reply is limited to matters set forth in the answer.

8.07 Adjudication Committee

(A) The Complaint, any answer and a reply shall be filed with the Chairman of the Adjudication Committee not later than twenty (20) business days after the filing of the answer or reply with the Hearing Registrar.

(B) The Chairman of the Adjudication Committee shall assign the case to either a Class A Hearing Panel or a COMEX Division Hearing Panel, as applicable, to hear and decide the matter. The Chairman shall alternate case assignments within the jurisdiction of the Class A Hearing Panels between the two Class A Hearing Panels and shall alternate case assignments within the jurisdiction of the COMEX Hearing Division Panels between the two COMEX Division Hearing Panels.

(C) The initial hearing shall be conducted on a date and at a time and place as the Chairman of the Hearing Panel decides on not less than ten (10) days' written notice to the Respondent.

8.08 Settlement by the Adjudication Committee

(A) If the Respondent wishes to settle a matter at any time after the filing of the Complaint with the Chairman of the Adjudication Committee, the Respondent may submit a written settlement offer. The settlement offer will be directed to the NYMEX Division Hearing Panel or the COMEX Division Hearing Panel, as applicable, that has not been assigned the case to hear and decide. The Compliance Department may recommend to that Hearing Panel an approval or a rejection of any settlement offer. Such offer may provide for the issuance of a cease and desist order, a censure, an order directing restitution to any injured person, a fine not to exceed \$1,000,000 for each violation alleged to have been committed, an expulsion or suspension from all or some rights and privileges of membership, the ability to hold a permit, electronic trading privileges, employment on the Exchange Floor, or employment for the purposes of entering orders on any NYMEX electronic trading platform or any combination of such penalties.

8.09 Hearing Panel

(A) The Chairman of the Adjudication Committee shall, in writing, notify the Respondent and the Compliance Department of the names of the persons on the Hearing Panel to which the case has been assigned pursuant to Rule 8.07(B) at least fifteen (15) days prior to the initial hearing date. The Respondent shall also be notified of the names of the persons on the Hearing Panel to which settlement offers are to be directed pursuant to Rule 8.09(A) at least fifteen days prior to the initial date for the consideration of a settlement offer in the matter.

(B) No person may serve on a Hearing Panel in a case in which such person has any direct financial, personal or other interest in the matter under consideration, or if such person has engaged previously in any disciplinary function under these Rules in connection with the matter before the Adjudication Committee, including service as a member of the Business Conduct Committee, or a subcommittee thereof; such person shall promptly make such interest known to the Chairman of the Committee.

(C) The Compliance Department and/or the Respondent may file with the Hearing Registrar a written challenge against any member of either Hearing Panel for cause. The merits of such challenge shall be decided by the Chairman of the Adjudication Committee in his sole discretion. Unless a party's written challenge is received by the Hearing Registrar within seven (7) business days after mailing of such notice by the Chairman of the Adjudication Committee, any right of challenge shall be waived.

8.09A Pre-Hearing Procedures

(a) At least ten (10) calendar days before the scheduled start of the hearing, the Compliance Department and the Respondent respectively shall furnish each other with a list of witnesses they intend to call in the presentation of their cases at the hearing, and a list of all documents they intend to offer at the hearing. The Compliance Department and the Respondent shall make available any witness intended to be called for questioning prior to the hearing at a mutually agreeable date, if requested.

(B) The Compliance Department shall retain all rights of investigation under Rule 8.00(E) after completion of the Investigative Report and until the hearing is completed.

8.10 Hearing Procedures

(A) The Hearing Panel may determine the procedures to be applied in any hearing before it; provided, however, that the following procedures shall apply in every case:

(i) The prosecution shall be conducted by the Compliance Department;

(ii) The Respondent may be represented by counsel or any other representative of his choice; either, personally or through such counsel or other representative, may present witnesses or other evidence; and, may cross-examine witnesses;

(iii) The formal rules of evidence shall not apply and the Hearing Panel shall have the discretion to accept or to reject any and all evidence.

(iv) A stenographic transcript of the proceedings shall be made;

(v) The Complaint, any Answer, any Reply, the stenographic transcript, any documentary evidence or other material presented to the Hearing Panel by either party shall constitute the record of the hearing;

(vi) The burden of proof shall be on the Compliance Department; and,

(vii) A finding of a Rule violation may be made on the weight of the evidence contained in the record of the proceeding.

(B) In advance of the hearing, the Respondent shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that (i) are to be relied upon by the Compliance Department in prosecuting the matter; or, (ii) which are relevant to the charges. The Compliance Department shall make such material available to Respondent and Respondent's counsel for inspection within twenty days after the

filing of an answer by Respondent pursuant to Rule 8.05.

(C) Any person within the jurisdiction of the Exchange who is called as a witness at any hearing shall appear at such hearing and give testimony or produce evidence.

(D) The Hearing Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of a hearing.

8.11 Decision

(A) If the Hearing Panel finds that the Respondent did not commit any Rule violation, it shall render a written decision to that effect within forty-five (45) days after the later of the close of the hearing or last day on which any post-hearing memoranda were required to be filed by the Compliance Department or the Respondent, unless by virtue of the complexity of the case or other special circumstances, additional time is required for the preparation of the decision. The written decision of the Hearing Panel shall include: (i) a summary of the charges and the answer; (ii) a summary of the evidence produced at the hearing; and (iii) a statement of the findings and conclusions of the Hearing Panel with respect to each charge.

(B) If the Hearing Panel finds that the Respondent committed any Rule violation, it shall render a full written decision to that effect within forty-five (45) days after the later of the close of the hearing or last day on which any post-hearing memoranda were required to be filed by the Compliance Department or the Respondent, unless by virtue of the complexity of the case or other special circumstances, additional time is required for the preparation of the decision. The written decision of the Hearing Panel shall include: (i) a summary of the charges and the answer; (ii) a summary of the evidence produced at the hearing; (iii) a statement of the findings and conclusions of the Hearing Panel with respect to each charge including the specific Rule which the Respondent is found to have violated; and, (iv) an order stating the penalties imposed and the effective date of such penalty.

(C) Notwithstanding the provisions of subsections (A) and (B) above, the Hearing Panel may issue a written Summary Decision setting forth its determination of liability and penalties, if any, prior to the issuance of the written decision of the Hearing Panel required under subsections (A) and (B) above.

(D) Where the Respondent has admitted or has failed to deny any Rule violation charged in the complaint, the Hearing Panel shall impose a penalty for each violation. The Hearing Panel shall notify the Respondent of the penalty within forty-five (45) days after the filing of the admission of a Rule violation or after the failure to deny any Rule violation.

(E) Where the Respondent has submitted an answer denying the rule violations charged and has not requested a hearing or waived a hearing, the Hearing Panel shall make its decision based on such documents filed by the Compliance Department and the Respondent as required by the Hearing Panel. Such decision shall be made in accordance with the provisions of this Rule 8.11 § (A) or (B).

(F) Unless good cause is shown, where the Respondent fails to appear at a requested hearing at the time and place scheduled, he shall be deemed in default, and the proceeding shall be determined against such Respondent upon consideration of the Complaint and Notice of Hearing, the allegations of which shall be deemed to have been admitted.

(G) Within 15 days of the issuance of a written Decision finding a Respondent in Default, the Respondent may file with the Hearing Registrar and the Compliance Department a Motion to Vacate the Decision based upon a showing of good cause for his failure to appear at the hearing.

(H) The Compliance Department shall deliver to the Respondent and file with the Hearing Registrar within ten (10) days of the date of delivery of the Motion to Vacate, a written memorandum in response to the Motion.

(I) The Respondent may deliver to the Compliance Department and file with the Hearing Registrar, within (5) days of the delivery of the response of the Compliance Department, a written reply memoranda. Such memoranda must be limited to the matters contained in the response of the Compliance Department.

(J) In its discretion, the Hearing Panel may decide the Motion to Vacate on the basis of the documents submitted by Respondent and the Compliance Department or may require the parties to make an oral presentation.

(K) If the Hearing Panel determines to order the imposition of a penalty, the penalties which may be imposed are any one or combination of the following: the issuance of a cease and desist order, a censure, an order directing restitution to any injured person, a fine of not more than \$1,000,000 for each Rule violation found to have been committed, an expulsion or a suspension from all or some rights and privileges of membership, the ability to hold a permit, Electronic Trading Privileges, employment on the Exchange Floor, or employment for the purposes of entering orders on NYMEX ACCESS@.

(L) Notice of Respondent's right of Appeal, pursuant to Exchange Rule 8.13, shall be incorporated into a Hearing Panel's full Decision and Order.

8.12 Effective Date of Decisions

(A) Unless appealed, a decision of a Hearing Panel is the final decision of the Exchange and shall be effective fifteen (15) days after a copy of the written decision has been served upon the Respondent.

(B) Any fine imposed by a Hearing Panel shall be due and payable on the effective date of the decision or on such later date as the Hearing Panel specifies in the written decision.

8.13 Appeals

A Respondent may appeal from a decision of a Hearing Panel by filing, within ten business (10) days after the full written decision is served upon the Respondent, by filing with the Hearing Registrar and the Compliance Department a written Notice of Appeal and request for the transcript of the proceedings. Within (10) business days of service of the transcript of the proceedings, a Respondent who has timely filed a Notice of Appeal, shall file with the Hearing Registrar and the Compliance Department a written Memorandum of Appeal specifying the grounds for the appeal. A failure to timely file either a Notice of Appeal or Memorandum of Appeal, shall operate as a waiver of all rights of appeal.

8.14 Compliance Department

The Compliance Department shall serve upon the Respondent and file with the Hearing Registrar, within ten (10) business days of the date of filing of the Memorandum of Appeal, a written memorandum in response to the Memorandum of Appeal.

8.15 Respondent's Reply

The Respondent may file with the Compliance Department and the Hearing Registrar, within five (5) business days of the service of the response of the Compliance Department, a written reply memoranda. Such memoranda must be limited to the matters contained in the response of the Compliance Department.

8.16 Appeals Committee

In the event of an appeal, the Chairman of the Appeals Committee shall appoint an Appeal Panel consisting of three (3) disinterested members of the Appeals Committee to hear and decide the appeal. The Chairman of the Appeals Committee shall appoint one such person as the Chairman. No person who has participated in any prior stage of the disciplinary process in the proceeding is eligible to serve on an Appeal Panel for that proceeding. The panel appointed to hear an appeal from a decision of a COMEX Division Hearing Panel shall include at least one COMEX Division Member.

8.17 Appeals Panel

(A) The Chairman of the Appeals Committee shall, in writing, notify the Respondent and the Compliance Department of the names of the members of the Appeals Panel at least fifteen (15) days prior to the initial hearing date.

(B) No person may serve on an Appeal Panel in a matter in which such person has a direct financial, personal or other interest in the matter under consideration, and shall promptly notify the Chairman of the Committee of such interest.

(C) The Compliance Department and/or the Respondent may file with the Hearing Registrar a written challenge against any member of the Appeal Panel for cause. The merits of such challenge shall be decided by the Chairman of the Appeals Committee in his sole discretion. Unless a party's written challenge is received by the Hearing

Registrar within seven (7) business days after mailing of such notice by the Chairman of the Appeals Committee, any right of challenge shall be waived.

8.18 Procedures of the Appeal Panel

In its discretion, the Appeal Panel may decide the appeal on the basis of the record of the proceeding and the memoranda of the Respondent and the Compliance Department or may require the parties to make an oral presentation.

8.19 Decision of the Appeal Panel

(A) No findings of a Hearing Panel referred to in Rule §8.11(B), may be set aside if supported by any evidence in the record of the proceeding.

(B) An Appeal Panel may affirm, reverse or modify, in whole or in part, a decision of a Hearing Panel. In the event of a reversal, the matter may be remanded to the same or a different Hearing Panel for further proceedings or may be dismissed. Modification of a decision of a Hearing Panel may include, among other things, an increase in any penalties advised by the Hearing Panel.

(C) The Appeal Panel shall issue a written decision which shall include: (i) a statement of its findings and conclusions with respect to each charge or penalty reviewed; (ii) the specific Rule violation which the Respondent was found to have committed; (iii) an order sustaining or modifying any penalties imposed, if any; and, (iv) the effective date of such decision and penalty.

8.20 Effective Date

(A) Any decision of an Appeal Panel is the final decision of the Exchange and shall be effective fifteen (15) days after it is served upon the Respondent and to the Commission.

(B) Any fine sustained or modified by an Appeal Panel shall be due and payable on the effective date of the decision or on such later date as the Appeal Panel specifies in its written decision.

8.20A Ex Parte Communications

(A) During the pendency of proceedings before a Hearing Panel of the Adjudication Committee, there shall be no ex parte communications relating to the proceedings between representatives of the Compliance Department, the Respondent, the Respondent's counsel, or anyone acting on the Respondent's behalf and any member of the Hearing Panel or counsel to the Hearing Panel, provided that such parties may have ex parte communications with counsel to the Hearing Panel on scheduling and procedural matters.

(B) During the pendency of proceedings before an Appeal Panel of the Appeals Committee, there shall be no ex parte communications relating to the proceedings between representatives of the Compliance Department, the Respondent, the Respondent's counsel, or anyone acting on the Respondent's behalf and any member of the Appeal Panel or counsel to the Appeal Panel, provided that such parties may have ex parte communications with counsel to the Appeal Panel on scheduling and procedure matters.

(C) Any person who receives, makes, or learns of an ex parte communication which is prohibited by subsection (A) or (B) of this Rule shall promptly give written notice of such communication and any response thereto to all parties to the proceeding to which the communication relates and place on the record of the proceeding any such written communications or responses and a memorandum stating the substance of any such oral communications or responses.

8.21 Floor Committee

(A)(1) Authority to Issue Warning Letters and/or Summary Fines for Violations of Decorum or Attire Rules

The Floor Committee, any member of the Floor Committee, including any Exchange employees serving on the Floor Committee, any agent acting on behalf of the Floor Committee, any Board Member who is not a Public Director, and any Exchange employee designated by the Board may impose summarily, on any Member or any person under the control of a Member, a Warning Letters and/or fine of not more than five thousand dollars (\$5,000) for each violation of any Rule relating to decorum or attire on the trading floor or in any part of the Exchange premises.

(2) Authority to Issue Warning Letters and/or Summary Fines for Other Floor Offenses

The Floor Committee, any member of the Floor Committee, any agent acting on behalf of the Floor Committee and any Exchange employee designated by the Board may impose summarily, on any Member or any person under the control of a Class A Member, a Warning Letter and/or a fine of not more than five thousand dollars (\$5,000) for each violation of: any Rule relating to clerk registration, any Rule regarding the untimely or inaccurate submission of trade data, reports, records or similar matters for clearing or for verifying each day's transactions; for a failure by qualified floor traders and/or their authorized representatives to attend any option's expirations; or for failure by a Member to attend a mandatory session of the Training and Education Committee. With respect to any Class A Member or any person under control of a Class A Member, a Warning Letter and/or a fine of not more than five thousand dollars (\$5,000) may be summarily imposed for each violation of NYMEX Rules 6.37 or 6.06. With respect to any COMEX Division Member or any person under control of a COMEX Division Member, a Warning Letter and/or a fine of not more than five thousand dollars (\$5,000) may be summarily imposed for each violation of: COMEX Rules 4.03; 4.14; 4.25; 4.09; 4.05(a); or 4.70; or for any interference or attempt to interfere with an employee of the Exchange in the performance of his duties under COMEX Rules 4.04, 4.05 and 4.07. In the event that either: i) the official citing the alleged infraction was involved in the incident in question; and/or ii) the facts of the alleged infraction are challenged by a disinterested third party, then the party charged shall be entitled to an adjudication in accordance with the applicable requirements of Subpart B of the Commission's Part 8 rules, 17 C.F.R. §§8.05 through 8.20 (exclusive of §§8.10, 8.16 and 8.19) prior to the imposition of any fine. In no event shall the issuance of a Warning Letter entitle a Member to a hearing. Warning Letters may be appealed in accordance with the provisions set forth in Exchange Rule 8.21(f) below.

(B) The official imposing the fine shall issue a "Notice of Fine" in a form to be prescribed by the Exchange, which shall notify the Respondent of the offense committed and the fine to be imposed. The form shall notify the Respondent of the right to request a hearing whenever the provisions of paragraph (A)(i) or (ii) of this rule are applicable. Failure to request a hearing, unless good cause is shown, shall be deemed a consent to the fine, which shall then be imposed in the amount set forth in the Notice of Fine, or in such amount as may be determined by the Floor Committee in the event that the Notice of Fine does not specify an amount.

(C) A Class A Member who claims that he is entitled to a hearing in accordance with the provisions of paragraph (A) of this rule shall be entitled to file a written request for a hearing with the Hearing Registrar within seven (7) business days after mailing of such notice by the Hearing Registrar, subject to the following:

(i) The Compliance Department shall review the request for a hearing and prepare an Investigative Report which shall be in writing and shall set forth the reason that the investigation was initiated, the relevant facts, the conclusions of the Compliance Department and, if the Compliance Department concludes that there is a reasonable basis to believe that a rule violation occurred, a recommendation of the Compliance Department to a Panel comprised of three Members of the Executive Floor Committee (the "Review Panel") whether the matter requires a hearing in accordance with the provisions of paragraph (A) of this rule. The Review Panel shall determine if a hearing is required. In addition to the above, the Compliance Department may refer a matter to the Business Conduct Committee in accordance with the provisions of Chapter 8 ("Disciplinary Rules").

(ii) The Respondent shall be notified of the determination of the Review Panel and shall be entitled to file an Answer within seven (7) business days after mailing of such notice by the Hearing Registrar. Any charges not denied in the answer shall be deemed admitted and if no answer is filed within the time period specified in the rule, unless good cause is shown, all the charges will be deemed to have been admitted.

(iii) A party who files a request for a hearing shall be required to appear at the hearing unless a written withdrawal of the request for a hearing has been filed with the Hearing Registrar at least one week prior to the scheduled hearing day. The Panel (composed as set forth in paragraph (D) of this rule) may in its discretion enter a penalty for non-appearance in an amount not to exceed \$250 against a party who has not filed a withdrawal of his request for a hearing and who has not appeared at the scheduled time and place. Such penalty shall become effective ten (10) days after it has been issued unless the Respondent shows good cause for the non-appearance prior to the effective day of the penalty.

(D) A hearing required pursuant to paragraph (A) of this rule shall be scheduled no earlier than twenty days following the incident in question and shall be conducted before a Panel comprised of no fewer than three Members of the Executive Floor Committee, provided that none of the Panel members shall have served on the Review Panel for the incident in question. The Panel shall meet at such times as it deems appropriate. The personal appearance of the

Respondent and the Compliance Department shall be required. Where the Respondent fails to appear at a requested hearing at the time and place scheduled without acceptable justification, in addition to the sanctions which may be imposed under paragraph (C)(iii) of this rule, he shall be deemed in default, and the proceeding shall be determined against the Respondent upon consideration of the Notice of Fine, the allegations of which shall be deemed to have been admitted. The Panel may determine the procedures to be applied in any hearing before it; provided, however, that the following procedures shall apply in every case:

(i) The prosecution shall be conducted by the Compliance Department;

(ii) The Respondent shall be permitted to present witnesses or other evidence; and may cross-examine witnesses;

(iii) Unless good cause is shown, the Compliance Department and the Respondent shall be limited to a presentation not to exceed fifteen (15) minutes;

(iv) The formal rules of evidence shall not apply and the Panel shall have the discretion to accept or reject any and all evidence;

(v) A tape recording of the proceedings shall be made which shall be capable of being transcribed;

(vi) The Notice of Fine, the tape recording, any documentary evidence or other material presented to the Panel by either party shall constitute the record of the hearing;

(vii) The Compliance Department shall have the burden of proof;

(viii) A finding of a Rules violation may be made on the weight of the evidence contained in the record of the proceeding.

(E) In advance of the hearing, the Respondent shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that (i) are to be relied upon by the Compliance Department in prosecuting the matter; or (ii) which are relevant to the charges. Respondent shall be required to produce such discovery as the Compliance Department shall request which is relevant to the charges and Respondent's defense.

(F) Any person within the jurisdiction of the Exchange who is called at any hearing shall appear at such hearing and give testimony or produce evidence.

(G) The Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of the hearing.

(H) The Panel shall render a written decision within thirty (30) days of the hearing date, receipt of notice that the Respondent has waived his right to a hearing, or the entry of default, whichever is applicable. The written decision shall include: (i) the specific Rule violation which the Respondent was found to have committed; (ii) an order which may impose the penalty recommended in the Notice of Fine, increase or decrease the recommended amount; and (iii) notice that the decision constitutes a final decision of the Exchange which is appealable to the Commission.

(I) Any Warning Letter imposed in accordance with Rule 8.21(A) and/or any fine that does not require a hearing, may be appealed to the Floor Committee or any subcommittee thereof consisting of the Chairman, Vice-Chairman and any Ring Chairman as may be appointed by the Chairman of the Floor Committee to hear such appeals by filing a typewritten request with the Hearing Registrar within seven (7) business days after mailing of such notice by the Hearing Registrar. In its sole discretion, the Floor Committee or a subcommittee thereof may affirm, reverse, or modify any penalty imposed pursuant to Rule 8.21(A). A modification of any fine may include, among other things, an increase in any fine imposed.

(J) Any fine imposed in accordance with this Rule §8.21(A) shall be due and payable within ten (10) days after notice of such action is given to the Member. Where a determination has been made either by a Panel of the Executive Floor Committee following a hearing or by the Floor Committee or a subcommittee thereof following an appeal, such action shall be final ten (10) days after notice is given to the Member and shall not be subject to appeal, and any fine imposed as a result of such determination shall be due and payable within ten (10) days after notice of the determination is given to the Member.

(K) The Floor Committee and any subcommittee appointed pursuant to paragraph (I) of this rule may refer any matter within its jurisdiction to the Business Conduct Committee or to the Compliance Department for further action under this Chapter 8.

(L) In addition to any sanctions provided in any other paragraph in this section, any three members of the Floor Committee, one of whom must be either the Chairman or the Vice Chairman of the Floor Committee, may summarily remove, or cause the removal, from the floor of the Exchange, any member or any employee or agent of any member or member firm that commits a floor offense as described in Rule 6.60 which in the opinion of such three members of the Floor Committee either involves a physical altercation or otherwise is sufficiently disruptive to warrant such summary removal. Any member or employee summarily removed from the floor of the Exchange pursuant to the provisions of this rule may not return to the floor of the Exchange for such period of time as may be determined by such three members of the Floor Committee which period of time shall in no event exceed two full business days in addition to the day of the altercation.

8.21A Maintenance of Health and Safety in Exchange Trading Rings

A) No Floor Member may stand on the top step, second step (or as necessary lower steps) of a NYMEX Division trading ring unless such Floor Member is presently authorized to occupy such step of the applicable trading ring by NYMEX staff. For each trading ring, NYMEX staff, in consultation with the Facilities Committee, and as may be phased in on a ring by ring basis in the sole discretion of the Exchange, shall initially determine the maximum number of actual Floor Members who can reasonably and safely occupy the top step, second step and as necessary any other step of that ring.

B) (1) Based upon such safety calculations, Exchange staff then will determine those Floor Members who may stand on the applicable rings based solely upon the following criteria (reviewing, on a monthly basis, trading volume (including TAS transactions but not including any non-competitive transactions such as EFP or EFS) data for the immediately preceding three month period or such other period as may be set by Exchange staff:

(a) for the top step, total customer volume executed by a Floor Member except that no Member Firm and no billing entity may have more than three affiliated Floor Members on either of the two sides of a ring;

(b) for the second step, total trading volume executed by a Floor Member;

(c) as necessary, for lower steps in the applicable ring, total trading volume executed by a Floor Member.

In relation to the top step, for any ring where the Exchange has implemented the provisions of this rule, no Floor Member thus will be authorized to stand on the top step if such Member's trading is limited to trading solely for his own proprietary account.

(2) While the calculation for top step volume will be made on the basis of customer volume executed by individual brokers, the Exchange will permit reasonable substitutions for a broker by a Member Firm or billing entity with whom the broker is affiliated, *provided* that either the broker or the Member Firm or billing entity has for purposes of this rule given notice to the Exchange of such affiliation.

(3) Floor Members shall have the right to request a further review or reconsideration by Exchange staff of any determination affecting them or their Member Firm or billing entity, and any such requests must be submitted in the form and manner as provided by the Exchange, *provided*, however, that the filing of any such request for reconsideration will not excuse or justify any noncompliance with this rule.

C) No Floor Member may stand on a step after being notified by the Floor Committee that the Floor Member is not authorized to stand on that step.

D) The Floor Committee may impose summarily on any Floor Member in violation of this rule a Warning Letter and/or a fine of not less than \$1,000 dollars but not more than \$2,500 for each violation of this Rule, and violation of this Rule 8.21A for each new trading session shall constitute a separate violation, *provided that*, in the event of repeated violations by a Floor Member, the Floor Committee may determine to refer such Floor Member to the Business Conduct Committee for further action. Any fines issued pursuant to this Rule may be appealed in the same manner and under the same procedures set forth in Rule 8.21.

8.22 Floor Committee Rules

Action taken by the Floor Committee, a member of the Floor Committee, an agent acting on behalf of the Floor Committee or any Exchange employee designated by the Board, shall not be subject to the provisions of this Chapter respecting procedures for disciplinary proceedings, with the exception of Subpart B of the Commission's Part 8 Rules.

8.23 Violations of Rules Respecting Submission of Reports

Action taken by the Clearing House Committee or the President imposing penalties for violations of Rules respecting the timely submission of reports and the contents thereof may be taken summarily in accordance with the applicable Rules of the Exchange and shall not be subject to the provisions of this Chapter respecting procedures for disciplinary proceedings.

8.24 Expulsion by the Board

(A) The Board of Directors, under the procedures set forth in subsection (B) of this Rule, may expel any Class A Member or employee of any of the foregoing who: (i) within a five (5) year period, on two or more occasions as a result of a complaint under Rule 8.04 or a settlement under Rule 8.03 has withdrawn or has been suspended all or some rights and privileges of membership, the ability to hold a permit or Electronic Trading Privileges, or employment privileges on the Exchange Floor or on NYMEX ACCESS@, or (ii) has been fined or has agreed to pay in settlement more than \$50,000 in the aggregate. The Compliance Staff shall inform the Board of any individual or entity who falls within the coverage of this Rule within thirty (30) days of receipt of a final disciplinary decision which makes applicable its provisions.

(B) The following procedures shall be followed for any proceeding that the Board may institute under Section (A) of this Rule:

(1) Compliance Staff shall provide each Member of the Board for his review copies of all transcripts, exhibits received in evidence and decisions in all disciplinary actions and of all settlements concerning such Member, Member Firm or employee of any of the foregoing together with any arguments filed on appeal and appeal decisions in connection with such disciplinary actions.

(2) The Board, if it determines that consideration of expulsion is warranted, may issue a written Notification to the Member, Member Firm or employee of any of the foregoing within a reasonable time of receiving such notice from the Compliance Staff, informing him that the Board is considering expelling said individual or entity and the reasons therefor.

(3) The Member, Member Firm or employee of any of the foregoing shall within twenty (20) days of such Notification submit to the Board a statement of reasons in support of said individual or entity's continued membership trading privileges or employment privileges on the Exchange (the "Statement").

(4) Within five (5) business days of the filing of the Member's, Member Firm's or employee's statement to the Board, the Hearing Registrar shall schedule a hearing to consider the issue of expulsion. The hearing shall be convened within fifteen (15) days after the filing with the Hearing Registrar of such Statement, unless good cause is shown to justify a delay of such hearing. If no hearing is requested, the Board shall render a decision on the records provided to it under subsection (B)(1).

(5) A Member, representative of a Member Firm or employee of any of the foregoing shall have the right to be heard before the Board and to be represented by counsel or any other person of his choosing.

(6) Promptly following the hearing, the entire Board shall by majority vote render a decision whether or not to expel said individual or entity from the Exchange.

(7) The decision of the Board shall include a statement of findings and conclusions with respect to its decision and the effective date of such decision. This decision shall be deemed the final decision of the Exchange for purposes of reporting said action to the CFTC under its regulations.

8.25 Cease and Desist Order

A violation of a cease and desist order may be determined to be either a major or a minor offense.

8.26 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

8.50 Reports and Records

(A) The Exchange and each Member, Member Firm and employees of the foregoing shall make and file, as the Commodity Futures Trading Commission may direct, reports in accordance with the rules and regulations, and in such manner and form and at such times as may be prescribed by said Commission, showing the details and terms of all transactions entered into by the Exchange, or the Members thereof, either in cash transactions or transactions for future delivery or options contracts consummated on or subject to the Bylaws and Rules of the Exchange.

(B) The Exchange and each Member, Member Firm and employees of the foregoing shall keep a record in accordance with the rules and regulations of the Commodity Futures Trading Commission and as said Commission may direct, showing the details and terms of all cash, futures and options transactions entered into by them, consummated on or subject to the Bylaws and Rules of the Exchange. Such record shall be in permanent form, showing the parties to all such transactions, including the persons for whom made; any assignments or transfers thereof, with the parties thereto, and the manner in which said transactions are fulfilled, discharged or terminated. Such record shall be kept for a period of five years from the date thereof, or for a longer period if said Commission shall so direct, and shall at all times be open to the inspection of any representative of said Commission or the United States Department of Justice.

8.51 Compliance with Act and Orders

(A) The Exchange shall make effective the final orders and decisions entered pursuant to the provisions of paragraph (b) of Section 6 of the Commodity Exchange Act and the orders issued pursuant to the provisions of Section 5(a) of such Act.

(B) The Exchange shall comply with all of the requirements applicable to it under the Commodity Exchange Act.

8.52 Manipulation

No Member, Member Firm or any employee of the foregoing, shall engage in any practice which results in the manipulation of prices or the cornering of any commodity dealt on the Exchange.

8.53 Reserved

8.54 Payment of Gratuity to Employees of Others

No Member, Member Firm or employee of the foregoing shall directly or indirectly pay or offer any compensation or gratuity in excess of twenty-five dollars (\$25.00) to any employee of another Member, Member Firm or employee of the foregoing or an employee of the Exchange or of the Clearing House for any service rendered, or to be rendered, or requested, unless express written consent be obtained in advance from the employer of such employee.

8.55 Classification of Offenses

Offenses against the Exchange shall be classified as major offenses and minor offenses.

(A) Major Offenses

No Member, Member Firm, or any employee of the foregoing shall commit a violation of any of the following rules, which shall be deemed major offenses of the Exchange.

- (1) to have an interest in, operate, or knowingly represent or make any transaction with or for a bucket shop;
- (2) to be guilty of fraud or any act of bad faith;
- (3) to be guilty of any dishonest conduct;
- (4) to make or report a false or fictitious trade;
- (5) to attempt extortion;
- (6) to default on, be delinquent in or otherwise fail to comply with the delivery requirements on any contract;
- (7) to engage in wash trading or accommodation trading;
- (8) to manipulate prices or attempt to manipulate prices or to corner or attempt to corner the market; and
- (9) to make a material misstatement to the Board or to a committee, or on any information supplied to the Exchange or its officials;
- (10) to knowingly disseminate false, misleading or inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity upon the Exchange;
- (11) to trade or accept margins after insolvency;
- (12) to refuse to appear before the Board, the President or his designee or any investigative and hearing committee at a duly convened investigative hearing, or in connection with any investigation; to refuse to fully answer all questions and produce all books and records at such hearing or investigation, or to testify falsely;
- (13) to make use of or reveal any confidential information obtained by reason of participating in any committee meeting or in any investigative proceeding or hearing;
- (14) to knowingly accept, execute or clear a trade on the Exchange for the account of an Exchange employee or of a non-member employed on the floor of the Exchange or for a non-member employed as an Authorized Terminal User or User Agent or for an account in which such employee or non-member has a direct or indirect interest;
- (15) for a Member, Member Firm, Clearing Member or employee of the foregoing to permit the use of its facilities, any NYMEX electronic trading platform or membership privileges by a Member or non-Member in a manner that impairs the dignity or degrades the good name of the Exchange, or creates a market or other situation detrimental to the Exchange, or results in violation of the speculative limit rules, or effectuates manipulations or corners or attempts at either; or to itself do any of the foregoing;
- (16) for a Member, Member Firm, Clearing Member or Authorized Terminal User or User's Agent to improperly utilize or permit the unauthorized use of any NYMEX electronic trading platform.
- (17) for a Member, Member Firm or Clearing Member to fail to maintain minimum financial requirements;
- (18) to commit an act which is substantially detrimental to the interests or welfare of the Exchange;
- (19) to refuse to comply with an order of the Board, the President or his designee or any committee of the Exchange, including but not limited to a refusal to comply with orders that suspend the membership privilege of other Members to pay Member rates for transactions executed in any venue;
- (20) to intentionally violate any Exchange rule that results in harm to a customer;
- (21) to fail to provide a required notice to the Exchange; and
- (22) to violate Exchange Rules 3.02, or 8.54.

~~(23): Supervision.~~

~~(a) To fail to supervise any employee of a Member or Member Firm adequately to prevent the violation by such employee of any Exchange Rule that: (i) results in substantial detriment to the welfare and interests of the Exchange; (ii) results in harm to a customer or another Member or Member Firm; or (iii) otherwise constitutes a Major Offense.~~

~~(b) A showing that the violation of an Exchange Rule by an employee was a first offense of that kind and that the Member or Member Firm disclosed the violation to the Exchange and took immediate and appropriate remedial action on its own initiative upon discovering the violation shall be considered as mitigation to a charge of violating Rule 8.55(A)(23)(a).~~

(B) Minor Offenses

No Member, Member Firm, or any employee of the foregoing shall commit a violation of any of the following rules, which shall be deemed minor offenses of the Exchange.

- ~~(1) to engage in conduct detrimental to the Exchange;~~
- ~~(2) to engage in conduct inconsistent with just and equitable principles of trade;~~
- ~~(3) to be guilty of any conduct which has a manifest tendency to impair the dignity or the good name of the Exchange;~~
- ~~(4) to interpose a Statute of Frauds defense to any claim for breach of an Exchange contract;~~
- ~~(5) to make a false entry upon a clearing sheet;~~
- ~~(6) to violate any rule, the violation of which is not a major offense;~~
- ~~(7) to circulate or aid in the circulation in any manner of rumors which tend to reflect on the integrity of any contract;~~
- ~~(8) to fail consistently to conform to audit trail and/or trade submission standards;~~
- ~~(9) to enter an order, either in person, by telephone, or otherwise, from a location on the trading floor of a Division of the Exchange from which the Member has not obtained trading privileges.~~

~~(10): Supervision.~~

~~(a) To fail to supervise any employee of a Member or Member Firm adequately to prevent violations of Exchange Rules by such employee.~~

~~(b) A showing that the violation of an Exchange Rule by an employee was a first offense of that kind and that the Member or Member Firm disclosed the violation to the Exchange and took immediate and appropriate remedial action on its own initiative upon discovering the violation shall be an affirmative defense to a charge of violating Rule 8.55(B)(X)(a).~~

(C) Sanctions

Major offenses shall be punishable by one or more of the following:

- ~~1. expulsion or suspension from all or some rights and privileges of membership, including but not limited to the ability to hold a permit or the ability to pay Member rates on electronic trades;~~
- ~~2. suspension of some or all Trading Privileges, including restrictions on the ability to trade or enter orders in any or all Exchange products, or to access any NYMEX electronic trading platform or to supervise the entry of any orders into such platform by others;~~
- ~~3. prohibition against employment on the Exchange Floor, or employment for the purposes of entering orders on any NYMEX electronic trading platform;~~
- ~~4. a fine of not more than \$1,000,000;~~
- ~~5. cease and desist order; or~~
- ~~6. an order directing restitution to any injured person.~~

Minor offenses shall be punishable by one or more of the following:

1. ~~suspension for not more than one year from all or some rights and privileges of membership, including but not limited to the ability to hold a permit or the ability to pay Member rates on electronic trades;~~
2. ~~suspension of some or all Trading Privileges, including restrictions on the ability to trade or enter orders in any or all Exchange products, or to access any NYMEX electronic trading platform or to supervise the entry of any orders into such platform by others;~~
3. ~~prohibition against employment on the Exchange Floor, or employment for the purposes of entering orders on any NYMEX electronic trading platform;~~
4. ~~a fine of no more than \$25,000;~~
5. ~~cease and desist order; or~~
6. ~~an order directing restitution to any injured person.~~

~~Unless good cause is shown, any offense involving fraudulent or deceitful trading practices detrimental to a customer's order shall be a Major Offense and shall be punishable, at a minimum, with a suspension or revocation of the Member's or Authorized Terminal User's right to execute customer orders.~~

~~A second violation of the same rule or the same Minor Offense within a period of twenty four (24) months of a final disciplinary action by the Exchange shall carry penalty provisions equivalent to a Major Offense.~~

8.56 Confirmations

~~Members that are futures commission merchants executing transactions, or making or taking delivery or giving notice of exercise of an options contract, or receiving notice of assignment of the exercise of an options contract for customers shall promptly send written confirmations of such transactions, notices, assignments, or deliveries to such customers.~~

8.57 Confidentiality of Exchange Investigations and Proceedings

~~All investigatory materials and all other documents and evidence presented in any disciplinary proceeding, other than those included in a decision, shall be confidential and shall not be disclosed to any person.~~

8.57A Retention of Jurisdiction over Former Members and Member Firms

~~(A) Notwithstanding the sale of a membership or the termination of a lease (license) agreement, the Exchange shall, subject to the provisions of this Rule 8.57A, retain jurisdiction over each former Member and Member Firm with respect to any proceedings, matter which occurred prior to the termination of membership privileges and/or NYMEX ACCESS® trading privileges ("termination of Exchange privileges") of such Member or Member Firm whether through the transfer of a membership or the termination of a lease (license) agreement or otherwise. If the former Member or Member Firm has not previously been notified in writing or in a recorded interview, that he/she/it is the Subject of an investigation or Respondent in a hearing, The Vice President of Compliance or his designee, or the Hearing Registrar, as applicable, shall notify such former Member or Member Firm of an investigation or hearing pursuant to this Chapter 8 in connection with any matter which occurred prior to the termination of Exchange privileges of such former Member or Member Firm. Such notice shall be in writing and shall be served on the former Member or Member Firm no later than one year after the effective date of the termination of Exchange privileges by registered or certified mail, return receipt requested, or by use of a generally recognized overnight delivery service at the last address as shown on the books and records of the Exchange for the former Member or Member Firm.~~

~~(B) At any time after notice in accordance with the requirements of this Rule 8.57A, the President or his designee may, in connection with any matter specified in such notice, request in writing that the former Member or Member Firm furnish books, records and copies of documents, supply written or oral statements under oath, or appear and testify at any hearing. The former Member or Member Firm shall comply with such request as promptly as possible.~~

~~(C) At any time within two (2) years after notice in accordance with the requirements of this Rule 8.57A, the former Member or Member Firm may be charged with any violation of the Bylaws and Rules relating to any matter specified in such notice, including any failure to comply with a request pursuant to this Rule 8.57A or any subsequent violation of the Exchange's Bylaws or Rules arising from the conduct of the former Member or Member Firm during the investigation. Any such former Member or Member Firm shall be subject to discipline as though his membership privileges and/or NYMEX ACCESS® trading privileges had not been terminated.~~

8.58 Exchange Jurisdiction over Member, and Member Firm Employees

(A) All employees of Members and Member Firms having access to the trading floor, a NYMEX ACCESS@ Trader Work Station, an Administrative Work Station, or any part of the Exchange premises, shall be subject to the jurisdiction of the Exchange to the same extent as Members and Member Firms for purposes of Chapter 8 of these Rules.

(B) For purposes of Rules 8.21, 8.22 and 8.58 to 8.67, the following definitions shall apply:

(C) The term "Member Firm" shall mean a firm which is a Member of either Division of the Exchange or has trading privileges on either Division of the Exchange, and any floor brokerage firm for which a Member is a principal whether or not such firm is admitted as a Member Firm of the Exchange.

(D) The term "Electronic Trader" shall mean an individual or entity so qualified by the Board of Directors.

(E) The term "employee" shall mean those persons employed in any capacity by any Member or Member Firm, including clerks, office personnel and NYMEX ACCESS@ Operators.

(F) The term "clerk" shall mean a non-member of the Exchange employed by any Class A Member, COMEX Division Member, COMEX Division Option Member, COMEX Division Aluminum Member, Permit Holder, or Member Firm of either Division as defined in this Rule 8.58(C) as a telephone clerk, write-up clerk or runner. No other category of clerk will be recognized by the Exchange.

(G) The term "NYMEX ACCESS@ Operator" shall mean a person employed by an Electronic Trader or NYMEX Division or COMEX Division Member Firm holder of electronic trading privileges, qualified as a NYMEX ACCESS@ Operator by the Board of Directors.

(H) The term "telephone clerk" shall mean a non-member of the Exchange employed by a Class A Member, COMEX Division Member, COMEX Division Option Member, COMEX Division Aluminum Member, Permit Holder, or Member Firm of either Division as defined in this Rule 8.58(C) whose duties include, but are not limited to, telephone communications with non-Exchange Members from the floor of the Exchange. Clerks, other than designated telephone clerks, may not engage in telephone communication from the exchange floor for the purpose of soliciting customer business, accepting customer orders or engaging in discussions concerning market conditions. Any exceptions to this prohibition must first be approved by the Compliance Department of the Exchange.

(I) The term "write-up clerk" shall mean a non-member of the Exchange employed by one or more Class A Member, COMEX Division Member, COMEX Division Option Member, COMEX Division Aluminum Member, Permit Holder, or Member Firm of either Division as defined in this Rule 8.58(C) whose duties consist of clerical functions on the Exchange Floor (e.g., checking an employer's trading records against transfer forms).

(J) The term "runner" shall mean a non-member of the Exchange employed by a Class A Member, COMEX Division Member, COMEX Division Option Member, COMEX Division Aluminum Member, Permit Holder, or Member Firm of either Division as defined in this Rule 8.58(C) whose duties include but are not limited to delivering customer order tickets and customer order information to Brokers on the floor of the Exchange.

(K) Telephone clerks, runners and NYMEX ACCESS@ Operators, as these terms are defined herein, shall be bona-fide employees of only one Member, Member Firm, Permit Holder or Electronic Trader at any one given time and shall only conduct their work duties on behalf of said Member, Member Firm, Permit Holder or Electronic Trader for the period of such employment. Telephone clerks, runners and NYMEX ACCESS@ Operators shall be prohibited from accepting orders for, or transmitting orders to, any Member, Member Firm, Permit Holder or Electronic Trader for which he is not an employee, unless authorized to do so by his employer.

8.59 Extent of Jurisdiction

Employees of Members and Member Firms having access to the trading floor or to NYMEX ACCESS@ or any part of the Exchange premises, or other persons subject to the Exchange's disciplinary jurisdiction, shall remain subject to Exchange jurisdiction for the purposes of Chapter 8 of these Rules following the termination of such person's employment or other relationship giving rise to Exchange jurisdiction. If the employee or other Subject has not previously been so notified in writing or in a recorded interview, the Vice President of Compliance or his/her designee shall, within a period of one year of such employee's termination of employment with any Member and Member Firm, advise such person in writing, by certified and first class mail or by use of a generally recognized overnight delivery service to the employee's last known residence address as reflected in Exchange records or the records of the

Member and Member Firms that it is conducting an investigation of possible Rule violations during the period of his employment.

8.60 Obligation of Employee to Respond to Compliance Department Inquiries

Employees and other persons notified of any investigation pursuant to Rule 8.50 shall respond to all inquiries of the Compliance Department at the time, place, and in the manner designated by the Compliance Department, and shall make available to the Compliance Department any books and records maintained by such person in the course of his Exchange-related employment. Any person under such investigation shall be entitled to representation by legal counsel in any interview conducted by the Compliance Department in the course of its investigation, and for the duration of such investigation. Any interview conducted by the Compliance Department may be tape recorded or transcribed stenographically at the election of the Compliance Department.

8.61 Obligation of Employee to Comply with Rules of Exchange

All employees of Members and Member Firms must comply with all Bylaws, Rules, Board Resolutions, and policies of the Exchange as if specifically referred to therein. Any Rule which provides for the discipline, suspension, imposition of fine or other penalty for violation thereof shall apply to all employees of Members and Member Firms for the purposes of disciplinary and summary action as provided in this Chapter 8. Rule violations and suspected Rule violations shall be investigated and resolved as described in this Chapter 8, including summary action taken pursuant to Rule 8.22.

8.62 Clerk Registration, Trading Badges, Access to the Trading Floor and Disciplinary Jurisdiction

(A) Registration

(1) Members and Member Firms shall register a clerk, whose duties have been defined under Rule 8.58, with the Membership Department on a form provided by the Exchange ("Application"), which must be executed by the employer of the clerk and the clerk, prior to the clerk being granted access to the Exchange trading floor ("Trading Floor").

(2) Any changes in the information contained in the Application, shall be reported by the Member or Member Firm to the Membership Department, within five business days of such change.

(B) Bylaws and Rules of the Exchange a clerk shall certify in the Application, to abide by the Bylaws and rules of the Exchange

(C) Clerk Training Course Requirements

(1) Upon notice from the Membership Department, a clerk must take either an examination or successfully complete a Clerk Training Course, inclusive of an examination ("Course") to be administered by the Training and Education Department.

(2) Exceptions

(i) A clerk who, anytime within the year immediately preceding registration as a clerk, served as a floor broker on the Division he is registering for, shall be exempt from these clerk training requirements;

(ii) A clerk who, anytime within the year immediately preceding registration as a clerk, worked as a floor broker on a commodity exchange other than the Division he is registering for, may, in lieu of attending the Course, take the next examination and computer training course offered by that Division;

(iii) A clerk who, immediately preceding registration as a clerk, worked three months or more as a clerk on the trading floor of a commodity exchange other than the Division he is registering for, may, in lieu of attending the Course, take the next examination and computer training course offered by that Division; or

(iv) The Training and Education Committee, for good cause shown, may waive any part, or all, of the Course or examination requirements for any clerk who, at any time within the last year, has worked three months or more on the Trading Floor or any other commodity exchange. Notwithstanding an exemption by the Training and Education Committee, all clerks must attend computer training on the Division he is registering for.

(3) If a clerk who is required to take an examination fails to pass such examination, he must, within one week of being notified that he failed the examination, retake the examination or attend the next Course;

(4) If a clerk, fails to take either the next examination or the next Course, as directed by the Membership Department, he shall be excluded from the Trading Floor, and his Clerk Badge shall be revoked, until such time as he either passes the examination, or successfully completes the Course;

(5) If a clerk, who is required to attend the next Course fails to complete the Course, he will be prohibited from taking the examination to be administered at the conclusion of the Course and will immediately be excluded from the Trading Floor, and his Clerk Badge shall be revoked, until such time as he attends and successfully completes another Course;

(6) If a clerk, who is required to attend the next Course fails to pass the examination administered at the conclusion of the Course and fails to take or pass a second examination, the clerk shall be excluded from the Trading Floor and his Clerk Badge shall be revoked, until such time as he successfully completes another Course.

(7) Except as provided in subparagraphs (2)(i)-(iv), above, a clerk that registers with the Membership Department to work on both the Class A Members and COMEX Division simultaneously, will be required to successfully complete the Course for each Division.

(D) Clerk Badges

Upon registration of a clerk, a temporary Clerk Badge will be issued by the Membership Department. Thereafter, upon successful completion of the Course as provided by this Rule, the Membership Department will authorize the issuance of a permanent Clerk Badge, which will grant the clerk access to the Trading Floor. The Clerk Badge shall be worn so as to be easily identifiable by Floor Committee Members or Exchange personnel at all times the clerk is on the Trading Floor. Failure to wear such badge, or to wear the badge in a manner not easily identifiable, may result in the issuance of a summary fine by the Floor Committee against the clerk in the amount of \$250 and suspension from the Trading Floor until the fine is paid and the badge displayed. Notice of such fine shall also be given to the Member or Member Firm that employs the clerk. The Member or Member Firm that employs the clerk shall be responsible for the payment of such fine in the manner provided in Rule 8.67 if the clerk defaults in its payment.

(E) Disciplinary Action

(1) Any intentional violation by a Member or Member Firm of the requirements of this Rule shall constitute a major offense of the Exchange's Rules.

(2) Any clerk who is not properly registered with the Exchange as provided by this Rule shall be subject to the disciplinary action pursuant to this Chapter 8 and shall also be personally liable for a summary fine of \$100 per business day for each day of non-compliance with this Rule. Said fine will be assessed by the Floor Committee or the Compliance Department acting as agent for the Floor Committee and shall be issued to the clerk personally. Upon service of a summons for a fine, a clerk shall be immediately excluded from the Trading Floor until payment of the fine is made to the Exchange pursuant to Rule 8.67(A) and registration completed, in the manner provided by Exchange policy. Three violations of this Rule 8.62 within one calendar year is sufficient cause for the President or his designee to summarily revoke the clerk's registration status.

(3) A clerk shall be subject to the jurisdiction of the Exchange pursuant to Exchange Rule 8.59.

(4) No clerk may trade for himself or any person or entity in any Commodity contract traded on or cleared by the Exchange.

(5) The President or his designee shall have the power and authority to inquire into and to investigate the employment and conduct of, and functions performed by all clerks employed by Member and Member Firms. The President or his designee shall also have the power to summarily deny or summarily revoke a clerk's registration for conduct detrimental to the Exchange, including but not limited to, not being on the payroll of the Member or Member Firm, or not functioning as a bona fide clerk.

(F) Clerk Termination or Revocation, Return of Badge.

(1) A Member or Member Firm shall report the termination of employment of any clerk, and return the Clerk's Badge, to the Membership Department, within one business day of such date of termination.

(2) A Member or Member Firm shall return a Clerk's Badge to the Membership Department, within one business day of the revocation of a clerk's registration as determined by the President or his designee as provided for in subparagraph (E)(5).

(3) Failure to return such badge, may result in the issuance of a summary fine against the Member or Member Firm in the amount of \$100 per business day for each day of non-compliance with this Rule.

8.63 Member and Member Firm Responsibility

Notwithstanding any fine assessed pursuant to Rule 8.62, a Member or Member Firm whose clerk is not properly registered with the Exchange pursuant to Board Resolution shall be liable for a summary fine of \$250 per business day for each day the clerk is not so registered. Said fine shall be paid to the Exchange upon service of an assessment from the Floor Committee or the Compliance Department as agent, as provided for in Rule 8.67(A). Three violations of this Rule 8.63 within one calendar year is sufficient cause for formal disciplinary action to be taken.

8.65 Sanctions and Restitution Orders

Any penalty or restitution order that results from a formal disciplinary proceeding against a clerk may be imposed by a written settlement agreement or imposed by a hearing panel and may include suspension or permanent revocation of clerk privileges. Clerks shall also be personally liable for applicable summary fines imposed pursuant to NYMEX Rule 6.60 and COMEX Rule 104.09, as applicable.

Members and Member Firms shall be responsible for any fine or restitution order issued to their employees during their tenure, pursuant to this Rule; provided however that the disciplinary or floor committee that issued the fine or restitution order may waive such responsibility if it determines that the Member or Member Firm did not have knowledge of the employee's conduct forming the basis of the violation, and that a substantial injustice would result from imposing responsibility for a fine on the Member or Member Firm.

8.66 Billing and Commissions

(A) Any bill for services rendered on the trading floor or on NYMEX ACCESS@ shall be issued in the name of, and as payable to, a Member or Member Firm. For the purposes of this rule, the terms "Member" and "Member Firm" shall include COMEX Members who have NYMEX Division trading privileges.

(B) A telephone clerk, runner or NYMEX ACCESS@ Operator may only accept income, bonuses, or remuneration from a single Member or Member Firm employer.

8.67 Summary Fines – Payment and Appeals

(A) Summary fines imposed pursuant to Rules 8.62, 8.63, and 8.64 shall be payable to the Exchange within ten (10) days after notice of such fine is given to the clerk, Member or Member Firm.

(B) Summary fines imposed pursuant to Rules 8.62, 8.63, and 8.64 may be appealed as provided for in Rule 8.21(B).

8.68 Notification of Final Disciplinary Action Involving Financial Harm to a Customer

(A) For purposes of this Rule: "Final disciplinary action" means any decision by or settlement with the Exchange in a disciplinary matter which cannot be further appealed at the Exchange, is not subject to the stay of the Commission or a court of competent jurisdiction, and has not been reversed by the Commission or any court of competent jurisdiction.

(B) Upon any final disciplinary action in which the Exchange finds that a Member, Member Firm, or an employee of a Member or Member Firm has committed a rule violation that involved a transaction for a customer, whether executed or not, and that resulted in financial harm to the customer:

(1)(i) the Exchange shall promptly provide written notice of the disciplinary action to the futures commission merchant that cleared the transaction; and,

(ii) a futures commission merchant that receives a notice under paragraph (B)(1)(i) shall promptly provide written notice of the disciplinary action to the customer as disclosed on its books and records. If the customer is another

~~futures commission merchant, such futures commission merchant shall promptly provide the notice to the customer.~~

~~(2) A written notice required by paragraph (B)(1) must include the principal facts of the disciplinary action and a statement that the Exchange has found that the Member has committed a rule violation that involved a transaction for the customer, whether executed or not, and that resulted in financial harm to the customer. For the purposes of this rule, a notice which includes the information listed in Commission Regulation 9.11(b) shall be deemed to include the principal facts of the disciplinary action thereof.~~

8.69 Audit Trail Violations

~~(A) If the Compliance Department determines that a Class A Member has failed to comply with any subdivision of NYMEX Rule 6.90 or that a COMEX Division Member has failed to comply with any of the provisions of COMEX Rules 4.80 or 4.81, it may summarily implement the following disciplinary procedures:~~

~~(1) A Warning Letter may be issued for a first infraction, informing the Member that there was a rule violation.~~

~~(2) A second infraction in a 12-month period may subject the Member to a \$100.00 summary fine.~~

~~(3) A third infraction in an 18-month period may subject the Member to a \$500.00 summary fine.~~

~~(4) A fourth infraction in a 24-month period will be sufficient basis for a Compliance Department referral to the Business Conduct Committee for formal Disciplinary Action.~~

~~(5) Subdivisions 1-4 will not apply when the Compliance Department determines that a Member has committed a substantive violation of Exchange rules in addition to a trading card infraction.~~

8.70 Floor Order Ticket Reviews – Summary Violations

~~(A) If the Compliance Department determines that a NYMEX Division FCM, Member Firm or Floor Brokerage Operation has failed to comply with NYMEX Division Rule 6.18(A)(i) or (ii) or that a COMEX Division FCM, Member Firm or Floor Brokerage Group has failed to comply with COMEX Division Rules 4.80 or 4.81 with respect to the preparation of floor order tickets, by achieving a compliance rate of 89% or lower, it may summarily implement disciplinary procedures as follows:~~

~~(B) After an initial review, the Compliance Department may impose fines corresponding to the following rates of compliance:~~

~~89-80%~~

~~\$100~~

~~79-70%~~

~~\$250~~

~~69-60%~~

~~\$500~~

~~59% and Below~~

~~\$1,000~~

~~(C) If after a second review an entity fails to achieve a passing compliance rate, the Compliance Department may impose a fine in the amount imposed in the initial review under (B), plus an additional amount corresponding to their rate of compliance achieved in the second review, as follows:~~

~~89-80%~~

~~(B) + \$100~~

~~79-70%~~

~~(B) + \$250~~

~~69-60%~~

~~(B) + \$500~~

~~59% and Below~~

~~(B) + \$1,000~~

(D) If after a third review an entity fails to achieve a passing compliance rate, the Compliance Department may impose a fine in the amount imposed in the initial review under (C), plus an additional amount corresponding to their rate of compliance achieved in the third review, as follows:

80-80%

(C) + \$200

70-70%

(C) + \$500

***60-60%**

(C) + \$1,000

***50% and Below**

(C) + \$2,000

*The Compliance Department may, in its discretion, refer to the Business Conduct Committee any entity achieving a compliance rate of 60% and below after a third review.

If after a fourth review an entity fails to achieve a passing compliance rate, the Compliance Department may refer the entity to the Business Conduct Committee for disciplinary action.

(E) Any fine imposed in accordance with this Rule may be appealed to the Business Conduct Committee ("BCC"), NYMEX and COMEX Divisions accordingly. To appeal a fine, a Member shall file a typewritten request with the Exchange's Compliance Counsel within five (5) business days after receipt of the notice of such fine. The letter of appeal should set forth the reason for the requested appeal and attach any relevant documents. The BCC shall meet at such times as it deems appropriate, and shall reach its decision based upon the letter of appeal and any other documents furnished by the Member subject to the fine with the appeal letter or by the Compliance Department. The BCC in its sole discretion may permit or require personal appearances by the Member and/or the Compliance Department. The BCC shall affirm, modify or reverse the fine appealed and shall issue its Decision in writing within thirty (30) days of meeting to consider the appeal.

8.99 Class A Member Summary Suspension

(A) If, at any time, the Executive Committee has a reasonable belief that immediate action is necessary to protect the best interests of the marketplace, the Executive Committee, or when required under Rule 3.11A(B), the Executive Committee with a Public Director of the Board or a Public Committee Member of the Business Conduct Committee or the Adjudication Committee may suspend, or take other summary action against, a person subject to the jurisdiction of the Exchange. Such action may be taken in circumstances including but not limited to, the following:

(1) Receipt of notification of any suspension, expulsion, revocation or restriction of trading privileges, through an adverse determination, voluntary settlement or otherwise, by any court, commodity or securities exchange or related clearing organization, the Securities and Exchange Commission, the Commodity Futures Trading Commission or the securities commission or equivalent authority of any state, territory, the District of Columbia or foreign country, the National Futures Association, the National Association of Securities Dealers, Inc., or any self-regulatory or regulatory organization or other business or professional association;

(2) Receipt of notification of any conviction, finding of guilt, confession of guilt, plea of guilty or nolo contendere to a felony or misdemeanor charging misrepresentation, fraud, deceit, theft, embezzlement, gambling, conversion, abuse of a fiduciary relationship or other such act; or

(3) Upon application by the Compliance Department, any other circumstance where the Executive Committee determines there is a reasonable basis to believe that (a) an individual under Exchange jurisdiction ("Respondent") has committed a violation of Exchange Rules constituting a Major Offense involving honesty or integrity, and (b) there is a reasonable likelihood that further such violations will occur unless summary action is taken.

(B) Any suspension or other summary action taken pursuant to this Rule 8.99 shall be taken in accordance with the following procedure:

(1) Any action taken under the authority of this Rule 8.99 may be taken without notice or a hearing where the Respondent waives notice or hearing, or when the Executive Committee determines, in its sole discretion, that the furnishing of notice, an opportunity for a hearing, or both, before such action is taken is not practicable under the

circumstances. Whenever practicable, the Respondent shall be served with a notice before any action is taken. Such notice shall state the situation which is believed to cause the need for summary action by the Executive Committee, and the date, time and place of the hearing, and that the Respondent shall have the right to be represented by legal counsel of his choosing at such hearing and all subsequent proceedings.

(2) In any case where the Executive Committee has taken action against a Respondent without prior notice or hearing because of impracticability, the Exchange shall promptly give Respondent notice of such which shall state the action taken, the reasons therefore, the effective date, time, and duration of the action, and that, upon written request by a date certain, a hearing will be held to determine if action is necessary to protect the best interest of the marketplace.

(3) The powers and duties conferred upon the Executive Committee, including the obligation to hold a hearing, if requested, may be delegated to a subcommittee of any two or more members of the Executive Committee or to the Adjudication Committee or any subcommittee thereof, as the Chairman of the Executive Committee may decide in his sole discretion, in accordance with all applicable provisions of Rule 3.11A.

(4) Any hearing held pursuant to this Rule 8.99 shall be fair and shall be held before one or more persons authorized by the Exchange to conduct hearings pursuant to this section. The hearing shall be conducted in accordance with the procedures set forth in Rule 8.10, provided however that for actions taken pursuant to Rule 8.99(A)(1) and (2), subsection 8.10(A)(vii) shall not apply.

(C) Promptly following the hearing provided for in this Rule 8.99, the Exchange shall render a written decision based upon the weight of the evidence contained in the record of the proceeding and shall provide a copy of the decision to the Respondent. The decision shall include:

(1) A description of the summary action taken;

(2) The reasons for the summary action;

(3) A brief summary of the evidence produced at the hearing;

(4) Findings and conclusions;

(5) A determination that the summary action should be affirmed, modified or reversed; and

(6) A declaration of any action to be taken and the effective date and duration of such action;

(D)(1) A Respondent against whom summary action has been taken pursuant to this Rule 8.99 may appeal such action within ten days of the final date thereof.

(2) In the event of an appeal, the procedures set forth in Rules 8.12 through 8.18 shall apply.

(3)(a) No findings of a hearing panel referred to in Rule 8.99 may be set aside if supported by any evidence in the record of the proceeding.

(b) An Appeal Panel may affirm, reverse or modify, in whole or in part, the decision of the hearing panel.

(c) The Appeal Panel shall issue a written decision which shall include: (i) a statement of its findings and conclusions with respect to each issue reviewed; (ii) an order reversing, affirming or modifying the decision of the hearing panel, and (iii) the effective date of such decision.

(d) Any decision of an Appeal Panel is the final decision of the Exchange and shall be effective immediately upon being served upon the Respondent and to the Commission.

(E)(1) A Respondent suspended under this Rule may apply for reinstatement at any time prior to the sale of his Membership, provided, however, that if a Member suspended under this Rule is not reinstated within one (1) year of the date of his suspension, such Member may not be reinstated.

(2) A Respondent Electronic Trader suspended under this Rule may apply for electronic trading privileges after the term of his suspension is complete, provided, however, that if an Electronic Trader suspended under this Rule is not reinstated within one (1) year of the date of his suspension, such Respondent may not be granted NYMEX

ACCESS@ trading privileges again.

(3) Any application for reinstatement shall be filed with the Office of the President. Written notice of the time and place of the meeting of the Executive Committee, or any other Committee or subcommittee of the Exchange, at which the application for reinstatement is to be considered shall be sent to the suspended member and to the membership not less than five (5) days prior to the meeting. The vote of a majority of the Board present and voting is required to reinstate the suspended Member.

8.99A Summary Procedures for Denial of Access to NYMEX ClearPort@ Clearing

(a) In connection with a user who is using the Exchange's services for clearing of a product through NYMEX ClearPort@ Clearing (User),

(i) In the event, as determined by the President or his designee in his sole discretion, of such User's failure to maintain a clearing arrangement acceptable to the Exchange or failure to pay fees due on any transaction as provided by the applicable fee schedule or if deemed necessary to protect the Exchange, its contract markets or other Users or Members as determined by the President or his designee in his sole discretion, the President or his designee shall have the right, without limitation, to take any or all of the following actions:

- (1) terminate User's Passwords and Identification and User's access to NYMEX ClearPort@ Clearing;
- (2) close out all of User's open positions;
- (3) treat any or all of User's obligations to NYMEX, if any, as immediately due and payable; and
- (4) deny User further access to the Exchange's markets.

Nothing in this Rule shall preclude any other action against a Member pursuant to the Rules.

8.99B Summary Procedures for Denial of Access to NYMEX ClearPort@ Trading or to GLOBEX

For the purposes of this Rule 8.99B, references to User or to User Agent shall be understood to include, respectively, GLOBEX@ User or GLOBEX@ User Agent, or NYMEX ClearPort@ Trading User or NYMEX ClearPort@ Trading User Agent, as those terms are defined in NYMEX Rules 11.31 and 11G.00

(a) Any one of the following (i) through (vi) shall constitute an Event of Default:

- (i) any representation, warranty or covenant of User ceases to be true and accurate;
- (ii) User or User's Agent fails to comply with any applicable Exchange rule;
- (iii) User or User's Agent uses GLOBEX@ or NYMEX ClearPort@ Trading (collectively, for purposes of this Rule 8.99B, the "System") from a jurisdiction other than those permitted by the Exchange;
- (iv) User fails to maintain a clearing arrangement acceptable to the Exchange;
- (v) User fails to pay NYMEX the fees due on any Transaction as provided by the applicable Fee Schedule; or
- (vi) User's or User's Agent's access to the System potentially implicates the welfare of the Exchange, its markets or other Users or Members.

(b) In the event that the President or his designee reasonably determines, in accordance with the provisions of paragraph (a), that there has been an Event of Default, the President or his designee shall have the right, without limitation, to take any or all of the following actions:

- (1) terminate the Passwords of the User or of such User's Agents and User's access to the System;
- (2) close out all of User's open positions;
- (3) cancel any or all of User's orders in the System;
- (4) treat any or all of User's obligations to NYMEX as immediately due and payable; or
- (5) set off any obligations of NYMEX to User against any of User's obligations to NYMEX. Nothing in this Rule shall preclude any other action against a Member pursuant to the Rules. Actions taken pursuant to Paragraph (b)(1-5) (for purposes of this Rule 8.99B, "Summary Action") shall be the final action of the Exchange if the User does not request review pursuant to paragraph (c) within the specified time period.

(c) The President or his designee shall determine when an Event of Default has occurred and any Summary Action that will be taken by NYMEX without prior notice or a hearing to User. The President or his designee shall provide

User with written notice of any Summary Action via electronic mail or facsimile communication, which shall be sent to User in accordance with the contact information on file at the Exchange for the User, and such notice shall be deemed to be received by the User upon transmission of a facsimile communication or, in the case of an electronic mail communication, one business day following an electronic mail message. Such notice shall specify the date of the occurrence for which the Summary Action is being imposed and the provisions of the Agreement or other basis for the Summary Action. Within 10 days of receipt of the notice, the User may submit a written request to the NYMEX Hearing Registrar to review the Summary Action taken and any such request shall specify the basis for such a review.

(d) The President shall appoint a hearing panel drawn from the Exchange's Adjudication Committee (for purposes of this Rule 8.99B, "Hearing Panel") to hear and consider a request for review made pursuant to paragraph (c) at a meeting to be held promptly after the Exchange has received such a request. A meeting pursuant to this Rule may be conducted telephonically. At the meeting, the User may appear and present evidence that it did not commit an Event of Default and the Exchange, through its Compliance Staff or its designee, may present such evidence that an Event of Default has occurred.

(e) The Hearing Panel shall not be bound by formal rules of evidence. The Hearing Panel shall follow such procedures as it deems best calculated to ascertain material information and otherwise to ensure a fair and impartial hearing.

(f) The Hearing Panel shall issue a written decision containing: (i) a description of the Event of Default and Summary Action taken by the Exchange as provided in paragraphs (a) and (b); (ii) a summary of the evidence produced at the hearing; (iii) a statement of its findings and conclusions with respect to the Event of Default; and (iv) its conclusion concerning whether the Summary Action taken was appropriate and/or whether imposition of additional or other Summary Action, if any, is appropriate. Such decision shall be the final action of the Exchange and shall not be subject to further review within the Exchange.

(g) A User suspended or terminated from access to the System pursuant to this Rule may apply for trading privileges on the System if at the time of the application the User can demonstrate compliance with all material terms of applicable agreements with the Exchange. The determination of such compliance and possible readmission shall be made by, and is within the sole discretion of, the President or his designee.

(h) Nothing in this Rule shall preclude any other action against a Member pursuant to the Rules.

Chapter 9 Clearing Rules

[Current NYMEX Chapter 9 is being replaced by new NYMEX Chapter 9 – Clearing Members and NYMEX Chapter 9A – Position Rules]

Note: Important Note

As of May 16, 2003, this chapter governs the processing and clearing of COMEX Division transactions as well as NYMEX Division transactions. In addition, as of May 16, 2003, all bylaws and rules of the COMEX Clearing Association are no longer in force or effect.

In addition, as of June 1, 2007, this chapter governs the processing and clearing of Dubai Mercantile Exchange Limited ("DME") transactions.

9.00 Liability of Exchange

(A) A Clearing House shall be maintained and operated under the Bylaws and Rules of the Exchange, for the purpose of clearing all trading of members on, or subject to the Bylaws and Rules of, the Exchange.

(B) Wherever these Rules create a right in favor of the Clearing House, or impose a liability on the Clearing House, it shall be construed as the right or liability of the Exchange and shall be enforceable by or against the Exchange.

(C) The Exchange, the Clearing House, and the Clearing House Committee assume no liability in any clearing transactions, so far as fraudulent warehouse receipts are concerned, or the failure of insolvency of banks, or depositories.

(D) In connection with the clearing of certain over-the-counter transactions in Exchange-designated pari-mutuel auctions, the Exchange may determine to facilitate the clearing of such transactions by establishing only for operational purposes one or more Exchange Clearing Member numbers and/or processing accounts. Notwithstanding the establishment of any Clearing Member number or account, the Exchange shall not be subject to the duties, obligations and requirements imposed upon Clearing Members under Exchange bylaws and rules.

9.00A Dubai Mercantile Exchange Limited

(A) For purposes of these Chapter 9 rules and except as otherwise noted within a particular rule, all references to requirements, conditions or procedures of the Exchange as Clearing House, shall be deemed to apply to DME contracts.

(B) The Exchange, in relation to providing clearing services to the DME for transactions effected on or subject to the rules of the DME, will provide reports and such other information to the DME as may be required for the business operation and regulatory requirements applicable to the DME.

9.01 Direction of the Clearing House

The general direction of the Clearing House shall be under the jurisdiction of the Clearing House Committee. The President of the Clearing House shall be responsible for the daily operation of the Clearing House and the implementation of the rules applicable to the Clearing House. The President of the Clearing House may also delegate authority for certain aspects of the daily operation of the Clearing House to staff of the Clearing House.

9.02 Membership in the Clearing House

(A) Any Member Firm may, with the approval of the Clearing House Committee and notification to the Board, become a member of the Clearing House in the manner hereinafter set forth, provided:

(1) that the applicant must have such business integrity and financial responsibility as to justify the Clearing House in assuming the risk involved in the clearing of the applicant's trades;

(2) that a bona fide office can be continuously maintained in the City of New York and a bank account maintained with a bank in the City of New York acceptable to the President of the Clearing House. A Clearing Member not having an office in the City of New York may satisfy the condition respecting a bona fide business office in the City of New York by: A) designating another Clearing Member or member of the Exchange having a bona fide business office in the City of New York to act for it in all matters requiring action by a Clearing Member under the Bylaws and Rules of the Exchange and to receive on its behalf all notices or other communication including legal process in connection with Clearing House and/or Exchange transactions, such designation to be in form satisfactory to the Clearing House Committee; or B) presenting a plan for a "remote clearing solution" to the Clearing House Committee and having such plan approved by the Clearing House Committee. The President of the Clearing House may establish procedures respecting the nature of the office to be maintained in New York by a Clearing Member as well as the conditions to be complied with by a Clearing Member not having an office in the City of New York.

The Clearing House Committee, with appropriate notice to the Board, shall either approve or disapprove the applicant and, if approved, the applicant shall be admitted to membership in the Clearing House. If disapproved the applicant shall not be permitted to file another application for a period of one year from the date of notice of disapproval.

(B) The application shall be accompanied by a written document guaranteeing to the Clearing House the assumption of responsibility for any and all trades made in the name of the applicant or his qualified floor traders and accepted by the Clearing House. Any qualified member or members so approved can be guaranteed by only one Clearing Member but may act as a floor broker for other Clearing Members.

(C) Said guaranteeing document, in the case of a partnership or corporation, shall be signed by the Exchange member of the partnership or corporation.

(D) In the case of a corporation, the guaranteeing document shall be accompanied by a copy of the resolution of the Board of the corporation authorizing the guarantee required by this Rule duly certified by the Secretary or the principal officer of the corporation.

(E) Any lawfully formed and conducted cooperative association of producers, within the meaning of the Commodity Exchange Act, which is engaged in any cash commodity business, having adequate financial responsibility may become a member of the Clearing House on the same terms and conditions as a corporation.

(F) Applications for membership in the Clearing House shall be accompanied by the applicant's balance sheet prepared and certified to by a certified public accountant and sworn to as to the substantial accuracy by the applicant whose signature shall be acknowledged. The balance sheet of the applicant shall show a working capital (as defined in Rule §9.23) of not less than \$5,000,000.

(G) Members of the Clearing House shall have the privilege of designating members of the Exchange as qualified floor traders in addition to their regular representative members. Such qualified floor traders must be guaranteed by the Clearing Member and subject to the approval of the Clearing House Committee.

(H) All applicants prior to their election to membership in the Clearing House shall sign a statement that if approved, they will observe and be bound by the Clearing Rules of the Exchange and all amendments subsequently made thereto.

(I) The President of the Clearing House shall refer to the Clearing House Committee for its consideration the application and supporting documents after the President of the Clearing House is satisfied that the financial requirements have been met.

(J) Where a Clearing Member guarantees more than six qualified floor traders he shall have, in addition to the capital required for each Clearing Member, an additional \$50,000.00 of working capital for the guarantee of each qualified floor trader in excess of six.

(K)(1) A corporation that is wholly owned by one member may be granted membership in the Clearing House provided that the provisions of this subsection have been met. The corporation must be a Member Firm upon which member privileges have been conferred by the owner of the Member Firm, or by the owner and a lessee leasing a membership from the owner of the corporation. The owner of the Member Firm must own both memberships. The lease agreement, if any, shall provide that the lease agreement shall terminate immediately upon the failure of the Member Firm to meet its obligations to the Exchange or its Members and that the membership shall be available to satisfy such obligations. The member firm must have and maintain \$250,000 working capital; and the obligations of the Member Firm to the Clearing House must be guaranteed by its owner. Such a Member Firm will be permitted to Clear trades executed by or for the account of the owner and to qualify only the owner. The Member Firm may not qualify, clear or guarantee the trades of a lessee who confers membership privileges upon the corporation. The Member firm must maintain at all times at the Clearing House original margin deposit of \$100,000 regardless of lesser applicable margin requirements. The Member Firm must file with the Exchange financial statements as follows: a certified financial statement within ninety (90) days of the close of its fiscal year and quarterly financial statements within forty five (45) days of the close of each fiscal quarter other than the last fiscal quarter.

(2) In the event that a claim(s) against the lessee aggregating in excess of \$10,000 is (are) asserted, pursuant to any available means, the Member Firm shall, within two business days of the assertion of such claim, liquidate or transfer all positions cleared on the books of the Member Firm and cease doing business as a Member Firm; provided, however, that such action need not be taken if, within two business days of the assertion of a claim, the owner of the Member Firm deposits and maintains with the Clearing House \$300,000 original margin in addition to the margin requirements of this Section (K) to satisfy any and all claims that may be raised against the Member Firm or its owner and within thirty calendar days of such claim, the privileges of another membership owned by the owner of the Member Firm are conferred upon the Member Firm. On the effective date of the substituted conferred membership privileges, the \$300,000 additional original margin may be returned to the owner of the Member Firm. The original leased membership shall remain available to satisfy the claims, if valid, against the lessee.

(3) In the event that a claim(s) against the Member Firm aggregating in excess of \$10,000 is (are) asserted, pursuant to Rule 2.51, or Rule 5.19 or, if by the Exchange pursuant to any available means, the lessee who has conferred the privileges of a leased membership on the Member Firm shall, within two business days, liquidate all positions held by or on his behalf and shall cease doing business as a Member of the Exchange; provided, however, that such action need not be taken if, within two business days:

(a) the lessee demonstrates that he owns or leases more than one membership; or

(b) the lessee, lessor or Member Firm deposits with the Exchange a Certified check, payable to the Exchange, in an

amount equal to the higher of the price at which a Membership was last sold or at which a membership was offered and acknowledges that such funds shall be available to satisfy any and all valid claims against the lessee.

Provided, further, that in the event that the lessee continues to do business pursuant to the provisions of (a) or (b) above, the leased seat shall be available to satisfy any valid claims against the Member Firm.

(L) Each member who is a proprietor of a corporation or partnership which is a member of the Clearing House, pursuant to Section (K) of this Rule or otherwise, and as its principal business clears the trades of its proprietors in the house account shall guarantee to the Exchange, its members and member firms in a form and manner acceptable to the Exchange, the full and prompt payment of any and all obligations arising out of Exchange transactions made by or on behalf of such member. As used in this Section (L), the term proprietor shall mean an officer, director, or owner or controller of ten percent (10%) or more of the common or stock of a corporation or a general or limited partner of a partnership.

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, CME or CBOT for any loss sustained by the Exchange, CME or CBOT as a result of the failure of any NYMEX, COMEX, CME or CBOT Clearing Member to discharge its obligations in accordance with the Rules or the Rules of CME or CBOT. The Clearing House Committee 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 determined by Clearing House staff. 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 \$2.5 million.

The amount deposited shall be in any combination of:

(1) U.S. Dollars,

(2) shares of certain Money Market Mutual Funds as approved by Clearing House staff 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.

(C) Custody

(1) The Guaranty Fund shall be deposited in a special account in the name of the Exchange in such depositories as may be designated by Clearing House staff.

(2) Clearing House staff shall be empowered to invest and reinvest all or part of the funds constituting the Guaranty Fund in direct obligations of the United States and/or to deposit said funds at interest. Such investments and deposits shall be at the risk of the Exchange. All net income and gains on such investments and interest on such deposits shall belong to the Exchange and shall be withdrawn from the Guaranty Fund and deposited with the general funds of the Exchange.

(D) Impairment

If the Guaranty Fund or any part thereof be lost or become unavailable from any cause other than the default of the depositing Clearing Member, the amount so lost or made unavailable shall be forthwith restored by transferring thereto all of the surplus of the Exchange that may be necessary, except such amount as the Board may, in its discretion, decide to retain as surplus for future operating expenses, and if the amount thus transferred from surplus

be not sufficient to cover the entire loss, the balance of such loss shall be made up by an assessment in equal shares upon each of the Exchange members. Such assessment shall be paid to the Exchange immediately (but in no case to exceed one business day) after notice in writing thereof shall have been mailed to each of the Exchange members.

(E) Surrender of Guaranty Fund Deposit

After a Clearing Member ceases to be a Clearing Member of the Exchange and after all obligations of such member to the Exchange shall have been discharged in full, the amount of the Guaranty Fund that to which such Clearing Member is entitled shall be returned. Any expense, including counsel fees, incurred by the Exchange in connection with a Clearing Member's deposit or the return thereof, may be charged to the Clearing Member.

9.03A Use of the Guaranty Fund

(A) The Exchange may at any time and from time to time assign, pledge, repledge or otherwise create a lien on or security interest in, the Guaranty Fund and/or the cash, securities and other property held in the Guaranty Fund to secure the repayment of funds borrowed by the Exchange (plus interest, fees and other amounts payable in connection therewith).

(B) Any such borrowing shall be on terms and conditions deemed necessary or advisable by the Exchange (including the collateralization thereof) in its sole discretion, and may be in amounts greater, and extend for periods of time longer than the obligations, if any, of any Clearing Member to the Exchange for which such cash, securities or other property was pledged to or deposited with the Exchange.

(C) Any funds so borrowed shall be used and applied by the Exchange solely for the purposes for which cash, securities and other property held in the Guaranty Fund are authorized to be used pursuant to Exchange Bylaws and the Rules; provided that the failure of the Exchange to use such funds in accordance with this Section (C) shall not impair any of the rights or remedies of any assignee, pledgee or holder of any such lien or security interest.

(D) Cash, securities and other property held in the Guaranty Fund shall remain the property of the respective Clearing Members depositing such cash securities and other property, except that:

(1) such property shall be subject to the rights and powers of the Exchange with respect thereto as set forth in Exchange Bylaws, the Rules, and any agreements between any Clearing Member and the Exchange; and

(2) such property shall be subject to the rights and powers of any person to which the Guaranty Fund or any cash, securities or other property held therein shall have been assigned, pledged, repledged or otherwise subjected to a lien or security interest.

9.04 Clearing Procedure

(A) Submission of Daily Reports and Checks

For each contract for the future delivery of commodities, for each options contract, and for each other contract made and/or cleared on or subject to the rules of the Exchange, each Clearing Member shall, on the day when such transaction takes place, make and deliver to the Exchange a daily report of all such contracts in accordance with rules prescribed by the Clearing House. The aforementioned daily report shall provide the Exchange with a complete record of the essential details of all transactions.

At times and under procedures established by the Clearing House, each Clearing Member shall deposit with the Exchange required variation margin, and original margin in such form as is acceptable to the Exchange. The Exchange in like manner shall pay each Clearing Member such amounts as are due such Clearing Member. The amount payable to or by the Exchange as aforesaid shall be such amount as is necessary, after allowing for amounts theretofore paid on account, to adjust outstanding contracts with the Exchange together with all other contracts set forth in the daily report, to the last settlement prices and premiums posted by the Exchange.

(B) Payments for Original Margin

Each Clearing Member, at the time when payments are due to the Exchange as aforesaid, shall have deposited with the Exchange payment, in such form as is acceptable to the Exchange, for any original margin that may be required, as prescribed in these rules.

~~(C) Acceptance of Reports Final~~

~~All contracts reported to the Exchange as above provided shall be deemed accepted by it, unless the parties thereto are notified to the contrary by the Exchange on or before 9:45 a.m. on the Exchange business day following that on which the contracts are made, up to which time the Exchange has the right to refuse to accept any contract reported to it as aforesaid.~~

~~(D) Submission of Clearing Sheets~~

~~Within the time specified by the President or his designated representative, after the close of future call on each Exchange business day, each Clearing Member shall file with the Clearing House his Clearing Sheet of that day's business. The Clearing Sheet shall be in such form as the Clearing House shall prescribe and shall show in detail the following items:~~

- ~~(1) open trades brought forward at the beginning of the day;~~
- ~~(2) trades by such members on that day;~~
- ~~(3) balanced or straddled trades;~~
- ~~(4) number of trades offset;~~
- ~~(5) balance open at end of day;~~
- ~~(6) the amount due to or from such member on account of all adjusted transactions;~~
- ~~(7) the total amount of margins due on trades made on date of Clearing Sheet;~~
- ~~(8) the total amount of margins to be refunded on trades made on date of Clearing Sheet.~~
- ~~(9) the total amount of premiums due on options trades made on date of clearing sheet;~~
- ~~(10) the total amount of premiums to be refunded on options trades made on date of clearing sheet.~~

~~(E) Separate Sheets for House and Customer~~

~~Members having trades for their own account and for customers' accounts shall file two Clearing House Sheets, each sheet properly designated and complying with the members' own trades and the customers' trades.~~

~~(F) Reporting of Disputed Trades~~

~~Disputed transactions shall not appear upon the Clearing Sheet prior to the settlement of such disputes.~~

~~(G) Deposit for Debit Balance~~

~~If the Clearing Sheets of any Clearing Member show a debit balance such Clearing Member shall pay such balance in accordance with procedures and in such form as the Clearing House shall specify.~~

~~(H) Refund for Credit Balance~~

~~If such Clearing Sheets show credit balances in favor of such Clearing Member after the Clearing House has had an opportunity to verify all balances on members' Clearing Sheets, the Exchange shall pay such balance in accordance with procedures and in such form as the Clearing House shall specify.~~

~~(I) Separate Deposits and Refunds for House and Customer~~

~~Clearing Members shall give to the Clearing House separate settlement deposits for settlement of trades for: (1) members' own accounts, customers' segregated accounts, and (3) customers' non-regulated accounts; likewise the Clearing House shall issue separate refunds to members for: total credit balances on (1) the member's own trades, customers' segregated trades, and customers' non-regulated trades.~~

(J) Offset Memorandum

Clearing Members shall be required to submit to the Clearing House offset memoranda as demanded in the form prescribed by the Clearing House.

(K) Daily Settlement

When a Clearing Member is long or short any amount of commodity futures and options contracts at the end of the day, as indicated by his Clearing Sheet, settlement shall be made with the Clearing House to the settlement price or premium for that day, and such Clearing Member shall pay to, or collect from, the Clearing House any debit or credit, as the case may be, represented by the difference between the price or premium at which the contract was bought or sold, and the settlement price or premium of the commodity for that day. After making such settlement with the Clearing House such Clearing Member shall be deemed long or short such commodity and option, as the case may be, at the settlement price of the day.

(L) No change in records of any kind submitted to the Clearing House shall be made unless approved by the Exchange after written application thereof by the Clearing Member is made to the Exchange, stating the reason for such change.

(M) (1) When clearing operations are conducted by means of electronic data processing machines, amounts owed to the Clearing House must be deposited in accordance with procedures and in such form as the Clearing House shall specify.

(2) Transfer information containing a customer account number, clearing member number and customer type indicator code, shall be submitted to the Exchange by the executing Floor Member within one hour after the initial transfer information is supplied by the Exchange. Disposition sheets shall be filed by 7:00 p.m. if done by paper submission, and by 8:30 p.m. if done by electronic submission.

(i) Tardy submission of transfer information, or disposition sheets, shall constitute grounds for a fine to be issued by designated Floor Department Staff or, where determined as appropriate by the Business Conduct Committee, as grounds for formal disciplinary action under Chapter 8 of the Rules.

(ii) Fines for the failure to submit transfer sheets or disposition information shall be levied by the President of the Clearing House in amounts as the Clearing House Committee, by resolution, may prescribe from time to time.

(iii) As used in this subsection (M)(2), the term "failure to submit" means the failure to submit transfer information for any trade specified in this Rule 9.04 or a disposition sheet to the Clearing House on the day on which a trade is executed prior to the time at which the Clearing House begins final trade processing.

(3) The President of the Clearing House may, at his discretion, announce times, other than those stated above, from which lateness will be computed.

(4) On the day of the expiration of an option contract, Clearing Members shall be required to have a representative available, during the times specified by the President of the Clearing House, to review Clearing House Reports and to make any adjustments thereto. All clearing data reported to the Exchange by a Clearing Member following the completion of the operational procedures prescribed by the President of the Clearing House shall be deemed accepted by the Clearing Member and the Clearing Member shall waive any claim against the Exchange based upon inaccurate or erroneous data appearing on said Clearing House Reports.

(N) Each Floor Member, prior to the earliest opening of trading in a contract in which the member traded the previous day, and at regular intervals during the trading day, shall be responsible to review his screen for Electronic, or "E", mail messages.

(O) Penalties imposed under this section shall not be subject to the provisions respecting procedures for disciplinary proceedings.

(P) Concurrent Futures Positions

(1) Concurrent long and short futures positions in the current delivery month may not be offset by netting, transfer, expit, adjustment or any other bookkeeping procedures, but each side must be offset by normal floor or electronic

transactions in accordance with Exchange Rules. Provided, however, that a clearing member will be exempt from this requirement if: (i) one side of the concurrent position is established the business day prior to the date that the offset memoranda are filed with the Clearing House; (ii) a clearing member filing such offset memoranda can satisfy the Exchange at its request that the delay in effecting the offset is attributed to an error in the filing of its clearing sheets; and (iii) by 10:00 a.m. on the same date that a clearing member files such offset memoranda, the clearing member also files with the Clearing House an updated and accurate Long Open Interest Report.

(2) For the purposes of this Rule 9.04(P), the current delivery month for energy futures contracts commences on the open of trading on the third business day prior to the termination of the respective futures contract, including the termination date. The current delivery month for metals futures commences on the tenth (10th) business day prior to the first business day of the delivery month.

(Q) Metals Inventory Report

Each Clearing Member shall report to the Exchange in the form required by the Clearing House the quantity of deliverable metal warrants, and any changes thereto, owned by the Clearing Member, or held for customers. A report of a change in such information shall be made to the Exchange within one (1) business day of such change.

(R) Submission of Long Open Interest Report

Each Clearing Member shall submit to the Exchange by 10:00 a.m. on each Exchange business day, Futures and Options Long Open Interest Report(s) on the form prescribed by the Exchange.

9.04A NYMEX ClearPort® Clearing: Procedures for Trade Submission

(A) Scope of this Rule. This rule governs transactions not competitively executed on the Exchange ("Transactions") that are submitted to the New York Mercantile Exchange ("NYMEX" or the "Exchange") via the NYMEX ClearPort® Clearing Trade Portal ("CPC Trade Portal") for clearing in connection with a contract that is listed on the Exchange for clearing only (Dubai Mercantile Exchange "DME") ("DME Transactions") or listed for trading and clearing on the Exchange ("NYMEX Transactions"). In submitting either a NYMEX or DME transaction to the CPC Trade Portal or in allowing either a NYMEX or DME transaction to be submitted to the CPC Trade Portal, the two parties to the Transaction shall be deemed to have mutually agreed to initiate a process to substitute their transaction for a standardized futures contract listed for trading and clearing on the Exchange. For purposes of this rule, the two principals in either a NYMEX or DME Transaction shall be referenced as the "Parties to the Transaction."

Further, with respect to DME Transactions, any breach of procedures related to this Rule 9.04A shall be handled pursuant to DME rules and regulations.

(B) Transactions: Compliance with Regulatory Exemptions and Exclusions. Each of the Parties to the NYMEX Transaction shall be responsible for ensuring that the Transaction complies with CFTC regulatory requirements as applicable for such transaction, including as appropriate compliance with the terms of a statutory exemption or exclusion under the Commodity Exchange Act from other CFTC regulation relied upon by the Parties to the Transaction.

(C) Submission of NYMEX and DME Futures and Options. The process of submission of a NYMEX or DME futures or options Transaction shall not be deemed to have been completed unless and until the Parties to the Transaction have successfully concluded the submission of the Transaction to the Exchange (or the DME as appropriate) as an exchange of futures for physicals ("EFP"), an exchange of futures for swaps ("EFS"), an exchange of OTC Option for exchange option ("EQO") or as a Block Trade, as applicable, pursuant to the respective provisions of NYMEX Rules 6.21, 6.21A, 6.21F, 6.21C COMEX Rules 104.36, 104.36A, 104.36B, 104.36C, DME Rules 6.24 and 6.31, and the provisions of this rule.

(D) Trade Submission Procedures. All transactions submitted to the Exchange pursuant to this rule must be submitted in accordance with the procedures established by the Clearing House for this purpose, as amended from time to time. The Parties to the Transaction and any Party authorized under Section (E) of this Rule with brokering capability ("Broker" or "Brokers") authorized to submit executed transactions on their behalf to the Exchange and authorized for related activities shall be exclusively responsible, both individually and jointly, for accurately confirming the details of the Transaction to the Exchange. Once submitted, all such transactions, subject to the rules for trade adjustments set forth in Section (G) of this Rule, shall be deemed final. Neither the Exchange nor a Clearing Member carrying the account of either party will have any responsibility in the confirmation of trade terms for the Transactions.

(E) Registration of Eligible Participants, Eligible Accounts and Authorized Brokers. Each NYMEX and DME Clearing Member must register with the Exchange in the manner provided any customer authorized by the Clearing Member to submit transactions to the Exchange (or the DME, as appropriate) pursuant to this rule, and must also register with the Exchange the applicable account numbers for each such customer. For each such account, the Clearing Member carrying that account also must submit to the Exchange in the manner provided the name of any Broker(s) who has registered with the Exchange for services provided by the Exchange, and who is authorized by the customer to act on its behalf in the submission of executed transactions to the Exchange and related activity.

For any such Brokers authorized by the customer and submitted to the Exchange by the Clearing Member, such submission by the Clearing Member will not constitute an endorsement or ratification of the customer's authorization of the Broker. Moreover, submission of Brokers authorized by the customer will not mean that the Clearing Member is in privity with, has a relationship with and/or is otherwise standing behind any of the customer's authorized Brokers, and the Clearing Member will have no responsibility for any such Brokers selected by the customer and no duty or obligation to supervise the activities of any such Brokers.

(F) Establishment of Authorized Commodities and Total Risk Value. For each account number that has been registered with the Exchange pursuant to Section (E) of this rule, a NYMEX and DME Clearing Member also must input into the Exchange's Risk Allocation Value "E-RAV" system authorization indicating the specific commodities for which a Transaction may be submitted to the Exchange pursuant to this rule and the risk value(s) assigned by the Clearing Member for Transactions for that account.

(G) Trade Deletion Procedures for Transactions Submitted via NYMEX ClearPort® Clearing Trade Entry Portal. Following submission of the trade details by Broker (or by Exchange staff as mutually agreed by the Parties to the Transaction), an e-mail will be transmitted to the Parties to the Transaction notifying them that they have been listed as counterparties in a Transaction that has been submitted to the Exchange. Following such submission, a buyer or seller may not unilaterally reject the trade terms previously submitted to the Exchange. However, in order to correct an error resulting from the good faith actions of the Broker or Exchange staff, as applicable, and upon mutual consent of the Parties to the Transaction, an Broker or Exchange staff, as applicable, may void the transaction provided, however, that this void response is received by the Exchange within sixty (60) minutes of the time of the initial submission of the Transaction to the Exchange.

Following the posting of the transaction on the Exchange, the Parties to the Transaction shall have no recourse or remedy under NYMEX or DME rules and procedures against any Brokers and/or Clearing Members in connection with that Transaction and instead would need to pursue such private remedies as would be otherwise available under existing law.

(H) Entry of Transactions. For a Transaction submitted to the Exchange pursuant to this rule, such transaction first will be routed to the Exchange's E-RAV Credit Check system. The time of entry of a Transaction into the Exchange's E-RAV system will be recorded by the system and will be used by the Exchange as the time that an E-RAV Credit Check was conducted pursuant to Section (I) below.

(I) Use of E-RAV Credit Check System. The Exchange will conduct an E-RAV Credit Check for each Transaction. The E-RAV Credit Check will confirm whether the Clearing Member carrying that account has authorized that account for Transactions submitted pursuant to this rule in the commodity involved in the Transaction, and confirm whether the entry of the Transaction into clearing would fall within the risk value(s) established by the Clearing Member.

At all times until both sides (Buy and Sell) of the Transaction have successfully cleared the E-RAV Credit Check, a Transaction submitted to the Exchange pursuant to this rule shall remain as an uncleared Transaction.

In the event that either side of the Transaction is rejected as a result of the E-RAV Credit Check test, the Parties to the Transaction and their respective Clearing Members would be informed accordingly. Thereafter, any determination as to further action with respect to the Transaction would be resolved by the Parties to the Transaction.

(J) Trade Submission Deadlines. Transactions that are submitted, confirmed and accepted for clearing, as further provided by Section (K) of this rule, prior to 5:15 p.m. New York time on an Exchange business day will be included by the Exchange for clearing for that business day. The Exchange reserves the right to modify these business hours without notice at any time. The NYMEX facilitation desk will generally be available to assist users 24 hours a day on all Exchange business days.

(K) Clearance by Both Sides of the Transactions of Credit Check. Upon clearance by both sides of the Transaction of the E-RAV Credit Check, the transaction shall be deemed to have been accepted for clearing and will be routed automatically to the Exchange's clearing system.

Notwithstanding the above, a Clearing Member also shall be responsible for accepting and clearing a position for a Transaction entered into the Exchange's clearing system for clearing following any non-operation of the Exchange's E-RAV Credit Check functionality for the applicable account carried by the Clearing Member

9.05 Margins

It shall be incumbent upon each Clearing Member that his trades and trades of his customers be margined up to the time of the acceptance of such trades by the Clearing House.

(A) Original Margin

Original Margin shall be paid on Exchange commodity transactions in such form as determined by the Clearing House. Original margins may be changed at the discretion of the Clearing House.

(B) Variation Margins

The President of the Clearing House, at any time during the day, may call for variation margins to meet the variations in the market. Such margins shall be paid to the Exchange within the time limits prescribed by the President of the Clearing House.

(C) Additional and Advance Margin

In the discretion of the President of the Clearing House, if the protection of the Exchange so requires, the President of the Clearing House may call for additional original margin from any one or more clearing members in such forms, and at such times as he or she may specify. The President of the Clearing House may lower the margins that were increased when the Exchange no longer requires the protection of increased margins.

(D) Straddle Margins

(1) Futures Straddles

A Clearing Member carrying an account which has both a long and a short futures position with the Clearing House in a particular commodity, in the same or different contracts but in no event for the same delivery month of the same contract, may treat such long and short positions to the extent they are equal in quantity as a futures straddle. Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Initial margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.

(2) Options Straddles

A Clearing Member carrying an account which has both (1) a short call option and a long call option; (2) a short put option and a long put option; (3) a long put option and a long call option; or (4) a short put option and a short call option, in a particular commodity, but in no event for the same series, may treat such positions to the extent they are equal in quantity as an options straddle. Each trade comprising a straddle shall be subject to separate brokerage and clearing charges. Initial margins deposited shall be the higher required for either trade or trades and when so deposited shall be sufficient for both trades but each trade shall be brought to the settling price, daily. When one trade of a straddle transaction is closed out all the remaining trade or trades that comprise the straddle must have the required original margin deposited with the Clearing House.

(E) Clearing Members may meet original margin calls by depositing:

(1) Cash (U.S. Currency);

(2) Securities issued by the Department of Treasury of the United States of America maturing within ten (10) years from the date of the deposit and guaranteed as to principal and interest by the United States Government; such

securities shall be valued at ninety five percent (95%) of the par value; or

(3) Subject to a maximum limit of 50% of the Clearing Member's total original margin obligations, Irrevocable Letters of Credit payable to the order of the Clearing House including such Letters of Credit that are deposited with the Clearing Member in accordance with Exchange procedures by a customer, in form acceptable to the Clearing House, issued by or confirmed by an original margin depository and having an expiration date of not less than three (3) or more than twenty four (24) months from the date of issuance; provided, however, that such Letter of Credit may not be used to meet original margin obligations during the fifteen calendar days prior to the expiration date thereof (if the fifteenth day prior to the expiration of the Letter of Credit is not a business day, the period during which such Letter of Credit may not be used to meet original margin obligations shall begin on the business day immediately preceding that day); and, provided further, that on the business day preceding the fifteenth calendar day prior to the expiration of the Letter of Credit, the Clearing House shall issue a call for original margin to be deposited in a form and manner acceptable to the Clearing House for positions held open as of the close of business on that day and margined by the Letter of Credit. The Clearing House shall have the unqualified right to call on any Letter of Credit at any time prior to expiration. Upon expiration of a letter of credit that has been posted with the Exchange for the maximum twenty four (24) months, a new letter of credit must be posted as no amendments will be accepted to extend the maturity date, or

(4) Shares in a money market mutual fund that complies with CFTC Regulation §1.25 and that has been approved by the Clearing House subject to the following conditions:

(i) for purposes of original margin, such shares will be valued at 98% of market value; (ii) a Clearing Member's participation in any approved fund shall be limited to no more than 5% of that fund; and (iii) no more than 10% of the total assets of an approved money market mutual fund may be used to meet original margin obligations at the Exchange.

(F) The Clearing House shall have the right, at all times, to prohibit or otherwise limit the use as original margin by any Clearing Member of letters of credit or of securities under this Rule.

(G) The Clearing House shall retain the original margin deposited with respect to any futures contract against which a delivery notice has been issued until the business day after the delivery date or such date as designated by the Clearing House.

(H) Customer Accounts with the Exchange

(1) Except as provided in subsection (2) below, all customer funds deposited with the Exchange shall be held in accordance with the Commodity Exchange Act and Commission Regulation 1.20 in an account identified as Customer Segregated. Customer funds shall be segregated by the Exchange and treated as belonging to the customers of the clearing member. Pursuant to this Rule, clearing members registered as Futures Commission Merchants shall not be required to obtain a segregated acknowledgment letter from the Exchange.

(2) Customer funds deposited with the Exchange for cleared transactions in over the counter pari-mutuel auctions may be deposited in either a member account or a customer non-regulated account. Neither account shall be treated as a customer segregated account.

9.06 Failure of Clearing Member to Deposit Margins

In the event of the failure of a member to deposit any margins as required, the President of the Clearing House, with the approval of the Clearing House Committee, may close out all or any part of the trades in the best interest of the Exchange and the defaulting Clearing Member. Any loss resulting therefrom shall be the liability of the defaulting Clearing Member. Any Clearing Member whose trades are thus closed out shall be promptly notified thereof by the President of the Clearing House.

9.06A Emergency Financial Conditions

If the President of the Exchange or the President of the Clearing House determines that the financial or operational condition of a clearing member or one of its affiliates is such that to allow that clearing member to continue its operation would jeopardize the integrity of the Exchange or the Clearing House, or negatively impacts the financial markets by introducing an unacceptable level of uncertainty, volatility or risk, whether or not the clearing member continues to meet the required minimum financial requirements, he or she may empanel the Chief Executive Officer, the President of the Exchange, Chairman of the Board, the Chairman of the Clearing House Committee and the

President of the Clearing House. Such panel shall be duly authorized and, upon a unanimous vote of the panel, be empowered to order (a) an immediate position limitation, (b) an immediate suspension of the clearing member from the Clearing House and/or the Exchange, as applicable, (c) that all open trades of said clearing member be for liquidation only, (d) the liquidation or transfer of all or a portion of the open positions of the clearing member, or (e) additional performance bond to be deposited with the Clearing House. The clearing member affected by action taken shall be notified and may request a hearing before the Board as provided in Rule 230A.k. In the event of suspension, the Chief Executive Officer shall, promptly after a suspension, set the matter for hearing before the Board for final determination. To the extent that the panel orders that all open trades of a clearing member be for liquidation only, or the panel orders the liquidation or transfer of all of the open positions of a clearing member, the clearing member shall be treated as a withdrawing clearing member.

9.07 Limit of Clearing House Losses

Losses to be borne by the Clearing House shall be limited to losses resulting from the substitution of the Clearing House under contracts between Clearing Members, or in the case of cleared transactions in over-the-counter pari-mutuel auctions, under contracts between NYMEX and a participant in such an auction that are given up for clearing.

The Clearing House shall not be liable for any obligations of a non-Clearing Member, nor for any obligation of a Clearing Member to a non-Clearing Member, nor for any obligation of a Clearing Member to another member of the Clearing House who is acting for him as broker.

9.08 Clearing House Not Liable to Customer

The Clearing House shall under no circumstances become liable to make deliveries to or accept deliveries from a customer of its Clearing Members, or in any way become obligated to a customer by reason of any contract or, except as otherwise provided, to exercise any option or accept assignment of such exercise on behalf of a customer of its Clearing Member, made for the customer by a Clearing Member. Such customer must look to his Clearing Member or broker to make or accept all deliveries, to exercise or accept assignment of exercise, of any options contract for all settlements.

9.09 Clearing Fees

(A) Charges for clearing trades shall be fixed by the Board upon the recommendation of the Clearing House Committee and shall be payable by Clearing Members as billed. All Clearing Fees shall be charged per contract bought, sold, delivered or accepted.

(B) A minimum fee of \$200.00 per month shall be charged to Clearing Members.

(C) Claims by Clearing Members for adjustments to clearing charges or fees shall be made to the Exchange within 90 days of the invoicing of such charges by the Exchange. The failure to claim adjustments within this period shall constitute a waiver of such claim by the Clearing Member, provided, however, that the Board of Directors, for good cause shown and following review by the Clearing House Committee, may authorize payment by the Exchange of a late claim for adjustment filed within 6 months of the invoicing of charges by the Exchange in excess of \$1,000. Any late claim for adjustment paid by the Exchange shall be subject to a 10% administrative fee that shall be deducted from such payment. No claim for adjustment will be considered that is filed later than 6 months after the invoicing of charges by the Exchange.

9.10 Trade Refused by Clearing House

When the President of the Clearing House deems the financial condition of any Clearing Member as inadequate to carry any additional transactions he shall prohibit such Clearing Member from clearing any new transactions. Any such member may appeal from the decision of the President of the Clearing House to the Clearing House Committee.

9.10A Offsetting NYMEX miNY™ and Regular Futures Positions

A. With the consent of the account controller, a clearing member may offset and liquidate long NYMEX miNY™ futures positions against short regular futures positions, or short NYMEX miNY futures positions against long regular size futures positions, held in the same account in the following ratios of NYMEX miNY to regular futures contracts:

(Crude Oil) WS to QM 2:1

(Natural Gas) HP to QG 4:1

(RBOB Gasoline) RT to QU 2:1

(Heating Oil) BH to QH 2:1

B. The clearing member shall notify the Clearing House of offsetting positions by submitting reports to the Clearing House in such form and manner as the Clearing House shall specify. The positions shall be offset at the previous day's settlement price. The positions being offset shall be transferred to a NYMEX holding account. Long and short positions in the same contract and contract month held in the holding account shall be netted, thus reducing the number of open positions in such contract.

9.11 Transfer of Trades

Where a member makes a trade as a broker for another member of the Clearing House, he shall file with the Clearing House immediately at the close of the call a complete description of the trade, giving the name of the principal for whom he was acting as broker and on whose Clearing Sheet the transaction is to be cleared; he shall be liable as principal upon such trade until it has been accepted by the Clearing House for the account of his principal.

9.11A Give-Up Trades—Trades Executed by Open Outcry

In the absence of a give-up agreement whose terms and conditions govern the responsibilities/obligations of executing brokers, customers and Clearing Members, the following rules shall define the respective responsibilities/obligations of those parties to an order. The "executing broker", as used in this rule, is the registered billing entity, Member Firm or Floor Broker to whom the order is transmitted.

(A) Responsibilities/Obligations of Clearing Members

(1). Limits Placed by Clearing Member. A Clearing Member may, in its discretion, place trading limits on the trades it will accept for give-up for a customer's account from an executing broker, provided however, that the executing broker receives prior written or electronic notice from the Clearing Member of the trading limits on that account. Notice must be received by the executing broker in a timely manner. A copy of such notice shall be retained by the Clearing Member.

(2). Trade Rejection. A Clearing Member may reject ("DK") a trade only if: (1) the trade exceeds the trading limits established under Section I(A) of this rule for that customer and it has been communicated to the executing broker as described in Subsection (A); or (2) the trade is an error for which the executing broker is responsible. If a Clearing Member has a basis for rejecting a trade, and chooses to do so in accordance with the provisions of Rule 2.21(B), it must notify the executing broker promptly.

(3). Billing. A Clearing Member will pay all floor brokerage fees incurred for all transactions executed by the executing broker for the customer and subsequently accepted by the Clearing Member by means of the ATOM system. Floor brokerage fees will be agreed upon in advance among the Clearing Member, customer and the executing broker.

(B) Responsibilities/Obligations of Executing Brokers

(1) Customer Order Placement. An executing broker will be responsible for determining that all orders are placed or authorized by the customer. Once an order has been accepted, a broker or the broker's clerk must:

- (a) confirm the terms of the order with the customer;
- (b) accurately execute the order according to its terms;
- (c) confirm the execution of the order to the customer as soon as practicable; and
- (d) transmit such executed order to the Clearing Member as soon as practicable in accordance with Exchange Rules and procedures.

2. Use of Other Persons. Unless otherwise agreed in writing, the executing broker is allowed to use the services of

another broker in connection with the broker's obligations under these rules. The executing broker remains responsible to the customer and Clearing Member under these rules.

3. **Executing Broker Responsibility for Verifying Clearing Member Authorization.** Prior to a broker accepting and executing an initial order for any new customer account, the executing broker must confirm with the Clearing Member by telephonic, electronic or written means, that:

- (a) the customer has a valid account with the Clearing Member;
- (b) the account number;
- (c) the brokerage rate;
- (d) the customer is authorized by the Clearing Member to place orders with the executing broker for that account.

The executing broker must retain a copy of the authorization or the specifics of the telephonic confirmation, which includes: opposite party, date, time, and any other relevant information. The falsification of such information shall be the basis for disciplinary action.

4. **Rejection of Customer Order.** Where an executing broker has confirmed Clearing Member authorization to execute orders on behalf of a customer in accordance with this Rule 9.11A, the broker may, in the broker's discretion, reject an order that the customer transmits to the broker for execution. The broker shall promptly notify the customer and the Clearing Member(s) of any such rejection.

9.12 Substitution

The Exchange may accept contracts offered to it by Clearing Members for clearance, and by such acceptance shall, in place of either party to a contract so accepted and toward the other party thereto, assume the obligations imposed thereby and succeed to and become vested with all the rights and benefits accruing therefrom, assuming to the buyer the position of seller and to the seller the position of buyer, as the case may be. As between the Exchange and each of the parties to an accepted contract the terms and conditions thereof shall continue in full force and effect.

9.13 Bank Holidays

When the Exchange is open for business on a day banks are closed, because of a legal or bank holiday, the time limit for settlement of Clearing House accounts shall be extended to the next bank business day.

9.14 Omnibus Accounts

No Clearing Member may execute contracts for future delivery or options contracts on the Exchange for a carrying house which does not disclose the names of its customers or options customers (omnibus accounts) unless the carrying house agrees that it will, on request of the Clearing Member, disclose to the Clearing Member, the names, addresses, positions and transactions of its customers; provided, however, that the Clearing Member shall not call for such information unless requested to do so by the Board, a Committee of the Exchange, the President of the Clearing House or Compliance staff. A copy of such agreement shall be made available by the Clearing Member upon request of the Exchange.

9.15 Refund of Clearing Fees

Should the income of the Exchange derived from Clearing Members in any year be in excess of its expenses for such year, the Board may, in its sole discretion, return any or all of such excess income to Clearing Members in the proportion that the number of contracts cleared by each Clearing Member on which a clearance fee was charged by the Exchange during such year bears to the total number of such contracts cleared by the Exchange during such year. The decision of the Board with respect to the determination of excess income and the decision whether to return, retain or otherwise use such excess income shall be conclusive.

9.16 Transaction Fees

Clearing Members shall collect from non-member customers a transaction fee as established by the Exchange for each commodity contract bought or sold or otherwise cleared on or subject to the rules of the Exchange and/or the Dubai Mercantile Exchange Limited and remit said fees to the Clearing House as billed.

9.17 Delivery Procedure

Commodities bought or sold on Exchange contracts or on Dubai Mercantile Exchange Limited contracts shall be delivered and accepted in accordance with the provisions of this Chapter, supplemented by provisions of the rules and delivery procedures of the Exchange and/or of the DME applicable to individual commodities. Any question affecting the handling or delivery of any commodity which is not specifically covered by the Bylaws and Rules may be referred to the Clearing House Committee for determination.

9.18 Delivery Through Clearing House

All deliveries or settlements in fulfillment of listed Exchange contracts and the DME contracts shall be made through the Clearing House in accordance with applicable Bylaws and Rules.

9.19 Final Day of Trading

(A)(1) On the final day of trading in the delivery month of a contract that is listed for trading by open outcry on the trading floor, it shall be the responsibility of each Clearing Member who is not in a position to fulfill his contractual obligation on any maturing contract by prescribed notice and tender, to have a liquidating order entered on the Exchange floor one hour before the time established for the beginning of the closing range for such delivery month. All such orders shall be market orders to be executed prior to the expiration of trading.

(2) On the final day of trading in the delivery month of a NYMEX or COMEX Division contract or DME contract that is listed for trading solely on Globex®, or on NYMEX ClearPort® Trading under the brand name DME Direct for DME contracts it shall be the responsibility of each Clearing Member who is not in a position to fulfill its contractual obligation on any maturing contract by prescribed notice and tender, to have a liquidating order entered on the relevant electronic trading platform.

9.19A Transfers to Correct Errors Occurring on the Last Day of Trading

(A) For purposes of this Rule 9.19A, a clearing member carrying open contracts in an expired delivery month for its own account or the account of any other person as the result of an error may, by consent of the account owners, transfer any or all of such contracts to any other account carried by such clearing member or to any other clearing member, provided, however, that:

(i) such transfer shall occur not later than the time prescribed for clearing members to file with the Exchange a Notice of Intention to Accept or Deliver for the specific commodity, by which time the clearing member(s) effecting the transfer, shall deliver to the Clearing House written notification of such transfer in the form and manner prescribed by the Exchange specifying the parties thereto and the prices at which such transfers were effected; and

(ii) the clearing member(s) must submit and retain records of all forms presented to the Clearing House for the processing of any error transfer trade.

(B) In the event that the error is discovered after the close of trading on the last day of trading in an expiring contract, but before the trade is assigned to a clearing member, a floor member may transfer the position held in error to any account carried by any clearing member, provided that the floor member and the clearing member carrying the account accepting the positions submit to the Exchange and retain a copy of the forms required by the Exchange for the transfer of such position.

9.20 Position Limits

(A) Defined Terms

For the purpose of this Rule, the following terms shall have the meanings set forth below, unless the context otherwise requires:

(1) "Modified Capital" shall mean the working capital (as defined in Rule 9.21) of a Clearing Member, (1) increased by an amount equal to (a) the face amount of any approved letter of credit issued to the Clearing House for the capital

accounts of such Clearing Member and (b) fifty percent of the working capital of any person that issues an approved Guarantee to the Clearing House for the capital account of such Clearing Member, and (2)(a) decreased by an amount equal to fifty percent of the working capital of such Clearing Member for each approved Guarantee such Clearing Member issues to the Clearing House for the capital account of another Clearing Member provided, however, that the capital of a Clearing Member may not be increased by letters of credit and/or guarantees by more than 100% of such Clearing Member's working capital. For the purpose of determining positions limits under this Rule, maximum working or modified capital shall be deemed to be \$1 billion.

(2) "Position Risk" shall mean the amount calculated using the Exchange's Standard Portfolio Analysis ("SPAN") margin system analyzing the net positions carried by the Clearing Member.

(B) Aggregate Position Limits

Except as provided in paragraphs (C) and (D) of this Rule, no Clearing Member may carry futures and/or options contracts resulting in "Position Risk" in excess of:

(a) In the Customer Account—200% of the firm's modified capital;

(b) In the House Account—100% of the firm's modified capital; or

(c) In total—250% of the firm's modified capital.

(C) Super Margin Deposits

Any Member may carry futures and/or options contracts resulting in Position Risk in excess of the limits established under paragraph (B) of this Rule and may have expanded position limits that result in Position Risk up to, but not in excess of:

(a) In the Customer Account—300% of the firm's modified capital;

(b) In the House Account—150% of the firm's modified capital; or

(c) In total—350% of the firm's modified capital.

if such Member deposits with the Clearing House (in addition to all other deposits for margins, fees or other charges that may be required), the difference between the Clearing Member's permissible Position Risk and actual Position Risk.

Such deposits shall be made at the same time and in the same form and manner, and shall otherwise be subject to the same Rules, as original margin deposits.

(D) Other Position Limits

The Clearing House Committee, in its discretion, may at any time establish position limits for any one or more clearing members which are higher or lower than or otherwise differ from, those established pursuant to paragraph (B), or change the amount of additional margin required pursuant to paragraph (C) or (F), based on the Clearing House Committee's evaluation of the financial and operational capacity of such clearing member and such other factors as the Clearing House Committee, in its discretion, considers appropriate, including but not limited to, (1) the business needs and financial condition of the clearing member, (2) the number of memberships or other clearing organizations held by the clearing member and the average number of contracts cleared through other clearing organizations each day by the clearing member, (3) the extent to which the clearing member trades and clears for either customer accounts, proprietary accounts, or both, (4) the length of time the clearing member has held a membership with the Clearing House, (5) the total open positions of the clearing member regularly maintained with the Clearing House and other commodity clearing organizations, and (6) such other factors as the Clearing House Committee, in its discretion, considers appropriate. No clearing member shall have a net interest or net straddle in excess of any such limits established by the Clearing House Committee. Any increase in position limits as noted above will require the posting of additional monies into the Exchange's Guaranty Fund in an amount as deemed appropriate by the President of the Clearing House.

Any Clearing Member whose position limit is set at a level less than the maximum set forth in paragraph (B) of this

Rule may file a written request with the Clearing House Committee for an increase of such limits, supporting such request with such evidence as the clearing member may desire. Thereupon, the Clearing House Committee, with or without a hearing as it may consider proper, shall take such action thereon as it may deem appropriate.

(E) Liquidation of Excess Positions

Any Clearing Member that exceeds its position limits under this Rule shall transfer or liquidate any futures and/or options contracts in excess of the position limits within such time as the President of the Clearing House, in consultation with the Clearing House Committee, may prescribe and shall report to the President of the Clearing House when such excess has been reduced. Such Clearing Member shall deposit additional original margin on such excess positions equal to the amount required for positions held pursuant to paragraph (C) of this Rule. If a Clearing Member fails to transfer or liquidate any excess futures contracts within the time prescribed by the President of the Clearing House, or to deposit the additional original margin required by this paragraph (E), the President of the Clearing House may liquidate or transfer such excess positions.

9.21 Minimum Capital Requirements and Transfer Restrictions on Common Stock

(A) Working Capital Defined

For purposes of this Rule, the term "working capital" shall mean the amount by which current assets exceed current liabilities as calculated in accordance with generally accepted accounting principles or in the case of a Clearing Member registered as a Futures Commission Merchant it shall mean "adjusted net capital" as calculated in accordance with CFTC Regulation 1.17.

(B) Minimum Financial Requirements

Each Clearing Member registered with the Commission as a futures commission merchant shall have and maintain minimum working capital equal to or in excess of the greater of \$5,000,000 or the amount prescribed in Commission Regulation 1.17. Except as provided in Rule 9.02(K), all other Clearing Members shall have and maintain minimum working capital of \$5,000,000. In addition, until further notice from the Exchange, each NYMEX Clearing Member shall at all times own and maintain at least two Exchange Class A memberships and at least: i) 8,000 shares in CME Group common stock if it is a NYMEX-only clearing member, ii) 12,000 shares in CME Group common stock if it is a NYMEX and either CME or CBOT clearing member, and iii) 16,000 shares in CME Group common stock if it is a NYMEX, CME and CBOT clearing member.

(C) Additional Financial Requirements for Primary Clearing Members

A Primary Clearing Member shall maintain \$50,000 in additional working capital, as defined in Subsection (A) above, for the guarantee of each Floor Member as noted within Rule 2.21 in excess of one hundred (100) of such guarantees for each Division of the Exchange, provided, however, that no such requirement shall apply where the guaranteed Floor Member has net liquid assets in excess of one hundred thousand dollars (\$100,000) and such Floor Member files with the Primary Clearing Member an annual financial statement as of the calendar year end and presented on a form as provided by NYMEX documenting net liquid assets in excess of one hundred thousand dollars (\$100,000). The Primary Clearing Member shall obtain such financial statement and supporting schedules no later than January 31 of each year and maintain these documents as part of the Primary Clearing Members books and records.

(D) Alternative Measure of Financial Soundness

The Clearing House Committee or its designee may exempt a Clearing Member from the working capital requirement set forth in Rule 9.21 (B) if, in its sole discretion, an alternative measure of financial soundness of such Clearing Member, such as a minimum level of net worth, is more appropriate.

9.22 Financial Reporting

For purposes of this Rule 9.22, "Working Capital" shall be defined by Rule 9.21(A), "Net capital" shall be defined by Commission Regulation 1.17(c)(1) and "Excess Net Capital" shall be defined as Net Capital less the minimum capital required by Rule 9.21(B). For purposes of this Rule 9.22, an "FCM" shall mean a clearing member that is registered with the Commission as a Futures Commission Merchant.

(A) Quarterly Reports

(i) Each clearing member shall file with the Audit Department, within ninety days after the close of each fiscal year of such member, a copy of such member's balance sheet and income statement as of the close of such fiscal year, certified by an independent public accountant. Each clearing member shall also file with the Audit Department, within forty-five days after the close of the second quarter of each fiscal year of such member, a copy of such member's balance sheet and income statement as of the close of such quarter, certified by the chief financial officer of the clearing member. These reporting requirements may be satisfied by filing with the Audit Department a copy of Commission form 1-FR or Part II of the Securities and Exchange Commission Financial and Operational Combined Uniform Single ("FOCUS") Report, certified by an independent public accountant or the chief financial officer of the clearing member, as may be required.

(ii) Each clearing member that is registered as an FCM shall file with the Audit Department both annual certified financial statements as well as quarterly unaudited financial statements in the manner and format as required by CFTC Regulation 1.40.

(B) Reports to Other Regulatory Authorities

Each clearing member shall also promptly file with the Clearing House of its designated agent a copy of any financial statement which such clearing member may file with the Commission, any registered national securities exchange, any commodity exchange or any other clearing organization.

(C) Impairment of Capital Reports

(1) In the event that the Working Capital of any clearing member at any time falls below the minimum Working Capital required by Rule 9.21(B), such clearing member shall give immediate written notice of the fact by the fastest available means of communication to the Audit Department. Such written notice shall include the information required by By-Law Section 851 (Duty to Report Emergency Event).

(2) In the event that the Working Capital, as defined by Rule 9.21(A), of any clearing member, or Net Capital if registered as an FCM, at any time declines by 20% or more from the capital last reported to the Exchange, the clearing member shall give formal written notice of such event to the Audit Department within two (2) business days of its occurrence. Such "Notice of Capital Impairment" shall state the date of and applicable reason(s) for the decline.

(3) In the event a clearing member knows, or has reasonable basis to believe, that, as a result of one or more transactions, the working capital, or Excess Net Capital if registered as an FCM, likely will be reduced by more than 30% from the capital on the previously submitted financial statement, the clearing member shall advise the Audit Department in writing at least 2 business days prior to making any such transaction(s) (e.g. dividend payments, loans, etc.)

(D) Other Financial Reports

The Clearing House may at any time and from time to time require any or all clearing members, in its discretion, to file with the Clearing House, or another person designated by the Clearing House, such additional financial information, authenticated in such manner, as the Clearing House may from time to time determine.

(E) Accountants Reports

The qualifications and reports of accountants for clearing members must meet the requirements set forth in Commission regulations and must be satisfactory to the Clearing House.

9.23 Protection of Clearing House

(A) Default by Clearing Member and Other Participating Exchanges

1. Default by Clearing Member

If a Clearing Member of NYMEX, COMEX, CME or CBOT fails promptly to discharge any obligation to the NYMEX or CME Clearing Houses, it shall be in default. If a Clearing Member is in default, its deposit in the Guaranty Fund (pursuant to Rule 9.03), its performance bonds on deposit with the Clearing House, the proceeds of the sale of any

membership and Class A Shares assigned to it for clearing qualification, and any other assets held by, pledged to or otherwise available to the Clearing House, shall be applied by the Clearing House to discharge the obligation. For purposes of this rule, each default by an individual Clearing Member will be considered a separate default event.

For purposes of this Rule, the positions in the cross-margin account of a Participating Clearing Member or its Cross-Margining Affiliate at a Cross-Margining Clearing Organization, and the performance bond thereon, shall be considered assets of the Participating Clearing Member available to the Exchange to the extent provided in the Cross-Margining Agreement between the Exchange and such Cross-Margining Clearing Organization. A Clearing Member in default shall immediately make up any deficiencies in the Guaranty Fund resulting from such default prior to the close of business on the next banking day.

The Clearing Member shall take no action, including but not limited to, attempting to obtain a court order, that would interfere with the ability of the Clearing House to so apply such assets and proceeds.

If the performance bond deposits in the Guaranty Fund, and other assets of a Clearing Member available to the Exchange are insufficient to satisfy all of its obligations to the Clearing House, including all claims against the Clearing House by reason of its substitution for that clearing member pursuant to Rule 9.12, the Clearing House shall nonetheless pay all such claims, which shall be deemed a loss to it and which shall be a liability of the defaulting Clearing Member to the Exchange, which the Exchange may collect from any other assets of such clearing member or by process of law.

2. Default by Other Participating Exchanges

If a participating exchange fails to promptly discharge any obligation to the Clearing House arising out of its obligations to the Exchange, such Participating Exchange's letters of credit, performance bonds and other assets available to the Exchange shall be applied by the Clearing House to discharge the obligation.

(B) Satisfaction of Clearing House Obligations

If the Clearing House is unable to immediately satisfy all claims against it including, but not limited to, costs associated with the liquidation, transfer and managing of positions, arising out of: 1) its substitution (pursuant to Rule 9.12) for a defaulting Clearing Member or a defaulting participating exchange, or a defaulting partner clearinghouse; 2) a shortfall in a cross-margining program; 3) the failure of a depository, exchange or market apart from the Exchange but whose transactions are cleared pursuant to the provisions of Rule 9.04A; or 4) for any other cause, then such claim or obligation shall be met and made good promptly by the use and application of funds from the following sources in the order of priority hereafter listed. Each source of funds set forth below shall be completely exhausted, to the extent practicable, before the next following source is applied.

(1) Surplus funds of the Exchange in excess of funds necessary for normal operations.

(2) Proceeds from each Clearing Member's Guaranty Fund based on each Clearing Member's percentage of the total Guaranty Fund requirement of all Clearing Members per Rule 9.03. In addition, solely for purposes of satisfying a clearing member default situation as described in this rule, the Guaranty Fund shall be combined with the funds in the Chicago Mercantile Exchange Inc. (CME) security deposit pool of funds (as described in CME Rule 816) to establish a single Guaranty Fund/Security Deposit pool of funds. Notwithstanding the above, the initial draw under this section 2, shall be in an amount up to any applicable insurance policy deductible then in place with the Exchange;

(3) Proceeds from any default insurance maintained by the Exchange to the extent that such proceeds are available in a timely manner to be applied towards the default.

(4) In the event a shortfall continues to exist after the application of the insurance proceeds described in number 3 above, any remaining unused proceeds from the Guaranty Fund/Security Deposit pool set forth in number 2 above shall then be applied:

(5) The balance of the Clearing House loss remaining after application of the above funds shall be assessed against all Clearing Members (excluding any insolvent or defaulting clearing member). Each clearing member (excluding any insolvent or defaulting Clearing Member) shall be subject to an assessment up to an amount that does not exceed 275 percent of such Clearing Member's security deposit requirement.

(6) All amounts assessed by the Exchange against a Clearing Member pursuant to this Rule, during the hours in which the Federal Reserve's wire transfer system (Fedwire) is in operation, shall be paid to the Exchange by such

Clearing Member prior to the close of the Fedwire on such day. All amounts assessed within one (1) hour prior to the close of Fedwire shall be paid to the Exchange within one (1) hour after Fedwire next opens. While such application of funds shall be mandatory, the detailed implementation of Rule 9.23(B) shall be the responsibility of the Clearing House Committee with the approval of the Board.

Any Clearing Member that does not satisfy an assessment, made pursuant to paragraphs (5) or (6) above, shall be in default. Any Clearing House loss that remains as a result of such default shall be assessed pursuant to paragraph (5).

If a Clearing Member (i) makes payment of all amounts assessed against it pursuant to paragraph (5) or (6) above, (ii) replenishes any applicable deficiency in the Guaranty Fund in accordance with Rule 9.23(D), and (iii) satisfies all other conditions for withdrawal, it may, within five (5) business days of such payments, apply to withdraw from clearing membership. Immediately after the Exchange approves the Clearing Member's withdrawal, the withdrawing Clearing Member shall not be subject to any other assessment pursuant to this Rule. Further, upon the approval of the clearing member's request to withdraw, the security deposit that it has restored shall not be used or applied towards meeting any claim or obligation of the Clearing House pursuant to this Rule and shall be released.

After payment of an assessment pursuant to this Rule, a Clearing Member shall charge other Clearing Members for whom it clears contracts or carries positions on its books to recover their proportional share of the assessment. Such other Clearing Members shall promptly pay the charge.

To the extent that, and irrespective of the fact that, the Exchange has default insurance coverage in effect at the time of an event of default, the Exchange may nevertheless continue to utilize the resources under the priority outlined in Rule 9.23(B)(1), (B)(2), and (B)(5) for immediate liquidity while awaiting any insurance proceeds. Any insurance proceeds so recovered by the Exchange, to the extent not required by the Exchange to cure a default, will be applied to the credit of the non-defaulting Clearing Members.

(C) Rights of Exchange for Recovery of Loss

If a loss for which Clearing Members or their Guaranty Fund proceeds have been assessed is subsequently recovered by the Exchange in whole or in part, the net amount of such recovery shall be credited to such persons or firms (whether or not they are clearing members at the time of recovery) in proportion to the amount of the assessment.

(D) Guaranty Fund to be Restored

In the event it shall become necessary to apply all or part of the Guaranty Fund to meet obligations to the Clearing House pursuant to Rule 9.23, Clearing Members shall immediately make good any such deficiency in the Guaranty Fund prior to the close of business on the next banking day.

9.24 Original Margin Depositories and Originators of Letters of Credit

(A) Original Margin certificates representing the deposit of securities by Clearing Members for original margin may be issued by a banking institution selected by the Clearing Member depositor provided that such institution has been approved by the Exchange as an original margin depository.

(B) Letters of credit may be issued, or confirmed, by a banking institution selected by a clearing member depositor, which institution has been approved by the Exchange as an original margin depository, and may be deposited to meet original margin requirements.

(C) In order to be approved as an original margin depository, a banking institution must:

- (1) have capital and surplus of not less than \$250,000,000;
- (2) have a P-1 or A-1 rating from Moody's Investors Services, Inc. or from Standard and Poors Corp. respectively.

(D) Letters of Credit may be issued by a banking institution that is not an original margin depository provided that such banking institution has capital and surplus of not less than \$250,000,000 and a P-1 or A-1 rating from Moody's Investors Service, Inc. or from Standard & Poors Corp., respectively and, provided further, that such Letter of Credit is confirmed by an original margin depository.

(E) No approved original margin depository or issuer of a letter of credit may commit, with respect to Exchange contracts, more than the lesser of ten percent (10%) of its capital and surplus or \$1 billion, provided, however, that an issuer may issue letters of credit up to \$1.1 billion, if such issuer establishes, to the satisfaction of the Exchange, an account at another financial institution and deposits in such account, for the benefit of the Exchange, collateral in the form of U.S. Government obligations of maturities of less than ten (10) years valued at 95% of par value, for the excess over \$1 billion. Such collateral shall be deemed to secure any and all obligations of such issuer under letters of credit issued by the issuer in favor of the Exchange. The Board of Directors, upon the application of an issuer of letters of credit, may grant a waiver of the \$1.1 billion ceiling, upon such terms and conditions as it deems appropriate.

(F) The Clearing House Committee may grant exemptions from paragraph (C) of this Rule upon such terms and conditions as the Clearing House Committee finds appropriate, in its sole discretion.

(G) Notwithstanding anything to the contrary in this Rule, a Clearing Member, which is a bank subsidiary or the affiliate of a bank may not deposit with the Clearing House a Letter of Credit issued or confirmed by such bank, parent bank, or affiliate bank.

(H)(1) Each banking institution approved as a margin depository and/or issuer of letters of credit shall file with the Clearing House a copy of its annual certified financial statement within ninety days of the close of each fiscal year. In addition, each such approved institution shall file a copy of an unaudited financial statement within sixty days of the close of that institution's second quarter in each fiscal year. Such filings shall include, but are not limited to, an institution's balance sheet and income statement.

(2) A banking institution that fails to submit such required financial statements may be deemed to be inactive by the Exchange. Any institution that has been deemed to be inactive shall be ineligible to serve as a recognized margin depository or an issuer of letters of credit under this Rule 9.24.

9.25 Resolution of the Board of Directors to establish and maintain a permanent Retail Customer Protection Mechanism

The Board of Directors, upon consideration of a pending CFTC Order, hereby:

RESOLVES, to establish and maintain a permanent retail customer protection mechanism supported by a commitment of not less than \$10 million which shall be available at all times to promptly reimburse retail customers trading on NYMEX whose original margin funds are lost in the unlikely result of a default by another customer of the same FCM in any contract cleared by NYMEX and where such customer default of a NYMEX contract results in a default of that FCM clearing member to NYMEX and where NYMEX uses customer margin funds of that FCM clearing member to address the default. For the purposes of this resolution and said CFTC order, the term "Retail Customer" shall be defined to include all natural persons who do not otherwise qualify as an "eligible contract participant" under the requirements of Section 1a(12) of the Commodity Exchange Act, provided however, that such definition of Retail Customer shall not include any NYMEX floor traders or floor brokers and additionally shall not include family members of NYMEX floor traders and floor brokers who maintain accounts at the same FCM where such NYMEX floor trader or floor broker maintains an account.

RESOLVES FURTHER, that in the event of a FCM default to NYMEX caused by a customer default as described above where the total loss of all Retail Customers at such FCM from such default exceeds the amount of the Exchange's then current commitment, authorizes Exchange staff to compensate such Retail Customers on a pro-rata basis.

RESOLVES FURTHER, that this resolution shall become effective as of the effective date of the order from the Commodity Futures Trading Commission.

9.26 All Month/Any One Month Position Accountability

(A) Any person, as defined in Rule 1.26, who owns or controls positions in excess of the levels cited in Chapter 9, Appendix (A) below, under heading 9.26 All Month/Any One Month Position Accountability shall be subject to the following provisions pursuant to position accountability levels:

(1) promptly supply to the Exchange such information as the Exchange may request pertaining to the nature and size of the position, the trading strategy employed with respect to the position, and the position owner's or controller's hedging requirements, provided, however, that if the position owner or controller fails to supply such information as

and when requested, the President or his designee may order the reduction of such position;

(2) agree, upon request by the President or his designee, not to increase the position owned or controlled as of the time the request was received; and

(3) agree to comply with any prospective limit prescribed by the President or his designee which exceeds the size of the position owned or controlled.

(B) For the purposes of this Rule 9.26, the futures equivalent of an option contract and spread option contract is the previous day's NYMEX Risk Factor for that option. Further, long calls, short puts and long futures are on the same side of the market; short calls, long puts and short futures are on the same side of the market.

With respect to crack spread option contracts, a call option is the equivalent of a long product futures contract and a short crude oil futures contract; a put option is the equivalent of a short product futures contract and a long crude oil futures contract. Therefore, long crack spread option calls and short crack spread option puts are on the same side of the market; short crack spread option calls and long crack spread option puts are on the same side of the market.

With respect to calendar spread option contracts, a call option is the equivalent of a long futures contract in the first underlying futures in the spread and a short futures contract in the second underlying futures in the spread; a put option is the equivalent of a short futures contract in the first underlying futures in the spread and a long futures contract in the second underlying futures in the spread.

(C) The any one month/all month position accountability levels shall be calculated on a net futures equivalent basis. A NYMEX Light Sweet Crude Oil miNY Futures Contract shall be deemed equivalent to .50 of a Crude Oil Financial Contract, a NYMEX Natural Gas miNY Futures Contract shall be deemed equivalent to .25 of a Henry Hub Penultimate Financial Futures Contract, a NYMEX miNY Gasoline Futures Contract shall be deemed equivalent to .50 of a Gasoline Financial Contract, and a NYMEX miNY Heating Oil Futures Contract shall be deemed equivalent to .50 of a Heating Oil Financial Futures Contract; a COMEX miNY Gold Futures Contract shall be deemed equivalent to .50 of a Gold future, a COMEX miNY Silver Futures Contract shall be deemed equivalent to a .50 Silver future, and a COMEX miNY Copper Futures Contract shall be deemed equivalent to a .50 Copper Future.

(D) Except as provided in Rule 9.27, the any one month/all month position accountability levels for each futures contract traded on the Exchange are listed in Chapter 9, Appendix (A) below.

Note: Specific reference to contract aggregation requirements prescribed in Chapter 9, Appendix (A). Further, the Exchange may apply Accountability Compliance on a Futures Only basis to the base contracts which others "aggregate into" as per Appendix (A).

Option Contract Gross Option Quadrant Position Accountability Levels

Accountability levels for options cited in Appendix (A) are per quadrant (long call, long put, short call, short put) on a gross basis.

9.26A Any One Month and /or All Months Position Limits for Soft Commodities

(A) No person may own or control a net long position or a net short position in any one month or all months combined for soft commodities in excess of the levels set forth in Chapter 9, Appendix (A)

9.27 Expiration and Current Delivery Month Position Limits

(A) No person may own or control a net long position or a net short position in the expiration or current delivery month (as defined in this Rule 9.27 for energy, metals and soft contracts respectively) in excess of the levels set forth in Chapter 9, Appendix (A) below under 9.27 Expiration and Current Delivery Month Position Limits or Position Accountability.

Note: Specific reference to contract aggregation requirements prescribed in Chapter 9, Appendix (A).

(B) The expiration position limits for energy contracts for those contracts enumerated in Appendix (A), Chapter 9 for which expiration month position limits are designated, are effective on the open of trading of the last three trading days of the futures contract. The expiration position limits shall be calculated on a net futures equivalent basis.

(C) The expiration month position limits for the PJM and the Uranium contracts are effective on the opening of trading

on all business days when a contract month becomes the first nearby month (or spot month) and continues on an intra-day basis thereafter until the conclusion of trading in the expiring contract. The expiration month position limit shall be calculated on a net futures equivalent basis for the PJM contracts.

(D) The current delivery month position limits for physically delivered metals contracts are effective as of the close of business on the business day prior to the first notice day for any delivery month. No person shall maintain any position which, when combined with the number of contracts for which a delivery notice has been tendered or accepted during the delivery month, exceeds the maximum permissible current delivery month position limit for such contract. The current delivery month position limits for COMEX London Metals Futures contracts shall be effective as of the open of business on the first business day of the expiring contract month.

(E) The current delivery month position limits for soft commodities shall be in effect as of the open of trading on the last three trading days of the expiring contracts.

9.27A Expiration Position Accountability Levels

(A) Any person who owns or controls positions in excess of the levels cited in Chapter 9, Appendix (A) below, under heading 9.27A Expiration Position Accountability Levels, shall be subject to the following provisions pursuant to position accountability levels:

(1) promptly supply to the Exchange such information as the Exchange may request pertaining to the nature and size of the position, the trading strategy employed with respect to the position, and the hedging requirements (if any); provided, however, that if the principal or controller fails to supply such information as and when requested, the President or his designee may order the reduction of such position;

(2) agrees, upon request by the President or his designee, not to increase the position owned or controlled as of the time the request was received;

(3) agrees to comply with any limit prescribed by the President or his designee, and to decrease any open position if directed upon review of the information cited in item 1 above.

(B) The Expiration Position Accountability Levels for energy contracts, for those contracts enumerated in Appendix (A), Chapter 9 for which expiration accountability levels are designated, are effective on the open of trading of the last three trading days of the Penultimate and Last Day cash settled futures contracts. The expiration position accountability levels shall be calculated on a net futures equivalent basis. A NYMEX Light Sweet Crude Oil miNY Futures Contract shall be deemed equivalent to .50 of a Crude Oil Financial Contract, a NYMEX Natural Gas miNY Futures Contract shall be deemed equivalent to .25 of a Henry Hub Penultimate Financial Futures Contract, a NYMEX miNY Gasoline Futures Contract shall be deemed equivalent to .50 of a Gasoline Financial Contract, and a NYMEX miNY Heating Oil Futures Contract shall be deemed equivalent to .50 of a Heating Oil Financial Futures Contract.

(C) The Expiration Position Accountability Levels for metals contracts, for those contracts enumerated in Appendix (A), Chapter 9 for which expiration accountability levels are designated, are effective on the open of trading on the last three trading days of such contracts. The expiration position accountability levels shall be calculated on a net futures equivalent basis. A COMEX miNY Gold Futures Contract shall be deemed equivalent to .50 of a Gold future, a COMEX miNY Silver Futures Contract shall be deemed equivalent to a .50 Silver future, and a COMEX miNY Copper Futures Contract shall be deemed equivalent to a .50 Copper Future.

(D) Trading in the underlying physically delivered contract that is the basis for the settlement prices for all contracts subject to this rule shall additionally be subject to NYMEX Interpretive Notices 01-06 and 01-07. Note: Specific reference to contract aggregation requirements prescribed in Chapter 9, Appendix (A).

9.28 Exemptions from Position Limits for Bona Fide Hedging Transactions

(A) The limits set forth in Rule 9.27 and 9.26A shall not apply to bona fide hedging transactions as defined in §1.3(z)(1) of the Regulations of the Commission (17 C.F.R. §1.3(z)(1)), as it may be amended from time to time.

(B) Notwithstanding the provisions of Subsection (A) of this Rule 9.28, any person who owns or controls a bona fide hedging position in excess of the levels set forth in Rules 9.27 and 9.26A must comply with the applicable provisions of Rules 9.29, 9.31, 9.32 and this Rule 9.28.

(C) Any person who owns or control bona fide hedge positions must initiate and liquidate positions in accordance with sound commercial practices and in an orderly manner; trading shall not be conducted in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. No person shall use hedge positions to attempt to violate or avoid the By-Laws and Rules or to impair the good name of the Exchange.

(D) Any person who received approval to own or control positions classified as bona fide hedge positions shall submit to the Exchange, upon the request of the Board, the Control Committee or the President any information required by the Board, the Control Committee or the President or his designee (collectively, the "President" for purposes of Rules 9.28-9.36).

(E) Whenever an order of the Board, of the Control Committee or of any other Committee of the Exchange excludes from the operation of the order bona fide hedge positions or transactions, any person who desires his positions or transactions to be excluded must file a Hedge Notice with the Exchange as provided in this Chapter 9.

(F) Nothing in this Chapter 9 concerning exemption from position limits or any related provision shall in any way limit (i) the authority of the Exchange to take emergency action or (ii) the authority of the President to review at any time the position owned or controlled by any person and to direct that a position be reduced to the level provided for by Rules 9.26A or 9.27.

9.29 Exemptions from Position Limits for Exposure from Commodity Swap Transactions

(A) A person may apply to the Exchange for an exemption from the position limits set forth in Rules 9.27 and 9.26A where such exemption is necessary to reduce exposure resulting from commodity swap transactions that meet all the criteria of the Commodity Futures Trading Commission (the "Commission"), as stated in the Policy Statement Concerning Swap Transactions, 54 Fed. Reg. 30694 (July 21, 1989), or the Exemption of Swap Agreements 17 C.F.R. Part 35 (Jan. 22, 1993), as it may be amended or interpreted by the Commission.

(B) Applicants for an exemption under this Rule shall apply to the President or his authorized representative (referred to as the "President"), on forms provided by the Exchange, not more than five (5) days after assuming a position in excess of position limits under this Rule.

The Application shall include: a list of the contracts for which exemption is requested; a full and complete explanation of the underlying swap exposure; an agreement to comply with the limits imposed with respect to the proposed transactions; audited financial statements or other financial statements in the form approved by the President; an agreement to comply with the By-Laws and Rules of the Exchange; an agreement to submit a supplemental statement to the Exchange explaining any material change in circumstances or information provided in the application; and agreement to initiate and liquidate positions in accordance with sound commercial practices and in an orderly manner; and such other information, and representations as may be required by the Exchange.

(C) Any person who receives approval to own or control positions pursuant to this Rule, shall provide to the Exchange, upon the request of the Board, the Control Committee, or the President, any information or documentation requested relating to the exemption, the underlying swap transactions, or the financial condition of the applicant.

(D) The President shall, on the basis of the application and supplemental information which the Exchange may request, determine whether an exemption from speculative position limits shall be granted. The President may deny, condition or impose limitations upon an exemption request, based upon the applicant's business needs, financial status and integrity, the bona fides of the underlying swap transactions, on the liquidity, depth and volume of the market for which the exemption is sought, and on such factors as the President deems appropriate. The President may review at any time exemptions granted under this Rule, and may modify, revoke or place limitations on the exemption.

(E) Nothing in this Rule shall in any way limit (i) the authority of the Exchange to take emergency action; or (ii) the authority of the President to review at any time the position owned or controlled by any person and to direct that a position be reduced to the level provided for by Rules 9.26A and/or 9.27.

(F) Any person who has received from the President written authorization to exceed position limits imposed under Rules 9.27 or 9.26A must file with the Exchange an updated application annually, no later than the anniversary date of the initial authorization, or waive the exemption.

9.29A Exemptions from Position Limits for Exposure Associated with NYMEX Physical versus Cash Settled Arbitrage Transactions

(A) A person may apply to the Exchange for an exemption from the position limits set forth in Rule 9.27 related to contracts CL, NG, HO, HU RB, GC, SI, and HG, where such exemption is in connection with open arbitrage positions in the associated Penultimate Cash Settled Contracts (WS, HP, NP, BH, RT), miNY Contracts (QM, QG, QH, QU, QO, QI, QC), Last Day Cash Settled Contracts (HH, NN) and Cash Settled Penultimate Options (LC, LN, LB, LG).

(B) Applicants for an exemption under this Rule shall apply to the President or his authorized representative (referred to as the "President"), on forms provided by the Exchange, not more than two (2) days after assuming a position in excess of position limits under this Rule.

The Application shall include: a list of the contracts for which exemption is requested; an agreement to comply with the limits imposed with respect to the proposed transactions; an agreement to comply with the By-Laws and Rules of the Exchange; agreement to initiate and liquidate positions in accordance with sound commercial practices and in an orderly manner; and such other information, and representations as may be required by the Exchange.

(C) Any person who receives approval to own or control positions pursuant to this Rule shall provide to the Exchange, upon the request of the Board, the Control Committee, or the President, any information or documentation requested relating to the exemption.

(D) The President shall, on the basis of the application and supplemental information which the Exchange may request, determine whether an exemption from speculative position limits shall be granted. The President may deny, condition or impose limitations upon an exemption request based upon the applicant's business needs, financial status and integrity, the bona fides of the underlying swap transactions, on the liquidity, depth and volume of the market for which the exemption is sought, and on such factors as the President deems appropriate. The President may review at any time exemptions granted under this Rule, and may modify, revoke or place limitations on the exemption.

(E) Nothing in this Rule shall in any way limit: (i) the authority of the Exchange to take emergency action; or (ii) the authority of the President to review at any time the position owned or controlled by any person and to direct that a position be reduced to the level provided for by Rule 9.27.

(F) Any person who has received from the President written authorization to exceed position limits imposed under Rule 9.27 must file with the Exchange an updated application annually, no later than the anniversary date of the initial authorization, or waive the exemption.

9.30 Hedge Notice

(A) Any person who owns or controls a bona fide hedge position in excess of the levels set forth in Rule 9.27 must file with the Exchange a written Hedge Notice accompanied by audited financial statements or other financial statements in the form approved by the President, not more than five (5) business days after assuming such a position provided that the President or his designee may in special circumstances authorize the late filing of any Hedge Notice.

(B) Any Hedge Notice must, except as otherwise authorized by the President, provide the following statements and information:

(i) A representation that the transactions will be bona fide hedging transactions as defined in Regulation §11.3(z)(1) of the Commission (17 C.F.R. §1.3(z)(1)) as it may be amended from time to time;

(ii) A representation that the transactions will be necessary or advisable as an integral part of such person's business; and, in that connection, a full and complete explanation of the nature and extent of such business;

(iii) A representation that the person has complied with any applicable Federal requirement relating to hedging; and, that the person has received approval, where necessary, from the Commission;

(iv) A schedule of the maximum number of contracts, long and short, which the person will establish as a hedge;

(v) An agreement to comply with whatever limits are imposed with respect to the proposed transactions; to submit a supplemental statement explaining any change in circumstances which affect the nature of such position; and, to

comply with the By-Laws and Rules; and

(vi) A statement from the person's carrying firm that the transactions will be identified as hedging transactions on the books of such firm.

(C) Any person who has received from the President or his designee written authorization to exceed position limits imposed by Rule 9.27 must file with the Exchange an updated Hedge Notice annually.

9.31 Revised Hedge Notice

Whenever the positions which a person desires to classify as a bona fide hedge exceed the limits imposed by the President or exceed the maximum number of contracts previously identified by such person in the Hedge Notice such person shall file with the Exchange, not more than five (5) business days after the date on which such person has exceeded such amounts, a Revised Hedge Notice accompanied by audited financial statements or other financial statements in the form approved by the President provided, however, that the President or his designee may in special circumstances authorize the late filing of any Hedge Notice.

9.32 Action by the Exchange

(A) The President shall determine whether the transactions or positions described in the Hedge Notice are bona fide hedging transactions or positions.

(B) The President may impose such limits on bona fide hedge transactions or positions, as in his discretion are commensurate with market conditions, the person's business needs, financial ability and integrity.

(C) The President may review, from time to time, any approvals of hedge transactions and positions; and the President may revoke, or place limitations on, any approval. Any person who is adversely affected by a determination of the President may request the Control Committee to review such determination.

(D) No Clearing Member shall maintain or clear any position which taken alone or when aggregated in accordance with the provisions of this Chapter 9 exceeds the position limits permitted under Rules 9.27 or 9.26A, except as otherwise authorized pursuant to this Chapter 9.

(E) In the event that the President learns that a Member or customer maintains positions in accounts with more than one Clearing Member, such that aggregating positions in all such accounts exceeds the position limits established by this Chapter 9, the President will notify each Clearing Member maintaining or carrying such accounts that it is in violation of Section (D) of this Rule 9.32. A Clearing Member receiving notification from the President or his designee that it is in violation of Subsection (D) of this Rule 9.32 shall reduce any above-limit position as directed by the President, provided that reduction of an aggregated position which is maintained by two or more Clearing Members shall be proportional unless otherwise directed by the President.

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 Chief Regulatory Officer 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 Chief Regulatory Officer 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) 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) 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) All Clearing Members, omnibus accounts and foreign brokers for the purposes of sections (A), (B), (D) and (E) 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 Vice President 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.

9.34 Reporting Levels

(A) The quantities fixed for the purposes of filing a report under Rule 9.33 are listed in Chapter 9, Appendix (A) below, under heading 9.34 Reporting Levels:

9.35 Aggregation

In determining whether any person has exceeded the limits established by this Chapter 9, all positions held in accounts owned or controlled by such person, including those positions in accounts for which such person by power of attorney or otherwise, directly or indirectly, controls trading shall be included with the positions of such person; such limits upon positions shall apply to positions held by two or more persons acting pursuant to an express or implied agreement or understanding, the same as if all of the positions were held by a single person.

9.36 Penalties

(A) Definition of a Speculative Limit Violation. For purposes of this Rule, the ownership or control over, as well as the carrying by a Clearing Member of, a position in excess of that allowed under Rules 9.26–9.35 shall be deemed a speculative position limit violation; provided, however, that a Clearing Member shall not be deemed to be in violation for carrying the position of another person for whom the Clearing Member does not exercise trading discretion unless the position exceeds the speculative position limit as of the close of trading on two successive business days. Each business day on which a customer, Member, or Clearing Member, as the case may be, is in excess of the limits allowed under Rules 9.26–9.35 shall be considered a separate speculative position limit violation.

Where an overage results from the aggregation of two or more customer accounts, the overage shall not be deemed a speculative position limit by the Clearing Member, provided that the Clearing Member demonstrates to the satisfaction of the President or his designee that: (1) it did not carry any individual customer account which held an excessive position; (2) it took timely and appropriate remedial action upon discovery or notification of the violation (whichever occurs first); and, where applicable, (3) it employs systems and procedures reasonably calculated to discover whether positions held in two or more accounts carried by it should be aggregated under the rules of the Exchange.

(B) First Violation. The first occurrence of a speculative position limit violation will not be deemed a rule violation. However, the occurrence of a first violation will result in a warning letter being issued by the Compliance Staff to the customer (includes any Member or non-Member customer), and the warning letter shall be copied to the carrying Clearing Member(s). Where the carrying Clearing Member(s) has also committed a speculative position limit violation as set forth in paragraph (A) of this Rule 9.36 by carrying such positions, a warning letter shall be separately issued to such Clearing Member(s).

(C) Subsequent Violation.

(1) Automatic Fine

The occurrence of a second speculative position limit violation by a non-Member customer, Member, or Clearing Member within 12 months of any previous speculative position limit violation shall be a rule violation which shall subject such non-Member customer, Member, or Clearing Member to an automatic fine, and, in the case of a speculative position limit violation by a Member or Clearing Member, to a cease and desist order issued by the President or his designee. Fines levied pursuant to this Paragraph (C)(1) shall be assessed by the President, or his designee, against the Member, Clearing Member, or in the case of a non-Member customer, against the non-Member customer's Clearing Member, in accordance with the fine schedule in Paragraph (D) of this Rule 9.36.

(2) Violation by Clearing Member or Member after 12 Months

The occurrence of a second position limit violation by a Member or Clearing Member more than 12 months after any previous speculative position limit violation may subject such Member or Clearing Member, as the case may be, to a cease and desist order issued by the President, or his designee.

(3) By Customer

In addition to automatic fines levied against a customer pursuant to paragraph (C)(1) of this Rule 9.36, the occurrence of a second speculative position limit violation by a customer will subject the customer to a warning letter issued by the President, or his designee, stating that any future violation by the customer of the speculative position limit rules may result in extraordinary sanctions, including, but not limited to, conditioning, limiting, or denying access of such customer to the market. Imposition of any such extraordinary sanction shall be preceded by a hearing conducted before a panel of the Business Conduct Committee.

(D) Automatic Fine Schedule for subsequent speculative limit violation within a 12-month period.

Situation

	Fine
	Assessed Against
(1) Member account up to 25% over speculative position limits.	\$5,000
	Member and/or Clearing Member
(2) Member account in excess of 25% over speculative position limits.	\$15,000
	Member and/or Clearing Member
(3) Non-Member customer account up to 25% over speculative position limits.	\$5,000
	Clearing Member
(4) Non-Member customer account in excess of 25% over speculative position limits.	\$15,000
	Clearing Member
(5) House account up to 25% over speculative position limits.	\$5,000

- Clearing Member
- (6) House account in excess of 25% over speculative position limits.
\$15,000
- Clearing Member
- (7) Clearing Member carries an account up to 25% over speculative position limits.
\$5,000
- Clearing Member
- (8) Clearing Member carries an account in excess of 25% over speculative position limits.
\$15,000
- Clearing Member

With respect to a customer account that is carried with multiple Clearing Members that taken together exceed applicable position limits, the applicable fine may be assessed, at the sole discretion of the President or his designee: (1) equally among such carrying Clearing Members; (2) on a pro-rata basis among carrying Clearing Members; (3) solely against one or more such carrying Clearing Members.

(E) Additional Penalties. Any other provision of these Rules notwithstanding, a panel of the Business Conduct Committee may take other actions or impose additional penalties against any customer, Member or Clearing Member, including, but not limited to, limiting conditioning or denying access to the market, in the following cases:

- (1) Where the violation involves a position which is more than 150 percent of the speculative or approved hedge position limits;
- (2) Where the violation is the third offense within any 12-month period;
- (3) Where a Clearing Member fails to promptly comply with an instruction by the President or his designee to reduce any position; or
- (5) Where the President or his designee deems the violation to constitute a severe abuse of Exchange rules.

(F) Alternative Position Limit Violation Evaluation. If a position exceeds speculative position limits at the close of trading when evaluated using the previous day's NYMEX Risk Factors, but does not exceed speculative position limits when evaluated using the NYMEX Risk Factors as of that day's close of trading, then the position shall not be deemed to violate the speculative position limits contained herein.

(G) Multiple Clearing Members. A customer or member who maintains positions at more than one Clearing Member which taken together exceed the speculative position limit will be deemed to have waived confidentiality regarding his positions, and the Clearing Members carrying the excessive positions may be informed of the overall position and required to make reductions on a pro-rata basis.

9.36A Appeal / Settlement

(A) Any fine imposed in accordance with Rule 9.36 may be appealed to the Appeals Committee. To appeal a fine, a Member or Clearing Member shall file a typewritten notice of appeal with the Compliance Department within ten (10) business days after receipt of the notice of such fine. The notice of appeal shall set forth the grounds for the appeal and any relevant documents shall be attached. A failure to appeal within such time limit shall operate as a waiver of all rights of appeal.

(B) The Compliance Department shall deliver to the appellant within ten (10) days of the date of delivery of the Notice of Appeal, a written memorandum in response to the Notice of Appeal.

(C) The appellant may deliver to the Compliance Department, within ten (10) days from receipt of the response of the Compliance Department, a written reply memoranda. Such memoranda must be limited to the matters contained in the response of the Compliance Department.

(D) In its discretion, the Appeal Panel may decide the appeal on the basis of the notice of fine and memoranda of the Respondent and the Compliance Department or may require the parties to make oral presentation. The Appeal Panel shall issue a written decision which shall include an order to affirm, reverse or modify the terms of the summary fine issued.

(E) The Appeal Panel may approve or reject offers of settlement between the appellant and the Compliance Department which may decrease the fine or otherwise modify the terms of the summary fine issued.

9.37 Required Use of ATOM by Clearing Members and Floor Brokers

(A) Each Clearing Member of the Exchange and floor broker must enter into an agreement (the "ATOM Agreement") to participate in the ATOM¹ system. The ATOM Agreement shall be in the form specified by the Exchange and shall be filed with the Exchange.

(B) Each Clearing Member shall enter and maintain all applicable floor brokerage rates into the ATOM system, at rates agreed to between the Clearing Member and the applicable floor broker. A Clearing Member must provide thirty (30) days prior written notice to the floor broker before any modification to a floor brokerage rate entered in the ATOM system shall become effective.

(C) Each Clearing Member and floor broker shall agree on customer identification codes and each floor broker shall enter these codes when entering clearing data for such trades for these customers.

¹ "ATOM" is a trademark of the Board of Trade Clearing Corporation and has been licensed for use by NYMEX.

9.37A Reserved

9.38 Participation by NYMEX Floor Members in Special Program for Over-the-Counter Trading with FCM Guarantee

(A) This program is effective until February 4, 2005, or until such other date as announced by the Exchange. The over-the-counter (OTC) contracts, agreements or transactions must be executed pursuant to Section 2(h)(1) of the Commodity Exchange Act (Act), which in effect provides among other things that such transactions shall be subject to CFTC anti-fraud and anti-manipulation authority and also may not be entered into on a trading facility. This program generally allows a NYMEX Floor Member to enter into trading in certain OTC contracts on the basis of a FCM guarantee without needing to satisfy the total assets requirements otherwise necessary under the Act for such trading. In order to maintain eligibility for this program, a NYMEX Floor Member must continue to satisfy all of the conditions contained in this rule.

(B) This program is available only to NYMEX Floor Members in good standing who are properly registered with the CFTC as a floor trader and/or as a floor broker. With respect to floor brokers, this program is available only for trading executed by the floor broker for his proprietary account. In addition, each NYMEX Floor Member must notify the Exchange Compliance Department prior to any participation in this program.

(C) Clearing. The NYMEX Floor Member must have obtained and at all times maintain a financial guarantee in writing as provided by the Exchange for the contracts, agreements or transactions from a NYMEX Clearing Member that:

(1) is registered with the Commission as an FCM; and,

(2) clears the OTC contracts, agreements or transactions thus guaranteed for such NYMEX Floor Member.

(D) Permissible OTC contracts, agreements or transactions shall be limited to trading in a commodity that either: (1) is listed only for clearing at NYMEX or

(2) is listed for trading and clearing at NYMEX and NYMEX's rules provide for exchanges of futures for swaps in that contract, and

(3) each OTC contract, agreement or transaction executed pursuant to this NYMEX program must be cleared at NYMEX.

(E) The NYMEX Floor Member may not enter into OTC contracts, agreements or transactions with another floor broker or floor trader as the counterparty for any contract that is listed for trading on the Exchange. However, a NYMEX Floor Member may enter into OTC contracts, agreements or transactions for such products with the Exchange in connection with options or forwards entered into through a pari-mutuel auction or, in connection with

other OTC contracts, agreements or transactions, with an individual or entity that qualifies as an eligible contract participant" pursuant to the Act.

(F) All contracts transacted in connection with this rule must be submitted and accepted for clearing on the Exchange. This rule neither authorizes nor allows a NYMEX Floor Member to maintain an uncleared OTC position and such activity would constitute a violation of this rule.

9.39 Special Capital Provisions for Clearing Members Guaranteeing and Clearing OTC Contracts Executed by NYMEX Floor Members

(A) Clearing Members that guarantee and clear OTC contracts, agreements or transactions pursuant to the program referenced in NYMEX Rule 9.38 must have and maintain at all times minimum working capital of at least \$20 million; provided, however, that during the first 18 months following commencement of this program, a Clearing Member must have and maintain minimum working capital of at least:

a) \$5 million during the first twelve months of the two-year period; and

b) \$10 million during the thirteenth through eighteenth months of the two-year period.

(B) If, during the 18-month period, a Clearing Member does not maintain working capital of at least \$20 million, it must further reduce its working capital in compliance with this program by 100 percent of the NYMEX margin requirements for the OTC contracts, agreements or transactions of floor brokers and floor traders that it is guaranteeing pursuant to this program. A Clearing Member must compute its working capital in accordance with Exchange rules and generally accepted accounting principles consistently applied.

(C) A Clearing Member that is subject to the provisions of paragraph (B), above shall be required to compute, on a daily basis, the total margin requirement for OTC contracts, agreements or transactions of floor brokers and floor traders that it is guaranteeing pursuant to this program. Such computations must be documented and maintained by the Clearing Member in accordance with CFTC Regulation 1.31 and be made available for inspection by Exchange representatives. Computations prepared as of financial statement filing dates must be included as part of such filing with the Exchange.

(D) A decline in a Clearing Member's working capital resulting from the application of this Rule shall be subject to the reporting requirements set forth in Rule 9.22.

Clearing Rules Specifically Governing Clearing Member Obligations Regarding Clearing of Options and Forwards Executed in Exchange-Designated Pari-mutuel Auctions

Note: The following subsection is intended to group together several rules that apply specifically to obligations associated with the clearing of this category of product. Clearing Members are advised that, in addition to other Chapter 9 rules that govern their duties more generally, they may wish to also consult the following Chapter 9 rules:

Rule 9.00(D);
Rule 9.04(I);
Rule 9.05(H); and
Rule 9.23

9.40C Clearing Requirements for Clearing of Over-the-Counter Option Transactions in Exchange-Designated Pari-mutuel Auctions

(A) No Clearing Member shall assign an account number that would accept the entry of orders into an Exchange-designated pari-mutuel auction for or on behalf of a customer, unless such customer is first provided with an Auction Procedures document in a form approved by the Exchange and any subsequent revisions or amendments to such Auction Procedures. A Clearing Member shall obtain the agreement of each eligible customer for which it proposes to clear transactions in a pari-mutuel auction that such customer will be bound by the Auction Procedures and by applicable Exchange Rules, in connection with each such transaction. Such agreement may be obtained in any manner deemed appropriate by the Clearing Member, including without limitation through the customer's consent in its agreement with the Clearing Member to be bound by Exchange Rules, provided that such agreement can be enforced by the Exchange or an Auction Broker (as defined below) against the customer. The Auction Procedures applicable to pari-mutuel auctions and transactions are hereby incorporated into these Rules and made a part hereof

to the same extent as if such Procedures were reprinted herein in their entirety.

(B) Participation in an Exchange designated pari-mutuel auction shall be limited to "eligible customers." For purposes of this rule, eligible customers shall be limited to individuals and entities:

(1) who qualify as an "eligible contract participant" as defined by the Commodity Exchange Act and by CFTC rule, order or other interpretation, which would include NYMEX Floor Members participating in over the counter markets under the conditions and requirements established by NYMEX Rule 9.38;

(2) who agree to be bound by the NYMEX Rules and by the Auction Procedures referenced in Section (C);

(3) who have established a relationship with a Clearing Member and for whom the Clearing Member has submitted information to the Exchange as provided in Section (C); and

(4) where the offer and sale of products listed in such auction to such individual or entity and the participation in such auction market by such individual or entity does not violate any law applicable to such individual or entity.

Clearing Members may only authorize customer accounts for Exchange designated pari-mutuel auction for customers.

(C) Before authorizing any account of an eligible customer to trade in an Exchange designated pari-mutuel auction, a Clearing Member must first submit to the Exchange in the manner provided by the Exchange the following information along with other related information that may be required by the Exchange from time to time:

(1) the account number of the eligible customer;

(2) the commodity or commodities that the Clearing Member has authorized the eligible customer to trade on the Exchange designated pari-mutuel auction; and

(3) the maximum financial exposure that the Clearing Member is willing to accept for trading by the eligible customer on the Exchange designated pari-mutuel auction. The limit set by the Clearing Member for the Exchange designated pari-mutuel auction shall be unique to that auction and thus shall operate separately from the risk limits that may be applicable to that account number in connection with other Exchange services.

In addition, by agreeing to clear transactions in a pari-mutuel auction for eligible customers, and by establishing Risk Allocation Values for orders submitted by that customer, in accordance with paragraph (E) below, a Clearing Member will be deemed to represent and warrant that each customer for which it agrees to clear transactions is an eligible customer under these Rules and that such customer has been provided with the Auction Procedures (including any revisions or amendments) and has agreed to be bound by the Auction Procedures and these Rules. Each Clearing Member will indemnify and hold harmless the Exchange from any claims, damages, losses, costs or expenses whatsoever incurred by NYMEX or any Auction Broker arising out of any representation or warranty made by Clearing Member in this Clause (C) not being true or accurate (including any claim that an eligible customer is not bound by any Supplemental Cleared OTC Contract (defined in Section (F) below)).

(D) Pari-mutuel transactions will be entered into through separate auctions, as set forth in the Auction Procedures. Upon the completion of an auction, each eligible customer with an executed transaction will be deemed to have entered into an over the counter transaction with the Exchange on the terms, and in the amount and at the price, specified with respect to the particular auction, without any further action by Exchange, the Clearing Member or the eligible customer. Immediately thereafter, the over the counter transaction will be given up for clearing to the Clearing Member designated by the eligible customer and shall be extinguished and replaced, by a cleared over the counter transaction between the Exchange and the applicable Clearing Member without any further action by the eligible customer or the Clearing Member pursuant to product specifications for such product as provided by Exchange rule ("Cleared OTC Contract").

(E) In addition, Clearing Members must require their eligible customers to designate at least one firm through which the customer's orders will be submitted into the Exchange designated pari-mutuel auction ("Auction Broker"). The duties of an Auction Broker will include application of the authorizations and risk limits (set by a Clearing Member pursuant to Section (C)) (hereafter "Risk Data") to the orders received from the eligible customers of the Clearing Member.

(F) A Clearing Member agrees unconditionally to accept and to clear all trades executed for that account for which it has input information pursuant to Section (C), regardless of malfunction or non-operation of the Exchange's contracts order filter functionality, the Risk Allocation Value order filter functionality, and/or the position limit functionality, provided however that in the event of any manner of misapplication or nonapplication of the Risk Data by an Auction Broker that results in the execution of a transaction above the risk limit specified by the Clearing Member for an eligible customer, the Clearing Member shall be required to clear only that portion of the transaction that is within or up to such risk limit and the excess of the transaction size above such risk limit shall result in the execution of a cleared contract (a "Supplemental Cleared OTC Contract") on behalf of the relevant Auction Broker, in the amount of such excess, which shall be cleared by the Auction Broker's Clearing Member. The eligible customer that entered the order in excess of its credit limit shall reimburse the Auction Broker for any amounts that the Auction Broker is required to pay under the Supplemental Cleared OTC Contract. Conversely, the Auction Broker will pay to the eligible customer any amount that the Auction Broker receives under such Supplemental Cleared OTC Contract. A Clearing Member shall be responsible for maintaining and updating as appropriate the Risk Data on an ongoing basis and shall submit any such updates to the Risk Data pursuant to the procedures and deadlines as established by the Exchange.

9.41 Special Capital Provisions for Clearing Members Guaranteeing and Clearing OTC Contracts Executed by NYMEX Floor Members

(A) Clearing Members that guarantee and clear OTC contracts, agreements or transactions pursuant to the program referenced in NYMEX Rule 6.21G must have and maintain at all times minimum working capital of at least \$20 million

(B) A decline in a Clearing Member's working capital resulting from the application of this Rule shall be subject to the reporting requirements set forth in Rule 9.22.

Chapter 10 Bankruptcy of a Member

[Chapter 10 is being deleted in its entirety and is being replaced with Rule 993 (Customer Substitution in the Event of Clearing Member Bankruptcy)]

10.01 Applicability of Rules

(A) This Chapter shall apply whenever a Member becomes a debtor at a time that such debtor carries for a customer an open Exchange Futures Contract in a delivery month and one of the following events has occurred:

- (1) Trading has ceased on the date of the entry of the Order for Relief; or,
- (2) Notice of Delivery has been tendered on or before the date of the entry of the Order for Relief; or,
- (3) Trading ceases before such open futures contract in a delivery month is liquidated by the trustee of the debtor's estate.

(B) The Rules of this Chapter apply to a particular case, they shall supersede any other Bylaw, Rule or Order of the Exchange.

(C) This Chapter shall not apply to any Exchange Futures Contract against which delivery of the actual commodity is not provided in the Exchange Rules and which is settled in cash.

(D) This Chapter shall apply only in the event that the actual commodity to be delivered against Exchange futures contracts has not become part of the Debtor's Estate on the date of the Order for Relief.

10.02 Definitions

(A) The following definitions shall apply only to terms used in this Chapter:

(1) "Customer" shall mean any individual, corporation, partnership, estate, trust, or other organization for or with whom a Debtor deals and who has a claim against the Debtor arising out of a futures contract made, received, acquired, or held by the Debtor, in the ordinary course of the Debtor's business, from or for the account of such individual, corporation, partnership, estate, trust or other organization.

(2) "Debtor" shall mean any Member as defined in this Rule 10.02(A)(4) with respect to which a proceeding is commenced under Subchapter IV of Chapter 7 of the Bankruptcy Code (11 U.S.C. §761 et seq.)

(3) "Exchange Futures Contract" shall mean any contract for the purchase or sale of a commodity for future delivery which is traded on, or subject to, the Bylaws and the Rules.

(4) "Member" for purposes of the rules in this Chapter 10 means any Class A Member, Clearing Member, Member Firm and any other person or entity with trading privileges on either the Class A Member or the COMEX Division, including Permit Holders, Electronic Traders, NYMEX ACCESS@ Operators who are also designated as Electronic Traders, COMEX Division Option Members, or person with Eurotop Trading Privileges that carries positions on behalf of customers of proprietary accounts directly with the Clearing House or in an omnibus account at another Clearing Member.

(5) "Order for Relief" shall mean the filing of a Petition in Bankruptcy with respect to a voluntary case and the Adjudication of Bankruptcy with respect to an involuntary case.

(6) "Trustee" means the trustee in bankruptcy approved to administer the debtor's estate and any interim or successor trustee.

10.03 Obligation to Make or Take Delivery

(A) When a Member becomes a debtor under the circumstances set forth in Rule 10.01(A), the obligation to take or make delivery of the physical commodity is imposed on the customer of the Debtor. The customer shall make delivery to and receive payment from, or take delivery from and pay to any clearing member which has issued, issues, has received or receives a Delivery Notice to or from the Debtor under the circumstances set forth in Rule 10.01(A) without the intervention of the trustee and without, including the physical commodity or payment therefore in the debtor's estate.

(B) The making or taking of delivery or of payment under this Chapter shall discharge the obligation of the customer and the delivering or receiving clearing member to the Debtor but shall not discharge the Debtor from any obligations on the futures contract except to the extent that such delivery or payment is made.

(C) Any equity in the commodity contract against which delivery must be made or taken under Rule 10.03(A) will be included in the net equity claim of the customer under Regulation §190.07 (17 C.F.R. §190.07); will be distributed at the time of, and as part of, any distributions made by the trustee to customers of the Debtor; and will not be available to make or take delivery.

10.04 Delivery on Futures Prior to Expiration of Trading

(A) On futures contracts which trade during the period in which Delivery Notice may be issued under the Rules of the Exchange, the trustee shall liquidate in the manner provided in (B) all open long positions against which Delivery Notices have been issued but no delivery has taken place ("Notice Positions").

(B) The Trustee shall liquidate all Notice Positions by selling the futures contract by open outcry and tendering a Delivery Notice as provided in the Rules. Such liquidation shall relieve the Debtor and the customer of the Debtor from all obligations to make or take delivery under the futures contract.

(C) The Member who issues the Delivery Notice to the Debtor shall deliver to the Clearing Member to which the Debtor issued the Delivery Notice under Subsection (B) of this Rule. The Delivery shall occur according to the appropriate Exchange Rules. However, the time within which delivery shall be made shall be governed by the Trustee's issuance of a Delivery Notice.

10.05 Delivery of Futures Contracts on Which Trading Stops Prior to Issuance of Delivery Notices

(A) When trading has stopped prior to the issuance of a Delivery Notice and this Chapter 10 applies, the Member who has issued to or received from a Debtor prior to the date of an Order for Relief but has not delivered the physical commodity prior to the date of an Order for Relief shall deliver to or receive from the customer of such Debtor the physical commodity.

(B) The Member who is obligated to make or to take delivery in accordance with Subsection (A) of this Rule shall

make arrangements with a bank, which shall be a bank approved by the Exchange to accept margin deposits, that title to the physical commodity will be transferred upon receipt by the bank of acceptable evidence of delivery to or from the customer. The customer or the Clearing Member prior to the delivery date, shall deposit with such bank funds sufficient to pay the par value of the delivery. The arrangements with the bank shall provide that payments will be made to the seller upon receipt by the bank of appropriate evidence of delivery.

(C) Nothing contained in this Chapter shall prevent a customer and a clearing member from making mutually agreeable arrangements to settle the delivery on terms other than those provided in these Rules.

10.06 Failure to Deliver (COMEX Division)

(a) Seller's Failure to Make Delivery.

Except where otherwise specifically provided in the Bylaws and Rules, if a seller who is obligated to deliver a commodity in satisfaction of either a futures contract or a physicals trade executed on the Exchange fails to deliver, the buyer shall promptly purchase the commodity on the open market and notify the defaulting seller and the Exchange of the purchase price. The defaulting seller shall pay to the buyer as damages the difference between the notice price and the purchase price, in the case of delivery required to have been made to satisfy a futures contract, or the difference between the trade price and the purchase price, in the case of a physicals transaction executed on the Exchange.

(b) Buyer's Failure to Take Delivery and Make Payment.

Except where otherwise specifically provided in the Bylaws and Rules, if a buyer who receives a delivery notice on a futures contract or who executes a physicals trade on the Exchange fails to present the delivery notice and/or to take delivery and make payment when payment is due, the issuer of the notice or the seller of the physicals shall promptly sell the commodity on the open market for the account of the delinquent and shall notify the defaulting buyer and the Exchange of such resale price. The defaulting buyer shall then pay to the seller the difference between the notice price and the resale price, in the case of a delivery required to have been taken to satisfy a futures contract, or the difference between the trade price and the resale price, in the case of a physicals transaction executed on the Exchange.

10.07 Trading Limits on First Day of Trading in New Delivery Months (COMEX Division)

(A) The price fluctuation limitations as set forth in the Rules for the several commodities traded on the COMEX Division of the Exchange shall be made applicable to each new delivery month on the first day of trading. The base from which the limits shall be measured will be established by the Settlement Committee by reference to the differential ordinarily prevailing between the new month and the next preceding delivery month.

(B) The settlement price for the next preceding delivery month established on the day before the opening of trading in the new month shall be used for the purpose of fixing the differential for the new month.

Chapter 11

Rules for NYMEX ClearPort® Trading Exchange Electronic Trading Systems

11.01-11.30 Rules Applicable only to NYMEX ACCESS® Reserved

Rules Applicable only to NYMEX ACCESS® (Rules 11.00-11.30 with Rules 11.28-11.30 reserved)

11.01 Holders of Electronic Trading Privileges

(A) Each Class A Member and COMEX Division membership in the Exchange shall carry with it electronic trading privileges. For the purposes of these Rules, electronic trading privileges shall mean the right to apply for designation as an Electronic Trader. Such authority may be exercised by the owner of a Class A Member or COMEX Division membership or by an individual or Member Firm that leases such authority from the owner of the COMEX Division membership, subject to the provisions of Rule 11.20. For the purposes of this Rule, a Class A Member or COMEX Division membership held pursuant to an A-B-C Agreement shall be deemed to be owned by the Member Firm that is the party to such agreement. In addition, the Exchange in its discretion also may determine to extend electronic trading privileges to other firms and individuals who comply with the designation requirements specified in Rule

11.02.

For purposes of this Chapter 11, in connection with access to NYMEX ACCESS@ Trading, the term "Electronic Trader" will refer to the firm or individual that has fully met all designation requirements required by the Exchange and has been granted the privilege of accessing the NYMEX ClearPort@ Trading system.

For purposes of this Chapter 11, in connection with access to NYMEX ACCESS@ via the trading graphical user interface (which may also be referred to in these rules as a front-end trading application) provided by the Exchange, the term "Authorized Terminal User" as applied to NYMEX ACCESS@ will refer generally to those employees and/or agents that an Electronic Trader has designated to serve as its authorized terminal operators and has properly notified the Exchange in the manner provided by the Exchange.

For purposes of this Chapter 11, in connection with access to NYMEX ACCESS@ via a front end application that is proprietary to the Electronic Trader or provided by a third party and that is certified by the Exchange, the term "Authorized Terminal User" as applied to NYMEX ACCESS@ shall mean those individuals or entities (including, without limitation, the Electronic Trader's customers, employees, agents and independent contractors) authorized by the Electronic Trader to access NYMEX ACCESS@ via a Certified Application (as defined immediately below).

For purposes of this Chapter 11, in connection with access to NYMEX ACCESS@ via a front end trading application that is proprietary to the Electronic Trader or provided by a third party and that is certified by the Exchange, the term "Certified Application" shall refer to any front end trading application, provided by Electronic Trader or a third party, via which Electronic Trader and/or its Authorized Terminal Users may access the NYMEX ACCESS@ services (and all modifications of such application) and any connection of such front end trading application to the NYMEX ACCESS@ services must (i) be certified by the Exchange in accordance with the Exchange's current technical certification procedures, as prescribed by the Exchange, and (ii) meet the Exchange's credit control and audit trail requirements as set forth by the Exchange.

11.02 Electronic Trader Designation Requirements

(A) To qualify as an Electronic Trader, an individual or entity must:

(1) deliver to the Exchange an executed NYMEX ACCESS@ System User Agreement in the form and manner prescribed by the Exchange; and

(2) deliver to the Exchange an executed NYMEX ACCESS@ Primary Clearing Member Guarantee pursuant to Rule 11.04A.

(B) Upon receipt of the documentation required in Section (A), the Exchange in its sole discretion may determine to designate the applicant as an Electronic Trader with trading rights as specified by Rule 11.20 for Class A Members and COMEX Division Members and the trading rights as specified by the Exchange for other applicants.

(C) No person who executes customer orders during Regular Trading Hours who is employed by a Member, Member Firm or Clearing Member during Regular Trading Hours in any capacity other than as a write-up clerk, as that term is defined in Rule 8.58A, may be employed by any other Member, Member firm or Clearing Member during the NYMEX ACCESS@ trading session. No Clerk, as that term is defined in Rule 8.58A, may become an Electronic Trader.

11.03 Scope of Trading Privileges

(A) Only Electronic Traders and their Authorized Terminal Users may enter orders on NYMEX ACCESS@ and any Electronic Traders and their Authorized Terminal Users, including Non-Member Electronic Traders, must comply with any and all applicable CFTC and NFA registration requirements.

(B) Commodity Trading Advisors and Commodity Pool Operators. Any Passwords assigned to a commodity trading advisor may be used only to enter orders for his own account or the accounts of his customers. Any Passwords assigned to a commodity pool operator may only be used to enter orders on behalf of the accounts the commodity pool operator manages. For purposes of this rule, customers of a commodity trading advisor shall be interpreted to refer to persons or entities for whom the commodity trading advisor holds a valid power of attorney authorizing the commodity trading advisor to exercise discretion over the individual or entity's account. A commodity trading advisor must establish and maintain a written allocation scheme or schemes before entering orders for or on behalf of his customers into the NYMEX ACCESS@ system. If a commodity trading advisor maintains more than one written

scheme for the allocation of trades transacted by him for or on behalf of his customers, he must elect which allocation scheme he will employ prior to entering any such orders into the NYMEX ACCESS@ system, and document that selection in a time-stamped writing to be maintained by him. A commodity trading advisor that will be entering orders directly into the NYMEX ACCESS@ system pursuant to this Rule 11.08 shall provide his Primary Clearing Member with a list of all clearing members to whom the commodity trading advisor may be assigning trades for clearance.

(C) For COMEX Division Electronic Trading Privileges—A person who is an authorized or is employed by a designated holder of electronic trading privileges in the COMEX Division may enter orders for his own account, the account of his customer(s), the account of his employer or the account of customers of his employer in the contracts of the COMEX Division, subject to the terms of the EPAA, or the Agreement between the Exchange and the HKFE as applicable.

Any other grant of electronic trading privileges to enter customer orders in gold, silver, copper or Eurotop contracts to any person that is not a Member or employed by a Member, Member Firm, Clearing Member, NYMEX ACCESS@ Trading Firm of the COMEX Division, commodity trading advisor or commodity pool operator, including by any renewal, or extension of the EPAA or any agreement with any other exchange (but excluding the grant of option trading rights to option members contemplated by Section 5-17 of the Merger Agreement) shall be treated as a Special Matter, in accordance with New COMEX By-Law 205(D)(6).

The adoption of, and any amendment to, this Rule 11.03(C), or the adoption of any new rule or amendment to any other rule that limits, modifies or otherwise alters this Rule 11.03(C), and that permits customer trading rights in gold, silver, copper or Eurotop contracts shall be treated as a Special Matter, in accordance with New COMEX By-law 205(D)(6).

11.04 Responsibilities of Electronic Traders

(A) Absent notice to the contrary by the Exchange and except with respect to Electronic Traders who are COMEX Members or Member Firms or who are leasing electronic trading privileges from a COMEX Member or Member Firm, an Electronic Trader will not be limited in terms of the number of Authorized Terminal Users that may be designated by the Electronic Trader or logged onto the system at any one time.

(B) Each Electronic Trader shall execute and deliver to the Exchange, a NYMEX ACCESS@ System User Agreement in the form and manner prescribed by the Exchange.

(C) Each Electronic Trader shall deliver to the Exchange a NYMEX ACCESS@ Primary Clearing Member Guarantee, executed by a Primary Clearing Member for that Electronic Trader, pursuant to Rule 11.04A. Access to NYMEX ACCESS@ via the Front-End Trading Application Provided by the Exchange.

(D) Each Electronic Trader shall be responsible for all activity resulting from use of the user identification and password for that Electronic Trader (if an individual) and/or the user identification and password of any Authorized Terminal User under the control of that Electronic Trader (collectively for purposes of this Chapter 11 the "Passwords")

Access to NYMEX ACCESS@ via a Non-Exchange Front-End Trading Application that is Certified by the Exchange.

Each Electronic Trader agrees to be responsible for and to be bound by and to indemnify and hold the Exchange harmless for any and all actions taken, or omissions of, by Authorized Terminal Users or others using the Passwords as defined below of such, whether or not such actions were authorized, through the Electronic Trader's Certified Application.

(E) A COMEX Member that has leased to an individual or Member Firm his right to apply for designation as an Electronic Trader shall not be responsible for the activities of the lessee or any individual authorized by the lessee to use NYMEX ACCESS@.

11.04A Primary Clearing Member Guarantees for NYMEX ACCESS@

(A) Each Electronic Trader must be guaranteed to trade on NYMEX ACCESS@ by a Primary Clearing Member ("PCM") and must deliver documentation of such guarantee to the Exchange. To guarantee a Electronic Trader, the PCM must execute such guarantees and other documents as required by the Exchange. No Electronic Trader may be guaranteed by two (2) PCMs at the same time.

(B) In order to guarantee an Electronic Trader, the PCM shall:

(1) agree to accept and clear all trades executed as a result of orders entered through use of the Passwords as defined in Rule 11.04 by that Electronic Trader and all trades executed as a result of any order entered by a NYMEX ACCESS@ Operator on the NYMEX ACCESS@ Trader Work Station assigned to the Electronic Trader that are not accepted for clearance by another Clearing Member or that do not clear provided, however that such PCM shall not be required to accept any trade that is submitted to it for clearance after the close of that business day's session of Regular Trading Hours, provided that the PCM's obligation to accept a trade for an account carried by another Clearing Member shall be further limited by the provisions of Rule 11.04B and, provided further, that acceptance of a trade by such PCM, as provided in this Section (B), shall not relieve any Member, Member Firm, Electronic Trader or NYMEX ACCESS@ Operator involved in the solicitation, handling, execution, or clearing of such trade of the duty to act in good faith and with reasonable care and diligence;

(2) agree to accept financial responsibility for all trades determined through the Exchange adjudication or arbitration process to have been executed as a result of orders entered through use of the Passwords;

(3) execute such guarantees and other documents as the Exchange shall require in connection with the PCM's guarantee of an Electronic Trader and shall file said documents with the Office of the Secretary; and

(4) comply with the financial requirements for guarantors as set forth in Rule 2.30 and in Rule 9.24.

(C) No individual or entity that is guaranteed by a PCM for trades executed during a Regular Trading Hours trading session may be guaranteed by a different PCM for trades executed during a NYMEX ACCESS@ trading session.

11.04B Obligations of Non-Primary Clearing Members for Trading on NYMEX ACCESS@

(Note: As provided by NYMEX Rule 11.07 (Duties of Electronic Traders), an Electronic Trader must obtain prior written consent from its Primary Clearing Member before the Electronic Trader may open an account with another Clearing Member for trading on NYMEX ACCESS@. As provided by NYMEX Rule 11.23 (Trade Limit Monitoring System), a Clearing Member must input a Total Risk Value, as defined by Rule 11.23, for any account carried by the Clearing Member that could be traded on NYMEX ACCESS@.)

Non-PCM Clearing Member. For purposes of this rule, the term "Non-PCM Clearing Member" shall refer to a Clearing Member who has opened an account for an Electronic Trader for trading on NYMEX ACCESS@ where this Clearing Member is not the Primary Clearing Member for such Electronic Trader for trading on NYMEX ACCESS@.

For an account traded on NYMEX ACCESS@ that is carried by a Non-PCM Clearing Member, such Clearing Member must accept and clear any trade or trade reallocation for such account that does not exceed the Total Risk Value set by the Non-PCM Clearing Member that is applicable to the entry of orders and to trade reallocations for such account.

11.05 Reserved

11.06 Reserved

11.07 Primary Clearing Member Permission for Electronic Trader Accounts with Other Clearing Members and Additional Authorized Terminal Users and Electronic Trading Privileges

(A) **Accounts for Trading on NYMEX ACCESS@ Carried at Other Clearing Members.** No guaranteed Electronic Trader who is unconditionally guaranteed by a Primary Clearing Member for trading in Exchange futures and options contracts may open and/or otherwise maintain a commodity account in which Exchange futures and options contracts will be traded without the prior written consent of such Electronic Trader's guarantor Primary Clearing Member.

(B) **Additional Authorized Terminal Users and Electronic Trading Privileges.**

(1) An Electronic Trader must obtain the consent of its Primary Clearing Member for any electronic trading privileges sought by the Electronic Trader beyond the number of electronic trading privileges in effect at the time of the execution of the NYMEX ACCESS@ Primary Clearing Member Guarantee.

(2) An Electronic Trader also must obtain the consent of its Primary Clearing Member for any changes to the Electronic Trader's roster of Authorized Terminal Users.

(3) Any change proposed by the Electronic Trader pursuant to Subsections (1) or (2) of this Section (B) may not be submitted directly to the Exchange by the Electronic Trader but instead must be submitted to the Exchange by the Primary Clearing Member on behalf of the Electronic Trader in the manner provided by the Exchange.

11.08 Reserved

11.08A-1 COMEX Division Members Trading NYMEX Contracts on NYMEX ACCESS®

(A) Except as otherwise provided in the Exchange Rules, Electronic Traders and Authorized Terminal Users shall be subject to the COMEX Bylaws, Rules, Regulations and Resolutions, in addition to the rules of this Chapter 11 when trading COMEX Division contracts on NYMEX ACCESS®.

11.08A-2 Rules of Uniform Application

Notwithstanding the provisions of Rules 11.08A and 11.08A-1, Rules 11.25, 11.26, 11.27, 11.51, 11.52, 11.53, 11.54, 11.55, 11.56, 11.57, 11.58, 11.59, 11.60, 11.61, 11.62, 11.63, 11.64, 11.65, 11.66, 11.67, 11.68 and 11.69 of the Exchange Rules shall apply to both the Class A Members and the COMEX Division for all Exchange contracts traded through the NYMEX ACCESS® System unless otherwise specified.

11.09 Duties of Primary Clearing Members to Monitor Electronic Traders

Each Primary Clearing Member that has executed a NYMEX ACCESS® Primary Clearing Member Guarantee shall affirmatively monitor the financial condition of each Electronic Trader who is guaranteed by that Clearing Member.

11.10 Termination of Guarantees and Ability of Electronic Traders and Authorized Terminal Users to Trade

(A) A Clearing Member that has executed a NYMEX ACCESS® Primary Clearing Member Guarantee may, without prior notice, terminate the guarantee by having an authorized, pre-registered representative give notice of the termination to the Customer Service Center ("CSC"), pursuant to procedures established by the CSC. Such notice shall indicate the effective date and time of termination. A copy of the written notice of termination shall promptly be given to the appropriate Electronic Trader or Authorized Terminal User and to the Office of the Secretary. A notice of termination that is not immediately effective shall not be deemed to have been received until it becomes effective.

(B) Upon receipt of an effective notice of termination concerning a NYMEX ACCESS® Primary Clearing Member Guarantee, the CSC shall immediately deactivate the electronic trading privilege(s) of the Electronic Trader to whom that guarantee related and cancel all resting orders for such Electronic Trader that were entered into the NYMEX ACCESS® Matching System.

(C) The deactivation of electronic trading privileges for an Electronic Trader shall result in the immediate cancellation of all resting orders that were entered into the NYMEX ACCESS® Matching System through use of the Passwords for such Electronic Trader.

(D) The suspension, expulsion, or other termination of the membership privileges of a Member Firm or Clearing Member shall operate to terminate all guarantees issued by such Member Firm or Clearing Member.

(E) An Electronic Trader or Member Firm may terminate the ability to trade or enter orders on the NYMEX ACCESS® Matching System of an Authorized Terminal User that he or it employs, without prior notice, by having an authorized, pre-registered representative give notice of the termination to the CSC, pursuant to procedures established by the CSC. Such notice shall indicate the effective date and time of termination. A copy of the written notice of termination shall promptly be given to the appropriate Authorized Terminal User. A notice of termination that is not immediately effective shall not be deemed to have been received until it becomes effective.

(F) Upon receipt of an effective written notice from an Electronic Trader or Member Firm that an Authorized Terminal User employed by that Electronic Trader or Member Firm has been terminated from employment by, or can no longer enter orders on the NYMEX ACCESS® Matching System for that Electronic Trader or Member Firm, the CSC shall immediately terminate the Authorized Terminal User's ability to enter orders on the system and may cancel all resting orders that were entered into the NYMEX ACCESS® Matching System by that Authorized Terminal User.

(G) Any notice of termination required by this Rule 11.10 shall indicate whether the Clearing Member or Electronic

Trader issuing same is asserting any claim against the Electronic Trader or Authorized Terminal User to whom it relates.

(H) Upon its becoming effective, the CSC shall promptly post notice of the termination of any guarantee or the ability of an Electronic Trader or Authorized Terminal User to trade or enter orders on the NYMEX ACCESS@ Matching System.

11.11 Reserved

11.12 Reserved

11.13 Termination of Designation as Electronic Trader or Authorized Terminal User

(A) The designation of an Electronic Trader or Authorized Terminal User shall terminate automatically upon the occurrence of any of the following events:

(i) termination or suspension of an Electronic Trader's NYMEX ACCESS@ Primary Clearing Member Guarantee;

(ii) suspension, expulsion, or termination of the membership of the Electronic Trader or the guaranteeing Member Firm or Clearing Member or Primary Clearing Member; or

(iii) for any other reason specified in the Bylaws or Rules.

(B) When designation as an Electronic Trader or Authorized Terminal User has been terminated or suspended for any reason, the Primary Clearing Member that executed the NYMEX ACCESS@ Primary Clearing Member Guarantee shall take all appropriate steps to prevent the Electronic Trader or Authorized Terminal User from entering orders on NYMEX ACCESS@, including immediately notifying the CSC.

Note: The leasing of electronic trading privileges is limited to leasing of privileges of electronic trading privileges associated with a COMEX membership. New leasing of electronic trading privileges by a NYMEX Member is no longer permissible.

11.14 Leases of Electronic Trading Privileges

This rule is applicable only to leasing of electronic trading privileges from a COMEX Member.

(A) A COMEX Member may lease to another person or entity as permitted in these Bylaws and Rules the right to apply for designation as an Electronic Trader, subject to the provisions of Rule 11.20, pursuant to an agreement that must be approved by the Membership Committee. The original lease must be delivered to the Office of the Secretary with a copy to the lessee's Primary Clearing Member.

(B) Subject to the provisions of Rule 11.20 a COMEX Member may separately lease to another individual or entity the right to apply for designation as an Electronic Trader without also leasing to such individual or entity the regular membership privileges associated with that membership, except that the right to apply for designation as an Electronic Trader associated with a membership through which Member Firm privileges have been conferred may not be leased to another person or entity.

(C) A COMEX Member who leased to another person or entity his last or sole right to apply for designation as an Electronic Trader shall not be entitled to serve on the Board of Directors or receive member rates for any trades executed on NYMEX ACCESS@ for his account. He shall be entitled to all other rights and privileges of membership in the Exchange not associated with NYMEX ACCESS@, unless he has leased his last or sole membership in which case the Provisions of Rule 2.70 apply.

(D) A lessee of the right to apply for designation as an Electronic Trader (and his designee, if any) shall be entitled to (i) member rates for any trades executed on NYMEX ACCESS@ for his own account; and (ii) serve on any committees, other than standing committees, as the Board of Directors shall from time to time deem appropriate as provided in the Bylaws Rules and Resolutions of the Exchange as applicable. He shall not be entitled to any of the rights to which a lessee of a regular membership is entitled under Rule 2.70.

(E) Except for the electronic trading privileges set forth in this Chapter 11, a lessee of those privileges shall not be

entitled to any other rights and privileges of membership in the Exchange.

(F) Lessors and lessees of electronic trading privileges shall be subject to such dues and assessments as are from time to time determined by the Board of Directors.

11.15 Terms of Electronic Trading Privileges Lease Agreement

This rule is applicable only to leasing of electronic trading privileges from a COMEX Member.

(A) An agreement to lease the right to apply for designation as an Electronic Trader must, and shall be deemed to, include the following minimum provisions:

(i) upon the death of the lessor or lessee, the expiration of the term stated in the agreement, the termination of membership of the lessor Member or Member Firm or any other event of termination, the agreement shall terminate and the parties shall give notice to the Exchange of such termination as promptly as possible;

(ii) neither the lessor nor the lessee shall be permitted to sell or transfer the leased electronic trading privileges during the term of the lease agreement unless it is specifically provided otherwise in the agreement;

(iii) the lessor shall not be entitled to sell or transfer the membership with which the leased electronic trading privileges are associated unless it is specifically provided otherwise in the agreement;

(iv) the agreement shall not be effective until the lessee or its designee has met the requirements to be an Electronic Trader set forth in Rule 11.02(A);

(v) during the term of the lease, the lessor and lessee shall be entitled to only those rights and/or privileges of membership as are set forth in Rule 11.14;

(vi) any and all controversies arising out of, or in connection with the lease, its negotiation, interpretation or termination shall be arbitrated in accordance with the provisions of Chapter 5 of the Rules;

(vii) after the termination of a lease, the lessee (and his designee, if any) and his guarantor and/or Primary Clearing Member shall remain subject to Exchange jurisdiction and responsible for valid claims of the Exchange, Members, Member Firms and Clearing Members.

(B) The lease agreement must also set forth all financial agreements between the lessor and lessee regarding the lease.

11.16 Notices Required of Lessor and Lessees

This rule is applicable only to leasing of electronic trading privileges from a COMEX Member.

(A) A lessor or lessee of electronic trading privileges who does not intend to renew the lease agreement must give to the Office of the Secretary and to the lessee or lessor as appropriate, written notice of that fact at least ten (10) business days prior to the termination of the lease agreement.

(B) Upon receipt of such notice, the Office of the Secretary shall post notice of the termination of the lease agreement.

11.17 Transfer of Electronic Trading Privileges

This rule is applicable only to leasing of electronic trading privileges from a COMEX Member.

(A) An Electronic Trader that desires to transfer electronic trading privileges to another individual or entity who is or will become an Electronic Trader, shall deliver to the Office of the Secretary a notice of intention to transfer. If the Electronic Trader is a Member Firm, the notice of intention to transfer shall be executed by a conferring member of the Member Firm. The notice of intention to transfer shall include the date on which the transfer is intended to become effective and the name of the proposed transferee.

(B) No Electronic Trader may transfer these privileges unless and until the following conditions have been met:

(i) All dues, assessments, fines and penalties due and payable to the Exchange in connection with the transaction of business on NYMEX ACCESS@ by or on behalf of the Electronic Trader from whom the electronic trading privileges are going to be transferred, have been paid;

(ii) All claims of Members and Electronic Traders that arise out of, or in connection with, the transaction of business on NYMEX ACCESS@ by or on behalf of the Electronic Trader from whom the electronic trading privileges are going to be transferred, that are filed with the Office of the Secretary within ten days after the Exchange gave the membership notice of the receipt of the notice of intention to transfer, have been settled or the Electronic Trader Member Firm guarantor and/or the Primary Clearing Member agrees to unconditionally guarantee any and all valid claims that may be filed within such ten-day period;

(iii) Payment by the transferee to the Exchange of a transfer fee in an amount to be fixed, from time to time, by the Board; and

(iv) the transferee has satisfied the requirements for designation of an Electronic Trader specified in Rule 11.02.

11.18 Effect of Filing Notice of Intention to Transfer

This rule is applicable only to leasing of electronic trading privileges from a COMEX Member.

An Electronic Trader shall cease to have the privilege of transacting business on NYMEX ACCESS@ on the date an effective notice of intention to transfer those privileges to another individual who is or will become an Electronic Trader is filed by the holder of those privileges with the Office of the Secretary.

11.19 Termination by an Electronic Trader of Authorized Terminal Users

Each Electronic Trader that terminates the employment of an Authorized Terminal User shall immediately notify the CSC in the manner provided by the Exchange. Such notice must indicate the effective date and time of termination.

11.20 Class A Member and COMEX Division Member NYMEX ACCESS@ Trading Rights and Privileges

(A)(1) Class A Member Trading Rights. Class A Members shall have trading rights on NYMEX ACCESS@ for each contract approved for trading on any part of the Exchange and as set forth in COMEX Bylaw Section 157(B). These rights shall include the trading rights as set forth in COMEX Bylaw Section 157(B)(3) and (4) which shall be exercisable only by Class A Members who are natural persons and not by persons who lease or license memberships and which are as follows:

(i) Proprietary trading in Eurotop 100 futures and options contracts and New Metals Contracts on NYMEX ACCESS@ is such contract is listed thereon for trading; and

(ii) Proprietary trading until August 3, 1999 of contracts traded on the COMEX Division through the NYMEX ACCESS@ System

(B)(1) COMEX Division Trading Rights. COMEX Division Members shall have the trading rights on NYMEX ACCESS@ as set forth in COMEX Bylaw Section 157(A)(1), (2) and (4) which are as follows:

(i) trading rights in gold, silver, copper and Eurotop 100 contracts that are traded on Commodity Exchange, Inc. immediately prior to August 3, 1994 and any replacement contracts for such contracts ("COMEX Division Replacement Contracts");

(ii) "New Metals Contracts" defined in COMEX Bylaw Section 157(A)(2) as all contracts approved for trading after August 3, 1994 on any part of the Exchange, other than COMEX Division Replacement Contracts, for which the underlying commodity is one or more metals or alloys, other than platinum, palladium or an alloy containing one or more of these metals approved for trading on the Exchange at any time ("Platinum/Palladium Contracts"); and

(iii) all contracts approved for trading after August 3, 1994 defined in COMEX Bylaw Section 157(A)(4) as a contract which is not a New Energy Contract, a Replacement Contract or a New Metals Contract, for period of two years after the date the contract commences trading on the Exchange, provided, however, that the rights to trade pursuant to this subsection (iii) shall be exercisable only by COMEX Division Members who are natural persons and not by

persons who lease or license memberships

(2) COMEX Division Proprietary Trading Rights. In addition, COMEX Division Members shall have the trading rights on NYMEX ACCESS@ as set forth in COMEX Bylaw Section 157(A)(3), (5), (6) and (7) which shall be exercisable only by COMEX Division Members who are natural persons and not by persons who lease or license memberships, and which are as follows:

(i) Proprietary trading rights in each contract approved for trading after August 3, 1994 on any part of the Exchange through NYMEX ACCESS@ if such contract is listed thereon for trading, for which the underlying commodity is a hydrocarbon, fossil fuel or other energy source derived from another energy source ("New Energy Contract") for a period of two years (unless extended by the Board in its sole discretion) after the date such contract commences trading on the Exchange, provided that for this purpose "New Energy Contracts" does not include contracts introduced as replacements for other contracts previously traded on the Exchange ("Replacement Contracts") regardless of whether permit programs on such contracts are implemented;

(ii) proprietary trading in each contract approved for trading on any part of the Exchange, after August 3, 1994 through NYMEX ACCESS@ if such contract is listed thereon for trading, which is not a New Energy Contract, a Replacement Contract or a New Metals Contract, provided that such limited trading privileges will be non-transferable and will be available as to any particular contract only to COMEX Division Members who are individual owners of COMEX Division Memberships as of the date six months prior to the date trading in that contract commences, and will continue as to that contract only for so long as that COMEX Division Member continues to own a COMEX Division Membership.

(iii) proprietary trading in Platinum/Palladium Contracts through NYMEX ACCESS@.

(iv) proprietary trading until August 3, 1999 of contracts traded on the Exchange through the NYMEX ACCESS@ System.

(C) Except as otherwise expressly permitted in COMEX Bylaw Section 157, trading privileges and other rights appurtenant to membership in the COMEX Division will be transferable (by sale, license or otherwise). Rights to trade through the NYMEX ACCESS@ System may only be sold by transfer of the entire membership interest or licensed.

11.21 NYMEX ACCESS@ Administrative Work Station Functionality

Each Clearing Member and each Member of COMEX Clearing Association that is not also a Clearing Member of the Exchange must utilize the Exchange's Administrative Work Station functionality ("Administrative Work Station" or "AWS"); provided, however, that corporations that qualify as Clearing Members under Rule 9.02(K) are not required to, but may maintain this functionality. Each Clearing Member shall take such reasonable steps as are necessary to prohibit any person other than authorized Clearing Member employees from having access to the AWS functionality. Unless such Clearing Member documents a contrary intention in writing to the Exchange, the Clearing Member shall be prohibited from allowing access to the Administrative Work Station functionality to any Electronic Trader or Authorized Terminal User.

11.22 Reserved

11.23 Trade Limit Monitoring System

(A) Credit Checking

(1) Prior to setting up an account that could be traded on the NYMEX ACCESS@ system, a Clearing Member shall input into NYMEX ACCESS@ authorization indicating the specific commodities that may be traded by that account and indicate further whether that account may trade futures contracts, option contracts, or both futures and option contracts in a particular commodity.

(2) Prior to setting up an account that could be traded on the NYMEX ACCESS@ system, a Clearing Member also shall input into NYMEX ACCESS@ a dollar amount that shall serve as the Total Risk Value for that account.

(3) For purposes of this Rule 11.23, the Total Risk Value shall mean the total amount of risk exposure that a Clearing Member is willing to accept for a particular account. The Total Risk Value shall be used by NYMEX ACCESS@ to conduct a Credit Check in connection with the entry of active orders or the re-allocation of a trade from one account

to another account. A Credit Check shall assess: (1) whether the Clearing Member carrying that account has authorized that account to trade in the commodity future or option involved in the order or trade allocation, and (2) whether the entry of an order or the allocation of a trade would fall within the Total Risk Value established by the Clearing Member.

(B) Position Checking

(1) For any account carried by a Clearing Member, that Clearing Member may, at its discretion, determine to establish Worst Long and Worst Short position limits per commodity, and, within a commodity, per each futures and option contract. The Worst Long and Worst Short position limits may be different values for the same futures contract. For option contracts, the Worst Long position limit would consist of a naked short put position and the Worst Short position limit would consist of a naked short call position. The worst naked short put limit and the worst naked short call limit may be different values. If a Clearing Member determines to input position check limits for a particular account, these limits would be applicable to the entry of orders and the reallocation of trades from one account to another account.

(C) Each Clearing Member carrying an account authorized to trade during the NYMEX ACCESS@ trading session shall, at all times during such trading session, have available staff to monitor AWS; provided, however, a Clearing Member shall not be required to have an AWS Operator available during the NYMEX ACCESS@ trading session if:

(1) a Clearing Member sets the trading limits for each authorized account it carries in a manner such that no account can engage in any trading activity during a NYMEX ACCESS@ trading session; or

(2) a Clearing Member permits NYMEX ACCESS@ trades to clear solely in accounts of Members, Member Firms, Electronic Traders and NYMEX ACCESS@ Trade Firms; discloses in writing to each such customer that an AWS Operator may not be available during a NYMEX ACCESS@ trading session; and provides the Exchange with the names and telephone and beeper numbers for at least two persons who are each authorized to act on behalf of the Clearing Member.

11.24 Authorized Communications

(A) For all persons designated by a Clearing Member to have access to the Exchange's AWS functionality and/or communicate with the CSC, the Clearing Member shall file with the CSC and keep current, the name, address, telephone number and such other information as the Exchange may require.

(B) With respect to any request to activate or deactivate electronic trading privileges, cancel a resting order, or issue passwords, NYMEX will only act upon receipt of a written request from a person designated by the Clearing Member, and confirmed orally by a person designated pursuant to that Rule. Such written request may be submitted to NYMEX in original or by facsimile transmission to the facsimile machine designated by NYMEX for such purpose, followed promptly by delivery of the original. NYMEX shall have no liability whatsoever for acts taken in reliance upon a written request received via facsimile transmission that bears a reasonable likeness to an authorized signature, or for failures in communication that result in the failure to receive a transmission or fully legible transmission, in whole or in part.

11.25 Acceptance of Orders for Entry into NYMEX ACCESS@

(A) DEFINITIONS for purposes of these Rules, the following words shall have the following definitions:

(1) "Matching System" The NYMEX ACCESS@ programs and database that accept, match and report executions of orders in NYMEX ACCESS@.

(2) "Strategy Pad" The NYMEX ACCESS@ programs and database that may be used by Electronic Traders and Authorized Terminal Users to store orders, trading strategies and other information, but that do not accept, match or report execution of orders into the Matching System.

(B) No Clearing Member shall assign an account number that would accept the entry of orders into NYMEX ACCESS@ for, or on behalf of, a customer, unless such customer is first provided with an Electronic Trading and Order Routing Systems Disclosure Statement in a form approved by the Exchange.

(C) ACCEPTANCE OF ORDERS FROM CUSTOMERS No person or entity may accept an order for execution on NYMEX ACCESS unless the following information is received:

- (1) Commodity;
- (2) Contract Month;
- (3) Purchase or Sale;
- (4) Customer Account Number (or certification that the order is for multiple accounts to be later allocated);
- (5) Quantity;
- (6) Limit Price (except for stop, market discretion, MIT or market orders);
- (7) Clearing Member (or certification that the order is for multiple accounts to be later allocated);
- (8) Strike prices, put or call (for options); and
- (9) Any precondition for entry into the Matching System (i.e., stop, market discretion, MIT, stop limit).

(D) ORDER RECORDATION Immediately upon receipt, all customer orders for execution on NYMEX ACCESS® must be (1) entered into the Matching System or Strategy Pad or, if such orders cannot be entered into the Matching System or Strategy Pad within one minute of receipt, they must be (2) recorded within one minute of receipt in non-erasable ink and time stamped in accordance with Rule 6.18, and entered into the Matching System or Strategy Pad as soon as practicable. For purposes of this rule, when a FCM or Member Firm receives an order from a customer a memorandum of the order shall be made in non-erasable ink which shall identify the customer by symbol or account number and shall be time stamped when received and time stamped when a report of the execution is made, and, in addition, in the case of option customers' orders, the memorandum shall be time stamped to the nearest minute the order is transmitted for execution.

(E) SPECIAL REQUIREMENTS

(1) For any order known to be an order for multiple accounts to be allocated after execution, the Electronic Trader's Account Number followed by the suffix "999" shall be entered in satisfaction of subsection (B)(4) of this Rule. Only a person with trading discretion over multiple accounts may place an order with a Member Firm, Electronic Trader or Authorized Terminal Users to be allocated after execution. No Member Firm, Electronic Trader or Authorized Terminal Users may accept an order for allocation after execution unless the Member Firm, Electronic Trader or Authorized Terminal Users or their employer has on file a prior, written procedure for the systematic and non-preferential allocation of executions among accounts. The customer's actual Clearing Member and Customer Account Number must be provided no later than 8:30 a.m. following the NYMEX ACCESS® trading session in which the transaction was executed.

(2) No person may knowingly record false account number information in connection with any NYMEX ACCESS® order.

(3) Unless otherwise agreed, all orders received for execution on NYMEX ACCESS® shall be deemed to be cancelled if not executed during the trading session for which they were received.

11.26 Settlement Prices and Price Fluctuation Limits for NYMEX ACCESS®

(A) For purposes of determining price fluctuation limits during a NYMEX ACCESS® trading session, each delivery month for a futures or option contract that is currently listed for trading on NYMEX ACCESS® shall have a settlement price assigned to it on each day on which it is listed for trading, regardless of whether there has been any trading on that day or there is any open interest in that delivery month.

(B) For purposes of determining the Prices and Fluctuations and Special Price Fluctuation Limits that shall be applicable to transactions executed on NYMEX ACCESS® between 4:00 p.m. and 11:00 p.m. in a delivery month listed on NYMEX ACCESS® where the actual settlement price for a delivery month is not available in sufficient time prior to commencement of the NYMEX ACCESS® trading session, the procedures set forth in Sections (C) and (D) below shall govern in descending order of priority based upon the information that is available in sufficient time prior to commencement of the NYMEX ACCESS® trading session:

(C) NYMEX Division Contracts Traded on NYMEX ACCESS®.

If the actual settlement price for a delivery month of a contract has not been determined in sufficient time prior to commencement of the NYMEX ACCESS® trading session, a Notional Settlement Price shall be used as the basis for determining Prices and Fluctuations and Special Price Fluctuation Limits.

(1) NYMEX ACCESS® Price Limits Based on the Closing Range.

(a) If the closing range for a delivery month has been determined in sufficient time prior to commencement of the NYMEX ACCESS® trading session, the midpoint of the closing range shall serve as the Notional Settlement Price.

(b) If the closing range for a delivery month has been determined and consists of only one price, that price shall serve as the a Notional Settlement Price.

(c) If the information specified in Subparagraphs (a) and (b) above is not available and a closing range is available for any other delivery month in that contract, then the Notional Settlement Price for that delivery month shall be determined as follows. Using the closing range of the nearest preceding delivery month, the Notional Settlement Price shall be determined by adding to (or subtracting from) the midpoint of such closing range, if available, or single closing price, the difference between the previous day's settlement price for that month and the previous day's settlement price for the delivery month in which no transactions occurred.

(2) NYMEX ACCESS® Price Limits Based on a Weighted Average Price. If the actual settlement price has not been determined and if the closing range is not available, if no transactions were executed during the closing period for a delivery month, and if no closing range is available for any other delivery month in the contract, then the Notional Settlement Price in that delivery month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions in such delivery month which occur during the fifty (50) minute period of the preceding Regular Trading Hours trading session from 1:00 p.m. to 1:50 p.m. (or as otherwise established for such purpose by the President or his designee in his sole discretion).

(3) NYMEX ACCESS® Price Limits Based on Spread Differentials. If the information specified in Subsection (2) above is not available, then the Notional Settlement Price in that delivery month shall be determined by adding to (or subtracting from) the average weighted price of the nearest preceding delivery month the difference between the previous day's settlement price for that month and the previous day's settlement price for the delivery month in which no transactions occurred.

(D) COMEX Division Contracts trading on NYMEX ACCESS®

(1) NYMEX ACCESS® Price Limits Based on the Closing Range. If the actual settlement price for a delivery month of a contract has not been determined in sufficient time prior to commencement of the NYMEX ACCESS® trading session, a Notional Settlement Price shall be used as the basis for determining Prices and Fluctuations and Special Price Fluctuation Limits.

(a) If the closing range for a delivery month has been determined in sufficient time prior to commencement of the NYMEX ACCESS® trading session, the midpoint of the closing range shall serve as the a Notional Settlement Price.

(b) If the closing range for a delivery month has been determined and consists of only one price, that price shall serve as the a Notional Settlement Price.

(2) NYMEX ACCESS® Price Limits Based upon the Last Reported Price (Active Month). If the actual settlement price has not been determined and if the closing range is not available or if no transactions were executed during the closing period for a delivery month, then the Notional Settlement Price in the active month shall be the last reported trade price for that contract occurring during the preceding Regular Trading Hours trading session.

(3) NYMEX ACCESS® Price Limits Based upon Spread Differentials (Other Months). If the actual settlement price has not been determined and the closing range is not available or no transactions were executed during the closing period for a delivery month, then the Notional Settlement Price for each delivery month other than the active month shall be determined for each such delivery month (the "other delivery month") by adding to (or subtracting from) the Notional Settlement Price for the active month, the spread differential between the other delivery month and the

active month. The spread differential to be applied shall be based upon the previous day's settlement prices in outright transactions for those delivery months.

(E) Where an actual settlement price has not been determined in sufficient time prior to commencement of an NYMEX ACCESS® trading session and a Notional Settlement Price as set forth in subparagraph (C) or (D), as applicable, has been determined, the basic maximum price fluctuation limits and Special Price Fluctuation Limits for the period between 4:00 p.m. and 11:00 p.m. shall be established by using the Notional Settlement Price established pursuant to this rule in lieu of a settlement price and the applicable basic maximum and special price fluctuation limits shall be reduced by ten percent (10%) for price limits based upon a Notional Settlement Price determined pursuant to Subsections (C)(1) and (D)(1) and by one third for price limits based upon a Notional Settlement Price determined pursuant to Subsections (C)(2), (C)(3), (D)(2) and (D)(3). These reduced price fluctuation limits shall be known as "Interim Price Fluctuation Limits".

(F) For those futures and options contracts for which a Notional Settlement Price has been established pursuant to this rule, the basic maximum price fluctuation limits and Special Price Fluctuation Limits based upon settlement prices determined in accordance with the procedures set forth in Rules 6.52, 6.53 and 6.55 as applicable shall be put in place automatically by the system when such settlement prices and Special Price Fluctuation Limits are available, and such Special Price Fluctuation Limits shall be applicable to the remainder of the trading session.

(G) Any transaction executed within the Interim Price Fluctuation Limits during the period that such limits are in effect shall be a valid trade, regardless of whether the trade price falls outside the price fluctuation limits based upon the actual settlement prices.

11.27 Type Indicator Codes for Trading on NYMEX ACCESS®

Electronic Traders and Authorized Terminal Users shall be responsible for reporting to the Exchange and on NYMEX ACCESS®, appropriate CTI and indicator codes for transactions executed on NYMEX ACCESS®. Appropriate CTI and indicator codes shall include a combination from Sections A and B below:

(A) CTI Codes:

(1) Authorized Terminal Users who execute trades for their personal account, whether owned in whole or in part, or for an account which they control or have the right to initiate trades in, regardless of whether or not they have an ownership interest in the account, or whether they are an employee, partner, or a customer of a Clearing Member, shall designate the trades as CTI 1.

(2) When an Authorized Terminal User executes trades for the trading account of a Member Firm/Clearing Member, he/she must designate the trades as CTI 2. However, if the executing Floor Trading Member or Authorized Terminal User has either an interest in or discretionary control over such Member Firm/Clearing Member trading account, the indicator codes of subdivision (1) shall apply.

(3) When an Authorized Terminal User enters orders for execution on NYMEX ACCESS® for the account of a Floor Trading Member, or for an account that the Authorized Terminal User knows is controlled by a Floor Trading Member, he must designate such orders as CTI 3.

(4) When an Authorized Terminal User executes trades for any account, other than those listed in Subdivisions (A), (B), (C), he/she shall designate the trades as CTI 4.

(B) Indicator Codes. All of the above CTI codes summarized in Section (A) of this Rule must be used in combination with one of the following indicator designations:

(i) C or Customer — if the account owner is not affiliated with the Clearing Member, or

(ii) H or House — an account affiliated with the Clearing Member, including parent and subsidiary corporations, or Principals or authorized employees, trading for their own account at the Clearing Member in which they have an ownership interest in or by whom they are employed.

(C) It shall be a Major Offense for Authorized Terminal Users to knowingly assign false indicator codes to trades executed on NYMEX ACCESS®.

11.50 – 11.60 Rules that are Common to NYMEX ACCESS® and to NYMEX ClearPort® Trading

Rules that are Common to NYMEX ACCESS® and to NYMEX ClearPort® Trading

11.50 NYMEX Customer Service Call Center

(A) The NYMEX Customer Service Call Center ("NCSCC") provides customer support and problem management for NYMEX ACCESS® and for NYMEX ClearPort® Trading only to Members, Clearing Members and customers designated by Clearing Members. In order to be eligible for NCSCC support, such persons must register with the NCSCC ("Registered Contacts"). The NCSCC provides customer support via a specified telephone number and during specified hours. NCSCC employees may not always be available to assist Registered Contacts.

(B) Access to NYMEX ClearPort® Trading via a Non-Exchange Trading Front-End Application that is Certified by the Exchange.

During a NYMEX ClearPort® Trading session, a User obtaining access to NYMEX ClearPort® Trading via a Certified Application generally must make available to its User Agents at least one person who is a Registered Contact as described above and who can serve to contact the NCSCC on behalf of such User's User Agents.

Persons other than Registered Contacts, including User Agents who are customers of the User, may not directly contact the NCSCC but instead must contact their User and/or Clearing Member to make support requests.

11.51 Business Day

The Business Day for trading sessions on NYMEX ClearPort® Trading ~~Exchange electronic trading systems~~ shall be governed by the provisions of NYMEX Rule 6.00 (Exchange Business Day).

11.53 Electronic Trading Spread Transactions and Strip Transactions

(A) This Rule shall apply to all orders for and execution of spread transactions and strip transactions on NYMEX ACCESS® ~~and on NYMEX ClearPort® Trading~~, notwithstanding anything to the contrary in Rules 6.07, 6.07A, 6.08A, 6.08B, and 6.08D which Rules shall apply exclusively to spread transactions and strip transactions on the Exchange Floor, respectively.

(B) All orders for spread transactions (intercommodity, intra-commodity, cracks, options or futures-options) and strip transactions on NYMEX ClearPort® Trading ~~such Exchange electronic trading systems~~ shall be made at a stated price differential.

(C) ~~To the extent applicable to the particular electronic trading system, t~~Transactions executed by the NYMEX ClearPort® Trading ~~matching system of the applicable Exchange electronic trading system ("Matching System")~~ as legs as a result of orders for spread transactions or strip transactions shall set off stops in the affected contract. ~~To the extent applicable to the particular electronic trading system, t~~Transactions executed by the NYMEX ClearPort® Trading ~~Matching System~~ as spread transactions or strip transactions shall not set off stops in the affected contract, but shall set off stops with respect to the spread transaction or the strip transaction, as applicable.

(D) ~~Section (D) is applicable only to NYMEX ACCESS®. If a spread order is entered, and no opposing orders exist in the Matching System for NYMEX ACCESS® at the same price differential, the Matching System for NYMEX ACCESS® will create an "implied" bid, which will be above the best current bid, and/or an "implied" offer, which will be below the best current offer, then in the Matching System for NYMEX ACCESS® for the separate legs of the spread transaction; provided, however, that in the event that either an "implied" bid or offer would be outside the maximum permissible price fluctuation limits for the contract involved, the NYMEX ACCESS® system will not create the "implied" bid or offer and no further "implied" bids or offers will be created for that commodity for the remainder of the NYMEX ACCESS® Trading Session in which the spread order was entered.~~

11.54 Standard Forms of Orders for Exchange Electronic Trading Systems

~~Until further notice from the Exchange, only limit orders may be utilized for trading on NYMEX ACCESS®.~~ Until further notice from the Exchange, only limit and stop limit orders may be used for trading on NYMEX ClearPort® Trading.

(A) Limit Order. A limit order is an order to buy or sell a stated amount of commodity futures or options contracts at a specified price, or at a better price, if obtainable.

(B) Stop Limit Order. A stop limit order to buy becomes a limit order when after the order is received, a transaction in the contract occurs at or above the specified price or, if so specified by the customer, when a bid for the contract is made at or above the specified price. A stop limit order to sell becomes a limit order executable at the limit price when after the order is received a transaction in the contract occurs at or below the stop price or, if so specified by the customer, when an offer for the contract is made at or below the specified price.

~~(C) An Electronic Trader or an Authorized Terminal User for an Electronic Trader in the case of orders submitted for execution on NYMEX ACCESS@ and a~~ User or User Agent in the case of orders submitted for execution on NYMEX ClearPort@ Trading may accept orders on a "Not Held" basis provided that they have received prior written permission from the ultimate customer and retained such written documentation with their required records. ~~An Electronic Trader or User as applicable~~ shall not be responsible to the customer for the execution or failure to execute such order on the ~~NYMEX ClearPort@ Trading applicable Exchange electronic trading system~~. However, a claim may be asserted against the ~~Electronic Trader or User~~ by the customer and/or the Compliance Department, if the execution or the failure thereof, was done fraudulently or by willful misconduct.

Nothing in this rule shall be construed as a limitation of the Exchange's disciplinary authority.

11.55 Errors and Omissions in Handling Orders

~~(A) An Electronic Trader or Authorized Terminal User on NYMEX ACCESS@ or a~~ User or User Agent on NYMEX ClearPort@ Trading who inadvertently, through error or omission, fails to execute an order at the time it should have been executed may, upon discovery of such error or omission, execute such order at the best obtainable price. Such order shall be executed openly and competitively and should be executed in the next available Exchange trading session for the applicable listed product but in any event must be executed no later than the close of the next electronic trading session and shall be reported to the client at the price at which actually executed. If such price is to the advantage of the client the client shall receive the benefit thereof; if not, the client shall receive such monetary adjustment as will afford the client the equivalent of the price at which such order should and could have been executed. Any member receiving such report and adjustment with respect to an order of a client shall report to such client the execution at the price reported to such member and make the same monetary adjustment for the account of such client. Full details of all transactions consummated hereunder shall be reported promptly to the President and maintained as a permanent record of the Exchange.

(B) This rule shall not be construed to contravene any instructions received from a client respecting any order prior to its execution, but shall be construed to permit execution of orders under the conditions prescribed without prior instructions from the client.

11.56 Surrender of Trading Records for Examination

~~Each Electronic Trader, Authorized Terminal User,~~ User or User Agent shall be required to submit for examination trading records maintained in the manner required by the Exchange at such times and in such manner as requested by the President or other designated Exchange employee.

11.57A Permissible Pre-Execution Discussions

Firms may engage in pre-execution discussions with regard to transactions executed on NYMEX ClearPort@ Trading ~~electronic trading systems~~ where the firm wishes to be assured that a counter-party will take the opposite side of the order. One party (the first party) may agree in advance with another party (the second party) that the first party will take the opposite side of the second party's order, under the following circumstances:

(A) Customers must consent to allow pre-execution discussions with other market participants.

(B) Users or User Agents who are solicited to participate in an electronic transaction through pre-execution discussions shall not (i) disclose to another User or User Agent the details of such discussions; or (ii) enter an order through a NYMEX ClearPort@ Trading ~~electronic trading system~~ to take advantage of information conveyed during such discussions unless the User or User Agent has agreed during the pre-execution discussions to participate in the transaction in accordance with this Rule and the order is entered to implement that agreement.

(C) A period of at least five seconds shall elapse between entry of the two orders during which the order first entered is resting in the market.

(D) Orders entered pursuant to this Rule must be entered in accordance with the provisions of Rule 11.57(c), if applicable.

11.58 Reporting and Record keeping Requirements for NYMEX ClearPort® Electronic Trading Systems

(A) All customer order memoranda reflecting orders for execution during the NYMEX ClearPort® Trading applicable Exchange electronic trading system trading session shall be retained in accordance with applicable Exchange rules and CFTC Regulations NYMEX Rule 8.50.

(B) All information entered into NYMEX ClearPort® Trading the applicable Exchange electronic trading system shall be retained by the Electronic Trader in the case of trading on NYMEX ACCESS® or by the User in the case of trading on NYMEX ClearPort® Trading as provided by the Exchange for the time period set forth in applicable Exchange rules and CFTC Regulations NYMEX Rule 8.50.

11.59 User of Passwords

No person may use a user ID or password not assigned to him by the NYMEX Customer Service Call Center ("NCSCC"). No person may disclose or knowingly permit the use by another of the user ID or password assigned by the NCSCC. ~~With respect to access to the NYMEX ACCESS® system, each Electronic Trader shall take such steps as are necessary to prohibit any person other than an Authorized Terminal User under the control of the Electronic Trader from using the password of any Authorized Terminal User under the control of the Electronic Trader. With respect to access to NYMEX ClearPort® Trading, each User shall take such steps as are necessary to prohibit any person other than a User Agent under the control of the User from using the password as applicable of any other User Agent under the control of the User.~~

11.60 Exchange of Futures for Physicals and Exchange of Futures for Swaps

The exchange of futures for physicals for contracts listed for trading on ~~NYMEX ACCESS® or listed for trading on~~ NYMEX ClearPort® Trading shall be governed by the provisions of NYMEX Rule 6.21, and the exchange of futures for swaps for contracts listed for trading on ~~NYMEX ACCESS® or listed for trading on~~ NYMEX ClearPort® Trading shall be governed by the provisions of NYMEX Rule 6.21A.

11.61 Limitation of Liability; No Warranties

(A) EXCEPT AS PROVIDED BELOW, THE EXCHANGE AND CHICAGO MERCANTILE EXCHANGE INC. (CME) (INCLUDING EACH OF THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, LICENSORS, MEMBERS, AND CLEARING MEMBERS, SHALL NOT BE LIABLE TO ANY PERSON FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE, AND DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES), ARISING FROM:

(i) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER CAUSE, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE SYSTEMS AND SERVICES OF THE EXCHANGE OR CME, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING WITHOUT LIMITATION ELECTRONIC ORDER ENTRY/DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY MEMBERS AND AUTHORIZED EMPLOYEES OF MEMBERS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE, FIRMWARE AND PRINTERS RELATING THERETO; OR

(ii) ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER CAUSE, OF ANY SYSTEM OR SERVICE OF THE EXCHANGE OR CME, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR

SERVICES, CAUSED BY ANY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS; OR

(iii) ANY ERRORS OR INACCURACIES IN INFORMATION PROVIDED BY THE EXCHANGE OR CME OR ANY OF THE EXCHANGE'S OR CME'S SYSTEMS, SERVICES OR FACILITIES; EXCEPT FOR INCORRECT ORDER STATUSING INFORMATION AS PROVIDED IN RULE 11G.579 (GLOBEX CONTROL CENTER); OR

(iv) ANY UNAUTHORIZED ACCESS TO OR UNAUTHORIZED USE OF ANY OF THE EXCHANGE'S OR CME'S SYSTEMS, SERVICES OR FACILITIES BY ANY PERSON.

THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER A CLAIM ARISES IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, CONTRIBUTION OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD PARTY CLAIM. THE FOREGOING LIMITATION OF LIABILITY SHALL BE SUBJECT TO THE COMMODITY EXCHANGE ACT AND REGULATIONS THEREUNDER. A PARTY WHO HAS BEEN FINALLY ADJUDICATED TO HAVE ENGAGED IN WILLFUL OR WANTON MISCONDUCT MAY NOT AVAIL ITSELF OF THE PROTECTIONS IN THIS RULE.

(B) THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS (INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE) PROVIDED BY THE EXCHANGE, THE CME (INCLUDING THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, AND LICENSORS RELATING TO ANY SYSTEMS OR SERVICES OF THE EXCHANGE OR CME OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING THE GLOBEX SYSTEM.

(C) ANY DISPUTE ARISING OUT OF THE USE OF SYSTEMS OR SERVICES OF THE EXCHANGE OR CME OR SERVICES, EQUIPMENT, OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES IN WHICH THE EXCHANGE OR CME (INCLUDING THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS OR LICENSORS IS A PARTY SHALL BE ARBITRATED PURSUANT TO RULE 6215-39 ("CERTAIN CLAIMS AGAINST THE EXCHANGE INVOLVING TRADING SYSTEMS OR SERVICES"). ANY ARBITRATION SHALL BE BROUGHT WITHIN THE PERIOD PRESCRIBED BY EXCHANGE/CME RULES. ANY OTHER ACTIONS, SUITS OR PROCEEDINGS AGAINST ANY OF THE ABOVE MUST BE BROUGHT WITHIN TWO YEARS FROM THE TIME THAT A CAUSE OF ACTION HAS ACCRUED. THIS PARAGRAPH C SHALL IN NO WAY BE CONSTRUED TO LIMIT A PARTY'S OBLIGATION TO ARBITRATE ITS CLAIM OR TO CREATE A CAUSE OF ACTION AND SHALL NOT AUTHORIZE AN ACTION THAT WOULD OTHERWISE BE PROHIBITED BY EXCHANGE/CME RULES. IF FOR ANY REASON, A COURT OF COMPETENT JURISDICTION FINDS THAT SUCH DISPUTE IS NOT ARBITRABLE, SUCH DISPUTE MAY ONLY BE LITIGATED IN THE COUNTY OF COOK IN THE STATE OF ILLINOIS AND WILL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS WITHOUT REGARD TO ANY PROVISIONS OF ILLINOIS LAW THAT WOULD APPLY THE SUBSTANTIVE LAW OF A DIFFERENT JURISDICTION.

(D) THE CME OR THE EXCHANGE, MAY, IN THEIR RESPECTIVE SOLE DISCRETION, ASSUME RESPONSIBILITY FOR DIRECT, OUT-OF-POCKET LOSSES DIRECTLY CAUSED BY THE NEGLIGENCE OF NYMEX CUSTOMER SERVICE CALL CENTER ("NCSCC"), GLOBEX CONTROL CENTER OR OTHER EXCHANGE STAFF AND/OR ORDER STATUS ERRORS PROVIDED BY THE NCSCC, GLOBEX CONTROL CENTER OR A CME OR EXCHANGE SYSTEM, SERVICE OR FACILITY. NOT WITHSTANDING THE ABOVE, i) THE EXCHANGE'S AND CME'S TOTAL COMBINED AGGREGATE OBLIGATIONS SHALL NOT EXCEED \$100,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED ON A SINGLE DAY; \$200,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE CALENDAR MONTH; AND \$2,400,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED IN A SINGLE CALENDAR YEAR. ANY DISPUTED CLAIM PURSUANT TO THIS PARAGRAPH D MUST BE ARBITRATED PURSUANT TO RULE 6215-39 ("CERTAIN CLAIMS AGAINST THE EXCHANGE INVOLVING TRADING SYSTEMS OR SERVICES").

(E) IN NO EVENT SHALL THE EXCHANGE'S AND CME'S TOTAL COMBINED AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF ANY FAILURES, MALFUNCTIONS, FAULTS IN DELIVERY, DELAYS, OMISSIONS, SUSPENSIONS, INACCURACIES, INTERRUPTIONS, TERMINATIONS, ORDER STATUSING ERRORS, OR ANY OTHER CAUSES, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE EXCHANGE'S OR CME'S SYSTEMS OR SERVICES, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, OR THE NEGLIGENCE OF EXCHANGE OR CME STAFF EXCEED \$2,400,000 IN ANY GIVEN

CALENDAR YEAR.

IF THE NUMBER OF ALLOWED CLAIMS ARISING OUT OF ANY FAILURES OR MALFUNCTIONS ON A SINGLE DAY OR SINGLE MONTH CANNOT BE FULLY SATISFIED BECAUSE OF THE ABOVE DOLLAR LIMITATIONS, ALL SUCH CLAIMS SHALL BE LIMITED TO A PRO RATA SHARE OF THE MAXIMUM AMOUNT FOR THE RESPECTIVE PERIOD.

A CLAIM AGAINST THE EXCHANGE OR CME, ARISING OUT OF ANY FAILURE OR MALFUNCTION SHALL ONLY BE ALLOWED IF SUCH CLAIM IS BROUGHT IN ACCORDANCE WITH THIS RULE.

11.62A Phantom Orders

For purposes of this rule, a phantom order is an order: 1) that was not authorized by any person but was caused by a failure, malfunction or negligent operation of NYMEX ClearPort® Trading ~~an Exchange electronic trading system~~ or any other Exchange system, service or facility, or 2) whose terms (e.g., contract, contract month, quantity, price or direction) were changed without authorization of the person placing the order solely as a result of a failure, malfunction, or negligent operation of NYMEX ClearPort® Trading ~~an Exchange electronic trading system~~ or any other Exchange system, service or facility.

If the Exchange has reason to believe that phantom orders have been or are being entered into and/or executed on NYMEX ClearPort® Trading or any other Exchange system, service or facility, the Exchange shall have authority to take appropriate action with respect to any affected market, including without limitation, closing the market, deleting bids and offers, and/or suspending new bids and offers.

The Exchange shall promptly give notice, as applicable, that all ~~NYMEX ACCESS® or~~ NYMEX ClearPort® Trading transactions that were directly or indirectly caused by the execution of phantom orders shall be voided. The Exchange shall have no liability or responsibility to the parties to any transactions that are voided pursuant to this rule.

11.63 Electronic Trading Error Trade Procedures

(A) NYMEX Customer Service Call Center Trade Cancellation Authority

The Exchange's trade cancellation policy authorizes the NCSCC to mitigate market disrupting events caused by the improper or erroneous use of NYMEX ClearPort® Trading ~~any electronic trading system authorized by the Exchange system~~ or by system defects by adjusting trade prices or canceling ("busting") trades. ~~For the purposes of this rule, the term "Alternative Electronic Trading System" shall mean any electronic trading system which NYMEX Division or COMEX Division products are traded. Further, both an "Alternative Electronic Trading System" and NYMEX ACCESS® shall be considered an "Authorized Electronic System" for purposes of this rule. Notwithstanding any other provisions of this rule, the NCSCC may also adjust trade prices or cancel any trade if the NCSCC determines that failure to adjust the price or cancel the trade may have a material, adverse effect on the integrity of the market. The decision of the NCSCC shall be final.~~

(B) Review of Trades

The NCSCC may review a trade based on its analysis of market conditions or upon a request by a NYMEX ClearPort® Trading ~~u~~ ~~User of an authorized electronic system. Whenever an Electronic Trader or Authorized Terminal User believes that he or she executed a trade through NYMEX ClearPort® Trading an Alternative Electronic Trading System in error as a result of an error ("Error"), the Electronic Trader or Authorized Terminal User or a representative of the firm that is a party to the trade must contact the NYMEX Customer Service Call Center ("NCSCC") immediately. Except as provided in Section (F) below, if a potential user Error is observed by or brought to the attention of the NCSCC within ten (10) minutes after the trade occurs, the following procedures will apply:~~

(C) Trade Price Adjustment and Cancellation Process

The NCSCC staff will determine whether the trade price is within the No Bust Range as defined in section (D) of this rule. During fast market conditions, upon the release of significant news events, or in other circumstances in which the NCSCC determines it is appropriate, the NCSCC may temporarily double the published No Bust Range with prior notice to the market. In applying the No Bust Range, the NCSCC shall determine the actual or implied market price for that contract immediately before the trade under review. The NCSCC may consider any relevant information,

including but not limited to the existing market conditions, the volatility of the market, the prices of related instruments in other markets, the last trade price on NYMEX ClearPort® Trading ~~an Authorized Electronic Market~~, a better bid or offer price, a more recent price in a different contract month, the price of the same or related contract established in open outcry trading and any other factors that the NCSCC deems relevant.

(1) Trade Price Inside the No Bust Range

If the trade price is within the No Bust Range then the trade will stand.

(2) Trade Price Outside the No Bust Range

a. Implied Futures Contract Execution

If the NCSCC determines that a trade price is outside the applicable No Bust Range, the NCSCC will have the option to adjust the trade price to a price that equals the actual or implied market price for that contract at the time of the questioned trade, plus or minus the standard or doubled No Bust Range, as may be applicable. Further, the NCSCC shall maintain the option to bust the leg of the trade where appropriate depending on the circumstances. The NCSCC will promptly issue an alert indicating that the prices of the trades outside the No Bust Range have been busted or adjusted to the No Bust Range limit.

For example, if the standard No Bust Range for Crude Oil is 25 points above and below the market price, all trade prices outside the No Bust Range shall be adjusted to the applicable No Bust Range limit, i.e., 25 points above or below the market price.

b. Non-Implied Contract Execution

If the NCSCC determines that the trade price is outside the No Bust Range, the NCSCC shall have the option to bust the trade or to adjust the trade price where appropriate depending on the circumstance. The NCSCC will promptly issue an alert indicating that trades outside the No Bust Range have been busted or adjusted to the No Bust Range Limit.

(3) Liability for Losses Resulting from a Price Adjustment or Trade Bust

A party responsible for entering an order that results in a trade price adjustment shall not be liable for losses incurred by persons whose trade prices were adjusted.

(4) Schedule of Administrative Fees

A fee for each Error trade cancelled in accordance with this rule shall be charged to the party responsible for such Error trade as follows:

- (1) \$500 for each of the first three (3) instances within one calendar year;
- (2) \$1,000 for each of the next three (3) instances within one calendar year; and
- (3) \$2,000 for each instance thereafter within one calendar year.

(D) No Bust Ranges

Contract Outrights	# Ticks From Market	Min Tick Size	\$ per Tick
Crude Oil (1000 Barrels)	25		
Petroleum Products (42,000 Gallons)	48		
Natural Gas	20		
Electricity	40		
Currency Index	100		

11.64 Trading Prohibition by Certain Persons

Members, Member Firms, ~~Permit Holders, Electronic Traders, Authorized Terminal Users,~~ Users and User Agents are prohibited from directly or indirectly accepting or executing an order or, accepting trades for clearance or maintaining positions in contracts, for the delivery of any commodity traded or otherwise listed for clearing on the Exchange if such Member, Member Firm, ~~Permit Holder, Electronic Trader, Authorized Terminal Users,~~ User or User Agent knows, or with the exercise of reasonable care, should know, that the transaction was executed or carried for or on behalf of:

- (A) An employee or public director of the Exchange.
- (B) An employee of another Member, Member Firm, Electronic Trader or User without the prior written consent of such employer;
- (C) A floor clerk, messenger or Authorized Terminal User or User Agent who is not also designated as a User;
- ~~(D) An employee of AT&T or its successor with any employment responsibilities directly associated with NYMEX ACCESS@; or~~
- ~~(E) An employee of TMI.~~

11.65 Trading Prohibitions: Representatives of Other Clearing Members

(A) No Clearing Member shall accept or execute any trade for an employee, representative, person in joint account, person in partnership with, another Member, ~~Electronic Trader, Authorized Terminal User,~~ User or User Agent or for any qualified floor trader guaranteed by another Clearing Member, without the prior written consent, filed with the Exchange, of such other Clearing Member and in the case of the partner without the prior written consent of such other Clearing Member's partner. In addition, a Clearing Member accepting or executing any trade for any of the aforementioned persons must send a duplicate confirmation of the trade to the individual or firm from which prior written consent must be obtained.

(B) Members of the Clearing House shall not solicit, or accept, selling or buying orders from any employee of the Exchange; nor finance any employee of the Exchange in carrying trades, in any manner.

(C) For the purpose of this rule the Chairman of the Board, members of the Board and members of all Exchange Committees are not considered to be employees of the Exchange.

11.66 Restriction on Simultaneous Buy and Sell Orders on NYMEX ClearPort® Trading Exchange Electronic Trading Systems

~~With respect to trading on NYMEX ClearPort® Trading, a User or User Agent may not enter orders for different principals as a cross-trade into the system.~~

Instead, a User or User Agent shall enter orders into the system strictly on the basis of time of receipt of the orders.

11.67 General Trading Standards for Exchange Electronic Trading Systems

(A) No ~~Electronic Trader or Authorized Terminal User in the case of trading on NYMEX ACCESS@ and no NYMEX ClearPort® Trading~~ User or User Agent ~~in the case of trading on NYMEX ClearPort® Trading~~ shall purchase any commodity for future delivery, purchase any call option, or sell any put option for any commodity options contract, for his own account, or for any account in which he has an interest, while holding an order of another person for the purchase of any future, any call option, or sale of any put option, in the same commodity which is executable at the market price or at the price at which such transaction can be made for the Member's own account or the account in which he has an interest.

(B) No ~~Electronic Trader or Authorized Terminal User in the case of trading on NYMEX ACCESS@ and no NYMEX ClearPort® Trading~~ User or User Agent ~~in the case of trading on NYMEX ClearPort® Trading~~ shall sell any commodity for future delivery, sell any call option or purchase any put option for his own account, or for any account in which he has an interest, while holding an order of another person for the sale of any future, any call option, or purchase of any put option, in the same commodity which is executable at the market price or at the price at which

such transaction can be made for the Member's own account or the account in which he has an interest.

~~(C) No Electronic Trader or Authorized Terminal User in the case of trading on NYMEX ACCESS® and no NYMEX ClearPort® Trading User or User Agent in the case of trading on NYMEX ClearPort® Trading shall place an order in NYMEX ClearPort® Trading the applicable trading system for any account of another person for which buying or selling orders can be placed or originated or for which transactions can be executed by such member, without the prior specific consent of such other person (hereinafter referred as to "discretionary orders") regardless of whether the general authorization for such orders or transactions is pursuant to a written agreement, except that discretionary orders may be placed with another Member for execution.~~

The restrictions set forth in this subparagraph shall not apply to discretionary orders for: (i) member of the ~~Electronic Trader's~~ or User's immediate family, which is defined to mean a spouse, parent, parent of a spouse, brother, sister, child, or spouse of a child; (ii) a member of the Exchange; (iii) a proprietary account of the ~~Electronic Trader or User~~ as that term is defined in Reg. §1.3(y); or (iv) a non-member account provided the Member does not trade for his personal account or any other customer account.

~~(D) No Electronic Trader in the case of trading on NYMEX ACCESS® and no NYMEX ClearPort® Trading User in the case of trading on an NYMEX ClearPort® Trading shall disclose at any time that he is holding an order of another person or shall divulge any order revealed to him by reason of his relationship to such other person, except to execute an order or at the request of an authorized representative of the Commodity Futures Trading Commission or the Exchange.~~

11.68 Closing Range and Close

The closing range for each futures and option contract that is listed for trading only on NYMEX ClearPort® Trading ~~an Exchange electronic trading system~~ for each day of trading, including the closing range on the final day of trading in such contract listed for trading only on such system, shall include all trades made within the last (10) ten minutes of the applicable trading session for such contract and all bids higher than as well as offers lower than any trade made within such periods.

11.69 Registration for Billing of Brokerage on NYMEX ClearPort® Exchange Electronic Trading Systems

(A) Member Firms or Members engaged in operating brokerage businesses are required to register with the Membership Department, their names and the names of the entities under which brokerage will be billed, and the names of all persons having ownership interests in such entities, including the percentage of their ownership interests, and to provide upon request any supporting information requested by the Membership Department or the Compliance Department. For the purposes of this rule, the terms "Member", "Member Firm" and "Floor Member" shall include COMEX Members who have NYMEX Division trading privileges.

~~(B) (1) With respect only for the execution of brokerage on NYMEX ACCESS®, any entity under which brokerage will be billed that is not a Member Firm of the Exchange must be:~~

~~(i) a sole proprietorship owned by a Member of the Exchange;~~

~~(ii) a corporation that is more than 50% owned by a Member or Members of the Exchange; or~~

~~(iii) a partnership, provided that the general partners who are Members of the Exchange own more than 50% of the partnership; provided that if a non-member or non-members have an interest in a corporation or partnership provided for in subsection (ii) or (iii) above, the non-member or non-members' interest cannot exceed the interest of the Member with the largest interest.~~

~~(2) It will be a major offense to receive payment for brokerage services rendered, unless duly registered with the Exchange.~~

~~(3) It will be a major offense for any Member, Electronic Trader, or Member Firm to pay non-registered entities for brokerage services rendered. It is the obligation of all Members, Member Firms and Electronic Traders to confirm that the brokerage businesses it utilizes are so registered with the Exchange.~~

Members who are owners, shareholders or general partners of entities under which floor brokerage will be billed shall be responsible for the acts of the employees and agents of those entities.

Chapter 11G Electronic Trading Rules for the Globex System

Current NYMEX Rules 11G.00 – 11G.05, 11G.07 – 11G.15, 11G.17 – 11G.27 and 11G.29 are deleted in their entirety. Rules 11G.06, 11G.16, 11G.28 and 11G.30 are marked to show how they are being changed from existing rules in current NYMEX Chapter 11G. Rules 11G.529 – 11G.588 are new to Chapter 11G and are marked to show how they are different from corresponding rules in CME Chapter 5.

NOTE NOTE

~~NOTE: except as otherwise specifically noted, any references to NYMEX in this Chapter 11G that are not followed by the term the Division shall be understood to refer both to the NYMEX and COMEX Divisions, except that for purposes of clarity, the Exchange may in addition include various references to COMEX in these rules~~

11G.06 MINIMUM PRICE FLUCTUATIONS

Notwithstanding that there will be no price limits directly applicable to any financially settled contract listed by the Exchange for trading on Globex®, trading in a financially settled contract will be subject to the terms of the price fluctuation limit rule, if any, for the physically settled futures contract providing for the same or related underlying commodity which is also available for trading on Globex.

11G.16. ERRORS AND OMISSIONS IN HANDLING ORDERS

~~(A) An Electronic Trader or Authorized Terminal User on NYMEX ACCESS® or a User or User Agent on NYMEX ClearPort® Trading Globex Terminal Operator who inadvertently, through error or omission, fails to execute an order at the time it should have been executed may, upon discovery of such error or omission, execute such order at the best obtainable price. Such order shall be competitively executed openly and competitively and should be executed in the next available Exchange trading session for the applicable listed product but in any event must be executed no later than the close of the next electronic trading session and shall be reported to the client at the price at which actually executed. If such price is to the advantage of the client the client shall receive the benefit thereof; if not, the client shall receive such monetary adjustment as will afford the client the equivalent of the price at which such order should and could have been executed. Any member receiving such report and adjustment with respect to an order of a client shall report to such client the execution at the price reported to such member and make the same monetary adjustment for the account of such client. Full details of all transactions consummated hereunder shall be reported promptly provided to the Compliance Department upon request ~~President and maintained as a permanent record of the Exchange.~~~~

(B) This rule shall not be construed to contravene any instructions received from a client respecting any order prior to its execution, but shall be construed to permit execution of orders under the conditions prescribed without prior instructions from the client.

11G.28. REGISTRATION FOR USE OF ATOM SERVICE BILLING OF BROKERAGE ON GLOBEX

(A) (1) Member Firms or Members engaged in operating brokerage businesses are required to register with the Membership Department, their names and the names of the entities under which brokerage will be billed, and the names of all persons having ownership interests in such entities, including the percentage of their ownership interests, and to provide upon request any supporting information requested by the Membership Department or the Compliance Department. For the purposes of this rule, the terms "Member", "Member Firm" shall include COMEX Members who have NYMEX Division trading privileges.

(2) Required Submission of Sender Sub-ID Number. For purposes of execution of brokerage on Globex, Members or Member Firms engaged in operating brokerage businesses additionally must register with

the Exchange pursuant to the procedures established by the Exchange the sender sub-comp ID number for each of their employees or agents who will be entering orders into the system in relation to their brokerage business.

(B) (1) With respect only for the execution of brokerage on Globex, any entity under which brokerage will be billed that is not a Member Firm of the Exchange must be:

(i) a sole proprietorship owned by a Member of the Exchange;

(ii) a corporation that is more than 50% owned by a Member or Members of the Exchange; or

(iii) a partnership, provided that the general partners who are Members of the Exchange own more than 50% of the partnership; provided that if a non-member or non-members have an interest in a corporation or partnership provided for in subsection (ii) or (iii) above, the non-member or non-members' interest cannot exceed the interest of the Member with the largest interest.

(2) It will be an ~~major~~ offense to receive payment for brokerage services rendered, unless duly registered with the Exchange.

(3) It will be an ~~major~~ offense for any Member or Member Firm to pay non-registered entities for brokerage services rendered. It is the obligation of all Members, Member Firms and Globex Terminal Operators ~~Electronic Traders~~ to confirm that the brokerage businesses it utilizes are so registered with the Exchange.

Members who are owners, shareholders or general partners of entities under which floor brokerage will be billed shall be responsible for the acts of the employees and agents of those entities.

11G.30. TRADING AT SETTLEMENT

Contracts Eligible for Trading at Settlement or ("TAS") Transactions on GlobexLOBEX.

TAS Trading at Settlement transactions may be executed in such delivery months as specified by the Exchange for the following futures contracts available on GlobexLOBEX. TAS Trading at settlement transactions may be executed at the settlement price or at a price increment ranging from 10 (ten) ticks higher or 10 (ten) ticks lower than the settlement price.

Contracts available include:

Commodity Code on Globex®	Name	Cleared Product
WST	WTO Crude Oil Financial TAS	WS
RTT	RBOB Gasoline Financial TAS	RT
BHT	Heating Oil Financial TAS	BH
HPT	Natural Gas Financial TAS	HP
HHT	Natural Gas Financial (Last Day) TAS	HH
BBT	Brent Crude Oil Financial TAS	BB
CLT	Light Sweet Crude Oil TAS	CL
HOT	Heating Oil TAS	HO
NGT	Natural Gas TAS	NG
RBT	RBOB Gasoline TAS	RB

RET

REBCO TAS

RE

The three (3) nearby trading months of the products listed above, as well as the seventh (7th) nearby trading month in Light Sweet Crude Oil, shall be available for trading (except on the last trading day in the physically delivered contracts). The hours for trading shall be the hours that the applicable contracts are available for trading on GlobexLOBEX@.

11G.529. WITHHOLDING ORDERS PROHIBITED

~~A Member (as defined in Rule 400), or a~~ny person entering orders on the Globex platform, shall not withhold or withdraw from the market any order, or any part of an order, for the benefit of any person other than the person placing the order.

11G.530. PRIORITY OF CUSTOMERS' ORDERS

~~A member shall not buy (sell) a futures contract, buy (sell) a call option or sell (buy) a put option for his own account, an account in which he has a direct or indirect financial interest, or an account over which he has discretionary trading authority when he is in possession of an executable order for another person to buy (sell) a futures contract, buy (sell) a call option or sell (buy) a put option in the same product, regardless of the venue of execution. All contract months in a given futures product and all options on the futures product, in addition to any corresponding mini-sized futures or options contracts on a given product, shall be considered the same product for the purposes of this rule.~~

~~The foregoing shall not apply to DRT orders provided that the customer has previously consented in writing and evidence of such general consent is indicated on the order with the "WP" (with permission) designation. In the case of a floor broker holding a discretionary order for an account described in Rule 547, a "WP" designation on the order shall constitute sufficient evidence of prior consent.~~

No person shall enter an order into the Globex platform for his own account, an account in which he has a direct or indirect financial interest or an account over which he has discretionary trading authority, including, without limitation, an order allowing discretion as to time and price, when such person is in possession of any order for another person that the Globex platform is capable of accepting.

11G.531. TRADING AGAINST CUSTOMERS' ORDERS ON GLOBEXPROHIBITED

531.A. General Prohibition

~~No person in possession of a customer order shall knowingly take, directly or indirectly, the opposite side of such order for his own account, an account in which he has a direct or indirect financial interest, or an account over which he has discretionary trading authority.~~

531.B. Exceptions

The foregoing restriction shall not apply to the following:

- ~~1. Transactions executed in accordance with Rule 527 to resolve bona fide outrades or errors;~~
- ~~2. Transactions executed pursuant to Rule 538;~~
- ~~3. Block trades executed pursuant to Rule 526;~~

~~4. On the Globex platform, a person may knowingly trade against his customer order for his own account, an account in which he has a direct or indirect financial interest, an account over which he has discretionary trading authority, or a proprietary account of his employer, only if the customer order has been entered immediately upon receipt and has first been exposed on the Globex platform for a minimum of 5 seconds in the case of futures orders or for a minimum of 15 seconds in the case of options orders; and~~

~~5. Transactions where the customer has consented in writing no more than 12 months prior to the transaction to waive the application of Rule 531.A. Such transactions shall further be subject to the following requirements: (i) if the transaction was pit or board traded, the member complies with the requirements set forth in Rule 533; (ii) the member clearly identifies, by appropriate descriptive words, all such transactions, and (iii) if the transaction was pit or board traded, the member completes a form which shows the date, product traded, floor broker, price, quantity, and time of execution. Such form shall be presented to an Exchange official and made a matter of permanent~~

record by the Exchange.

11G.532. DISCLOSING ORDERS PROHIBITED

No person shall disclose another person's order to buy or sell except to a designated Exchange official or the CFTC, and no person shall solicit or induce another person to disclose order information. ~~An order for pit execution is not considered public until it has been bid or offered by open outcry.~~ No person shall take action or direct another to take action based on non-public order information, however acquired. The mere statement of opinions or indications of the price at which a market may open or resume trading does not constitute a violation of this rule.

11G.533. SIMULTANEOUS BUY AND SELL ORDERS FOR DIFFERENT BENEFICIAL OWNERS

~~A member who is in possession of both buy and sell orders for different beneficial owners for the same product and expiration month, and, for a put or call option, the same strike price, may execute such orders for and directly between such beneficial owners provided:~~

- ~~1. In pit trading, a member executing such orders shall first bid and offer by open outcry three times at the same price, stating the number of contracts, and, thereafter, if neither the bid nor the offer is accepted, the orders may be matched in the presence, and with the approval, of a designated Exchange official.~~
- ~~2. In board trading, a member executing such orders shall first post such bid (offer) on the board and prior to selling (buying) opposite the buy (sell) order shall satisfy any equal or higher bids (equal or lower offers) and then post such remaining offers (bids) on the board for a reasonable time prior to crossing the orders. Such transactions must be done in the presence, and with the approval of, a designated Exchange official.~~

~~The member making such transactions shall, by appropriate descriptive words or symbols, clearly identify all such transactions on his trading card or other similar record made at the time of the execution. The member executing such trade shall complete a form which shows the date, product traded, floor broker, price, quantity, and time of execution. Such form shall be presented to an Exchange official and made a matter of permanent record by the Exchange. Failure to accurately complete the required form shall constitute a violation of this rule.~~

On the Globex platform, opposite orders for different beneficial owners that are simultaneously placed by a party with discretion over both accounts may be entered into the Globex platform provided that one order is exposed for a minimum of 5 seconds in the case of futures orders or a minimum of 15 seconds in the case of options orders. An order allowing for price and/or time discretion, if not entered immediately upon receipt, may be knowingly entered opposite another order entered by the same firm only if this other order has been entered immediately upon receipt and has been exposed on the Globex platform for a minimum of 5 seconds for futures orders or a minimum of 15 seconds for options orders.

11G.534. WASH SALES PROHIBITED

No person shall place for the same beneficial owner buy and sell orders for the same product and expiration month, and, for a put or call option, the same strike price, at or about the same time with the intent to avoid a bona fide market position exposed to market risk (transactions commonly known or referred to as wash sales). Buy and sell orders placed for the same beneficial owner in the same product and expiration month, and, for a put or call option, the same strike price, must be entered in good faith for the purpose of executing bona fide transactions that result in a change of ownership. Additionally, no person shall accept, execute or accommodate the execution of orders which are prohibited by this rule with knowledge of their character.

11G.536. RECORDKEEPING REQUIREMENTS FOR PIT, GLOBEX, AND NEGOTIATED TRADES

11G.536.A. ~~Reserved~~General Requirements for Open Outcry Pit Trades

~~At the time of execution, it shall be the duty of every member to record each trade made for an account the member owns or controls showing the date, price, quantity, product, expiration month, bracket symbol, opposite trader, opposite clearing member and, for options, put or call and strike price. Floor brokers executing an order shall record their trading symbol, price, quantity, bracket, opposite trader~~

and clearing member. Trades or order executions must either be recorded on an approved electronic device or, if recorded on written records, in non-erasable ink.

Members must designate on the trading document used to record a trade whether such trade is a spread trade and record "D" for single line entry differential spreads and "6" for all other spreads.

A member may correct any errors on written trading records by crossing out erroneous trade information without obliterating or otherwise making illegible any of the originally recorded information.

Each member shall provide his clearing member with any trading documents which are relied upon for transactional information necessary for submission to the clearing system containing those trades that have been executed thus far during that day. Trading documents include trading cards of members' personal and proprietary trades, trading cards of one member reflecting trades executed on behalf of another member and floor order tickets. Such trading documents must be submitted and timestamped no later than 15 minutes after the end of each half-hour interval. If a broker has only partially filled an order at the end of a half-hour period, he does not have to submit the document used to record the execution to the appropriate clearing member until the entire order has been filled, the unexecuted portion of the order is cancelled, or the market has closed for that contract, whichever occurs first.

In addition, each member must maintain, and is accountable for, all other documents on which original trade information is recorded, whether or not such information is subsequently endorsed on an order ticket or entered into an approved electronic device. Trading cards used to record the execution of flashed or electronically transmitted orders are not required to have the member's trading symbol pre-printed on them, but such cards must be visually distinct from the pre-printed trading cards used by the member to record trades for accounts he owns or controls.

The correct bracket symbol in accordance with the list below must be recorded for each pit trade.

Time Intervals	Bracket Code
Unknown to data entry operator	?
Opening range for each contract	\$
Closing range for each contract	%
Post-Close Session	#
7:00:00 a.m. — 7:14:59 a.m.	A
7:15:00 a.m. — 7:29:59 a.m.	B
7:30:00 a.m. — 7:44:59 a.m.	C
7:45:00 a.m. — 7:59:59 a.m.	D
8:00:00 a.m. — 8:14:59 a.m.	E
8:15:00 a.m. — 8:29:59 a.m.	F
8:30:00 a.m. — 8:44:59 a.m.	G
8:45:00 a.m. — 8:59:59 a.m.	H
9:00:00 a.m. — 9:14:59 a.m.	I
9:15:00 a.m. — 9:29:59 a.m.	J
9:30:00 a.m. — 9:44:59 a.m.	K
9:45:00 a.m. — 9:59:59 a.m.	L
10:00:00 a.m. — 10:14:59 a.m.	M
10:15:00 a.m. — 10:29:59 a.m.	N

Time Intervals	Bracket Code
10:30:00 a.m. — 10:44:59 a.m.	O
10:45:00 a.m. — 10:59:59 a.m.	P
11:00:00 a.m. — 11:14:59 a.m.	Q
11:15:00 a.m. — 11:29:59 a.m.	R
11:30:00 a.m. — 11:44:59 a.m.	S
11:45:00 a.m. — 11:59:59 a.m.	T
12:00:00 p.m. — 12:14:59 p.m.	V
12:15:00 p.m. — 12:29:59 p.m.	W
12:30:00 p.m. — 12:44:59 p.m.	X
12:45:00 p.m. — 12:59:59 p.m.	Y
1:00:00 p.m. — 1:14:59 p.m.	Z
1:15:00 p.m. — 1:29:59 p.m.	2
1:30:00 p.m. — 1:44:59 p.m.	3
1:45:00 p.m. — 1:59:59 p.m.	4
2:00:00 p.m. — 2:14:59 p.m.	5
2:15:00 p.m. — 2:29:59 p.m.	6
2:30:00 p.m. — 2:44:59 p.m.	7
2:45:00 p.m. — 2:59:59 p.m.	8
3:00:00 p.m. — 3:15:00 p.m.	9

Trades that are not recorded contemporaneously due to an error or an outrade shall be recorded on the member's next pre-printed, sequentially numbered trading card. If the trade is not recorded in sequence, the member must cross out the pre-printed sequence number and write "9999" on the card. In any situation where someone other than the member is resolving a member's outrades, the outrade clerk or broker's clerk may use a blank card and write "9999" on the card to denote that it is out of sequence. The person resolving the outrade for a member must initial the card.

Firms must enter an "E" into the order type field to identify any errors placed into a firm error account.

1. Customer Orders

At the time of execution, every order received from a customer must be in the form of a written or electronic record and include an electronic timestamp reflecting the date and time such order was received on the floor of the Exchange and, except as provided in Section C, must identify the specific account(s) for which the order was placed. Such record shall also include an electronic timestamp reflecting the date and time such order was returned, or, in the case of a flashed transaction, when confirmed or cancelled.

Upon request, a clearing firm must provide its broker, in an expeditious and reasonable manner, with a copy of every floor order such broker is asked to execute.

2. Individual Member Orders

- ~~a. A member on the trading floor who enters a flashed or verbal order with another member shall record the order instructions and the time of placement to the nearest minute in sequence with the other trades recorded on his pre-sequenced trading cards, unless such order is immediately entered into an approved electronic device. Orders that involve options-futures combinations and other spread trades where the initiating member personally executes at least one leg of the spread shall not be subject to this requirement.~~
- ~~— The member executing the order must record the time of execution to the nearest minute for each execution made for the order on the trading card or other document used to record the trade(s) and must return this card or document to the initiating member.~~
- ~~— The trading card used to record the placement of the flashed or verbal order and any trading card or document used to record the execution of the order must be submitted together to the clearing member by the member placing the order or his representative.~~
- ~~b. Every written order that is initiated by a member for his own account while on the trading floor must be dated and timestamped upon transmission for execution and when returned, or, in the case of a flashed transaction, when confirmed or cancelled.~~
- ~~c. A member or his employee standing in a trading pit receiving an order directly over a headset for pit execution from an off-floor member for his account must simultaneously make a written record of the order on a trading card or other document including the identification of the member calling in the order unless such order is immediately entered into an approved electronic device. The member executing the order must record the time of execution to the nearest minute for each execution made for the order on any trading card or other document used to record the trade(s) and must return this card or document to the initiating member's clearing member.~~

3. Proprietary Orders of Clearing Members and Certain Member Entities

~~Upon receipt on the floor of the Exchange, an order placed for the proprietary account of a member firm must be in the form of a written or electronic record that includes an electronic timestamp reflecting the date and time such order was received on the floor and must identify the specific account(s) for which the order was placed. Such record shall also be timestamped when the order is returned, or, in the case of a flashed transaction, when confirmed or cancelled.~~

~~Orders placed by an employee of a member firm for its proprietary account that are entered directly to the pit via headset with another employee of the member firm do not require a written and timestamped order ticket provided that the order is executed by a member employee of the member firm and such member records the time of execution to the nearest minute for each execution made for the order on the trading card or other document used to record the trade(s).~~

4. Trades Made by Members for Accounts Owned or Controlled by Such Member

~~Each member executing transactions on the trading floor for such member's personal account or an account controlled by such member who uses trading cards as the original record of such transactions must use pre-printed sequentially pre-numbered trading cards. A new trading card must be used at the beginning of each time bracket.~~

~~Each member who uses such trading cards must record the transactions in non-erasable ink in exact chronological order of execution on sequential lines of the trading card, and no lines may be skipped. Any lines that remain after the last execution recorded on a trading card must be marked through. All transactions which are recorded on a single trading card must be recorded on the same side of such trading card. No more than six transactions may be recorded on each trading card. Trading card sequence numbers must be unique during a one-week period.~~

~~The trading cards must contain pre-printed member identification which will include, but will not be limited to, the trading acronym and the full name of the member. The trading cards must also contain preprinted bracket designations.~~

~~Members who use an approved electronic device to record their trades, whether as an original record, or subsequent to recording their trades on trading cards, must record their trades on the device in the exact sequence in which they were executed and must ensure that the correct time bracket is entered for each transaction.~~

~~Members trading for an account they own or control shall be accountable for their pre-printed sequentially numbered trading cards, including those cards which are unused or voided.~~

11G.536.B. Globex Order Entry

1. General Requirement

Each Globex terminal operator entering orders into Globex shall input for each order: a) the user ID assigned him by the Exchange, a clearing member or other authorized entity and b) the price, quantity, product, expiration month, CTI code and account number (except as provided in Section C.), and, for options, put or call and strike price. The Globex terminal operator's user ID must be present on each order entered. For a Globex terminal operator with access pursuant to Rule 11G.574, clearing members authorizing such access will be responsible for the Globex terminal operator's compliance with this rule.

With respect to orders received by a Globex terminal operator which are capable of being immediately entered into Globex, no record other than that set forth above need be made. However, if a Globex terminal operator receives an order which cannot be immediately entered into Globex, the Globex terminal operator must prepare a written order and include the account designation, date, and an electronic timestamp reflecting the time of receipt and other information required pursuant to section A.1. above. The order must be entered into Globex when it becomes executable.

2. Electronic Audit Trail Requirements for Electronic Order Routing/Front-End Systems

Clearing members guaranteeing a connection to Globex are responsible for maintaining or causing to be maintained the order routing/front-end audit trail for all electronic orders, including order entry, modification, cancellation and responses to such messages (referred to as the "electronic audit trail"), entered into the Globex platform through the CME iLink[®] gateway. This electronic audit trail must be maintained for a minimum of 5 years, and clearing members must have the ability to produce this data in a standard format upon request of the Compliance Department~~Market Regulation~~.

This electronic audit trail must contain all order receipt, order entry, order modification, and response receipt times to the highest level of precision achievable by the operating system, but at least to the hundredth of a second. The times captured must not be able to be modified by the person entering the order. The data must also contain all Fix Tag information and fields which should include, but is not limited to the following: A record of all fields relating to order entry, including transaction date, product, Exchange code, expiration month, quantity, order type, order qualifier, price, buy/sell indicator, stop/trigger price, order number, unique transaction number, account number, session ID, Tag 50 ID, host order number, trader order number, clearing member, type of action, action status code, customer type indicator, origin, and timestamps. For executed orders the audit trail must record the execution time of the trade along with all fill information.

In the case where the Guaranteeing Clearing Firm has a direct connect client that is another Clearing Firm ~~or a Corporate Equity Member~~, the Clearing Firm may notify the client Clearing Firm ~~or Corporate Equity Member~~ that it is their obligation to maintain the electronic audit trail. Upon execution of this written notice, it shall be the duty of the client Clearing Firm ~~or Corporate Equity Member~~ to maintain an electronic audit trail pursuant to this rule.

11G.536.C. Bunched Orders and Orders Eligible for Post Execution Allocation

Bunched orders must be allocated and recorded in accordance with CFTC Regulation 1.35(a-1)(5) and the NFA's Interpretative Notice related to Compliance Rule 2-10.

~~A bunched order for pit execution does not require the specific account number to be recorded at the time of order placement or upon the report of execution provided that 1) the order is being placed by an account manager for multiple accounts eligible for post execution allocation or 2) a written, pre-determined allocation scheme has been provided to the futures commission merchant accepting or clearing the order prior to the time the order has been placed. Additionally, at the time of receipt on the trading floor, bunched orders that do not contain specific account numbers must contain a series, group, or suspense account indicator which relates directly to the group of accounts for which the order has been placed. A bunched order may be initially cleared into a suspense account provided that the final account specific allocations are submitted to the clearing system no later than the end of each trading day.~~

With respect to bunched Globex orders, such orders may be entered using a series designation or suspense account number provided that 1) the order is being placed by an account manager for

multiple accounts eligible for post execution allocation or 2) a written, pre-determined allocation scheme that defines the series has been provided to the futures commission merchant accepting or clearing the order prior to the time that such order is entered. In the latter case, if such information has not been provided to the futures commission merchant prior to the time of order entry, each specific account number must be entered into Globex. Additionally, for all such bunched orders executed on Globex, the final account specific allocations must be submitted to the clearing system no later than the end of each trading day.

Bunched orders for non-discretionary accounts may be entered ~~either for pit execution or through~~ Globex; however, only the following order types may be bunched: ~~Market on Open, Market on Close,~~ same priced Limit Orders, ~~and same priced Stop Orders~~ and market orders received prior to the opening of the Globex trading session. Such non-discretionary orders may only be bunched in the following instances:

- a. Each order underlying the bunched order must be reduced to writing and include the account designation, date and an electronic timestamp reflecting the time of receipt ~~information required pursuant to Section A.1. above;~~
- b. Allocation of the executions for the bunched orders must be fair and equitable in accordance with the NFA's Interpretative Notice related to Compliance Rule 2-10; and
- c. In circumstances where the order is bunched in a member firm's sales office, the party accepting the order must, contemporaneously with the order placement, transmit the individual account numbers and quantities associated with the bunched order to the clearing member firm. Such transmission shall be maintained by the clearing member firm along with the bunched order.

11G.536.D. Customer Type Indicator (CTI) Codes

Each clearing member must identify each transaction executed on ~~the trading floor or on the~~ Globex platform on the record of transactions submitted to the Exchange with the correct customer type indicator (CTI) code. The CTI codes are as follows:

CTI 1: ~~Electronic Trading and Open Outery~~ — Applies to transactions initiated and executed by an individual member for his own account, for an account he controls, or for an account in which he has an ownership or financial interest. However, transactions initiated and executed by a member for the proprietary account of a member firm must be designated as CTI 2 transactions.

CTI 2: ~~Electronic Trading and Open Outery~~ — Applies to orders entered or trades executed for the proprietary accounts of a member firm, ~~including Rule 106.H, I, N, R, and S. firms.~~

CTI 3: ~~Electronic Trading~~ — Applies to orders entered by a member or a nonmember terminal operator for the account of another individual member or an account controlled by such other individual member.

CTI 3: ~~Open Outery~~ — Applies to orders that a member executes on behalf of another individual member, or for an account such other member controls or in which such other member has an ownership or financial interest.

CTI 4: ~~Electronic Trading and Open Outery~~ — Applies to all orders and transactions not included in CTI categories 1, 2 or 3. These typically are orders entered by or on behalf of nonmember entities.

536.E. ~~Negotiated Trades~~

~~All orders executed in accordance with Rules 526, 537 and 538, unless otherwise exempted by rule, are subject to the recordation requirements pursuant to Section A.1.~~

536.F. ~~CTR Enforcement Program and Sanction Schedule~~

~~CTR Monthly Enforcement Program~~

~~The CTR threshold levels for members with 100 or more transactions per month are as follows:~~

Exception Type	Threshold Level
Bracket Exceptions	8% and above
Time of Execution for Verbal Orders	8% and above
Sequence Errors	8% and above

A letter of warning shall be issued for a first occurrence of exceeding any threshold. Subsequent occurrences within 12 months of exceeding a threshold shall result in automatic fines starting at \$250, and then increasing to \$500, \$1,000, \$2,500, and \$5,000 for each subsequent occurrence.

A member will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department in support of having the letter of warning or fine dismissed showing that administrative, clerical, or other errors by the clearing firm caused the member to exceed the threshold level. If the member does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the letter of warning or fine shall be final and may not be appealed.

The monthly CTR enforcement of timestamp exceptions for firms with 1,000 or more transactions per month is 8% and above. A letter of warning shall be issued for a first occurrence of exceeding the threshold. Subsequent occurrences within 12 months of exceeding the threshold shall result in automatic fines starting at \$1,500 for the second occurrence, then increasing to \$5,000 and \$10,000 for each subsequent occurrence.

A firm will have 15 days after receipt of a letter of warning or a fine to present evidence to the Market Regulation Department in support of having the letter of warning or fine dismissed. If the firm does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the letter of warning or fine shall be final and may not be appealed.

CTR Clearing Member Back Office Audit Enforcement Program

The Market Regulation Department will conduct audits of clearing members to verify that required audit trail information has been accurately recorded and submitted. The CTR audit threshold level for firms failing to pick up and timestamp sequenced cards, verbal order cards and floor orders is 20%. The threshold for all other firm audit trail or recordkeeping deficiencies is 10%.

Percentage calculations will be made based on an examination of a combination of sequenced cards, verbal orders and floor orders totaling 150 documents. The number of documents containing a deficiency(ies) will be divided by the total number of documents examined in determining the deficiency percentage.

Violations of each threshold within 24 months shall be subject to automatic fines starting at \$2,500 for a first occurrence, then increasing to \$5,000 and \$10,000 for each subsequent occurrence.

A firm will have 15 days after receipt of a fine to present evidence to the Market Regulation Department in support of having the fine dismissed. If the firm does not submit such evidence, or if the Market Regulation Department determines that the evidence submitted is insufficient to reduce the percentage below the threshold level, the fine shall be final and may not be appealed.

Notwithstanding the provisions of this Section, the Market Regulation Department may, at any time, refer matters that it deems egregious to the Probable Cause Committee.

536.G. Telephone Recordings

Members and member firms that record conversations conducted on their Exchange Floor telephone lines must maintain the resultant recordings for a period of 10 business days following the day when such recordings are made.

Unless specifically exempted by the Market Regulation Department or designated Exchange staff, all headset communications must be voice recorded by the member or member firm authorized to use the headset and all such recordings must be maintained for a minimum of 10 business days following the day on which the recording is made. Members and member firms are permitted to utilize their own recording devices, provided that the devices meet reasonable standards with respect to quality and reliability. Alternatively, members and member firms may utilize an Exchange administered voice recording system for a fee.

11G.539.

PRE-EXECUTION COMMUNICATIONS REGARDING GLOBEX TRADES PREARRANGED, PRE-NEGOTIATED AND NONCOMPETITIVE TRADES PROHIBITED

539.A. General Prohibition

No person shall prearrange or pre-negotiate any purchase or sale or noncompetitively execute any transaction, except in accordance with Sections B. and C. below.

539.B. Exceptions

The foregoing restriction shall not apply to block trades pursuant to Rule 526 or Exchange of Futures for Related Position transactions pursuant to Rule 538.

539.C. Pre-Execution Communications Regarding Globex Trades

Parties may engage in pre-execution communications with regard to transactions executed on the

Globex platform where one party (the first party) wishes to be assured that a contra party (the second party) will take the opposite side of the order under the following circumstances:

1. A party may not engage in pre-execution communications with other market participants on behalf of another party unless the party for whose benefit the trade is being made has previously consented to permit such communications.
2. Parties to pre-execution communications shall not (i) disclose to a non-party the details of such communications or (ii) enter an order to take advantage of information conveyed during such communications except in accordance with this rule.
3. ~~In the case of futures orders, the first party's order must be entered into the Globex platform first and the second party's order may not be entered into the Globex platform until a period of 5 seconds has elapsed from the time of entry of the first order.~~ In the case of futures orders or a period of 15 seconds has elapsed from the time of entry of the first order in the case of options orders.
4. ~~In the case of options orders, a pre-execution communication must be preceded by the submission of a Request for Quote ("RFQ").~~

~~Subsequent to such RFQ, a trade intended for execution for which there has been a pre-execution communication requires the entry of an additional RFQ; thereafter, a Request for Cross ("RFC") order which contains both the buy and the sell orders must be entered no less than fifteen (15) seconds and no more than thirty (30) seconds after the entry of the additional RFQ in order to proceed with the trade, except in equity options where the RFC must be entered no less than five (5) seconds and no more than thirty (30) seconds after the entry of the additional RFQ. The RFQs and the RFC order must be entered within the same trading session. Failure to enter the RFC order within 30 seconds after the entry of the additional RFQ will require a new RFQ to be entered prior to the entry of the RFC order, which must be entered in accordance with the time parameters described above in order to proceed with the trade.~~

11G.540. RESPONSIBILITY FOR CUSTOMER ORDERS

11G.540.A. Standard of Responsibility

~~Any person entering orders on the Globex platform Member (as defined in Rule 400) shall exercise due diligence in the handling and entry/execution of customer orders. Failure to act with due diligence shall constitute negligence. In the case of a dispute as to whether a Member has exercised due diligence, the appropriate arbitration or disciplinary committee is authorized to determine whether the Member was negligent and, if so, whether an adjustment is due to the customer. The committee may take into consideration the nature of the order and existing market conditions, including the existence of a "fast market" (a designation invoked to reflect rapid price changes and volatile market conditions in the pit), at the time the Member acted or failed to act. However, no market condition nullifies a Member's responsibility to exercise due diligence.~~

~~A Member is prohibited from directly or indirectly guaranteeing the execution of an order or any of its terms such as the quantity or price. A Member may only report an execution that has occurred as a result of open outcry, has been effected through the Globex platform, or has been executed as a permissible privately negotiated transaction. This rule shall not be construed to prevent a Member from assuming or sharing in the losses resulting from an error or the mishandling of an order.~~

11G.540.B. Liability for Negligence

~~A Member may not adjust the price at which an order was executed or be held responsible for executing or failing to execute an order unless such Member was negligent or is settling a bona-fide dispute regarding negligence.~~

~~A member firm may not compel an adjustment from a Member in the absence of a bona-fide dispute regarding negligence.~~

~~Clearing members shall document all adjustments. Clearing members shall make and retain a record which contains the date the adjustment was received, the name of the Member making the adjustment, the account to which the adjustment was credited, the amount of the adjustment, the order number and the reason for the adjustment. Such records must be provided to the Compliance Market Regulation Department upon request.~~

11G.548. PRIORITY OF EXECUTION

~~In-pit trading, non-discretionary customer orders shall be executed in accordance with their price and time priority. A member shall not execute a discretionary order, including, without limitation, an order allowing the member discretion as to time and price, while in possession of an executable customer order. No person shall allocate executions in any manner other than an equitable manner.~~

Non-discretionary customer orders received by a Globex terminal operator shall be entered into Globex in the sequence received. Non-discretionary orders that cannot be immediately entered into Globex must be entered when the orders become executable in the sequence in which the orders were received.

11G.553. AVERAGE PRICE SYSTEM

11G.553.A. Application of Average Prices

~~A proprietary~~The Exchange's Average Price System ("APS"), ~~or a proprietary APS~~ developed by a clearing member, allows a clearing member to confirm to customers an average price when multiple execution prices are received on an order or series of orders for futures, options or combination transactions. An order or series of orders executed during the same trading day at more than one price may be averaged pursuant to APS only if each order is for the same account or group of accounts and for the same product and expiration month for futures, or for the same product, expiration month, put/call and strike price for options.

11G.553.B. Requirements for APS Trades

~~A clearing member may have the Exchange calculate average prices or a clearing member may calculate average prices internally for contracts executed on the Exchange.~~The requirements enumerated below must be met for APS transactions.

1. The customer must have requested average price reporting.
2. Each individual trade must be submitted and cleared by the Exchange at the executed price.
3. ~~If a~~ clearing member must compute and confirms the average price to its customers, it must compute the weighted mathematical average price, as set forth in Section C.
4. ~~If a~~ clearing member calculates the average price, it must possess the records to support the calculations and allocations to customer accounts and must maintain these records pursuant to CFTC regulations.
5. A clearing member must ensure that its proprietary trades are not averaged with customer APS trades.

11G.553.C. Computation of Average Price

Upon receipt of an execution or match at multiple prices for an APS order, the weighted mathematical average must be computed by: (a) multiplying the number of contracts purchased or sold at each execution price by that price, (b) adding the results together and (c) dividing by the total number of contracts. An average price for a series of orders will be computed based on the average prices of each order in that series. The actual average price or the average price rounded to the next price increment may be confirmed to customers. If a clearing member confirms the rounded average price, the clearing member must round the average price up to the next price increment for a buy order or down to the next price increment for a sell order. The residual created by the rounding process must be paid to the customer. APS may produce prices that do not conform to whole cent increments. In such cases, any amounts less than one cent may be retained by the clearing member.

11G.553.D. Disclosure

Each clearing member that confirms an average price to a customer must indicate on the confirmation and monthly statement that the price represents an average price.

11G.573. GLOBEX OPENING

Each business day, Globex will open with a single price for each instrument unless otherwise designated by the Exchange.

Prior to the opening of each Globex Session, Globex will provide an indicative opening price or prices, based on the Globex equilibrium price algorithm described below, and on all pending orders that may

be executed on the opening. During the 30-second period prior to the opening, no previously entered orders may be modified or cancelled, although new orders may be entered.

Globex will establish an equilibrium price that will be the opening price. The equilibrium price is the calculated price between sell pressure and buy pressure where the largest volume of trading can occur. The price will be determined in accordance with the following methodology:

1. Any bid at a given price may also be executed at a lower price.
2. Any offer at a given price may also be executed at a higher price.
3. The bid volume at any price is the quantity bid at that price plus the sum of the quantities bid at all higher prices.
4. The offer volume at any price is the quantity offered at that price plus the sum of the quantities offered at all lower prices.
5. Sell pressure occurs when the offer volume exceeds the bid volume at a particular price.
6. Buy pressure occurs when the bid volume exceeds the offer volume at a particular price.
7. The trade volume at any price is the smaller of the bid volume or the offer volume.
8. The price overlap is the range of prices where trades are possible.
9. The equilibrium is the price range within the price overlap where buy pressure changes to sell pressure.
10. The equilibrium price is one of the following:
 - (a) The price within the equilibrium that has the largest trade volume and the lowest unmatched volume at that price remaining after the opening;
 - or
 - (b) If more than one price has the same trade volume and the same unmatched volume at that price, the equilibrium price is the one nearest the previous day's settlement price.
11. If there is no equilibrium (there is only buy pressure or sell pressure), there will be no opening price until a trade occurs unless there is a bid higher than, or an offer lower than, the previous day's settlement price.
12. After the provisional opening price is determined as set forth above for all orders excluding stop and stop limit orders, the calculations are repeated with any such orders that would be triggered at such price included until a new provisional opening price is determined. If such new price would trigger additional stop or stop limit orders, the process is repeated until no more orders are triggered.
13. Bids and offers will be selected for matching at the opening price based on price and time priority.

11G.574. GLOBEX ACCESS RESTRICTIONS

All connections to the Globex system, including direct connections of non-clearing members or customers, must be guaranteed by a clearing member that assumes financial responsibility for all activity through the connection. With respect to transactions given up to other clearing members, such guarantee is effective only until such time that the other clearing member accepts the trade. A trade given up to another clearing member will be deemed to have been accepted by such clearing member if the trade is not rejected by the close of business on the business day following the trade date. The acceptance of a trade by a clearing member shall not relieve any member, member firm, or clearing member of the duty to act in good faith and with reasonable care and diligence.

All individuals entering non-member customer orders in other than a clerical capacity must have appropriate industry registration. Non-member customer orders may be entered only from ~~designated areas on~~ the floor of the Exchange or from the premises of an entity registered to conduct customer business.

Clearing members shall assist the Exchange in any investigation into potential violations of the rules or the Act which occur through or with respect to a Globex connection guaranteed by the clearing member. Such assistance must be timely and may include, but not be limited to, requiring any non-member customer to produce documents, to answer questions from the Exchange, and/or to appear in connection with an investigation.

Clearing members shall suspend or terminate a non-member customer's Globex access if the Exchange determines that the actions of the non-member customer threaten the integrity or liquidity of

any contract or violate any Exchange rule or the Act, or if the non-member customer fails to cooperate in an investigation.

If a clearing member has actual or constructive notice of a violation of Exchange rules in connection with the use of Globex by a non-member for which it has authorized a direct connection and the clearing member fails to take appropriate action, the clearing member may be found to have committed an act detrimental to the interest or welfare of the Exchange.

11G.576. IDENTIFICATION OF GLOBEX TERMINAL OPERATORS

Each Globex terminal operator shall be identified to the Exchange, in the manner prescribed by the Exchange, and shall be subject to Exchange rules. If user IDs are required to be registered with the Exchange, it is the duty of the clearing member to ensure that registration is current and accurate at all times. Each individual must use a unique user ID to access Globex. In no event may a person enter an order or permit the entry of an order by an individual using a user ID other than the individual's own unique user ID.

11G.578. LIMITATION OF LIABILITY, NO WARRANTIES

A. EXCEPT AS PROVIDED BELOW, THE EXCHANGE AND CHICAGO MERCANTILE EXCHANGE INC. (CME) (INCLUDING THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, LICENSORS, MEMBERS, AND CLEARING MEMBERS, SHALL NOT BE LIABLE TO ANY PERSON FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE, AND DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES), ARISING FROM:

- (i) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER CAUSE, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE SYSTEMS AND SERVICES OF THE EXCHANGE OR CME, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, INCLUDING WITHOUT LIMITATION ELECTRONIC ORDER ENTRY/DELIVERY, TRADING THROUGH ANY ELECTRONIC MEANS, ELECTRONIC COMMUNICATION OF MARKET DATA OR INFORMATION, WORKSTATIONS USED BY MEMBERS AND AUTHORIZED EMPLOYEES OF MEMBERS, PRICE REPORTING SYSTEMS AND ANY AND ALL TERMINALS, COMMUNICATIONS NETWORKS, CENTRAL COMPUTERS, SOFTWARE, HARDWARE, FIRMWARE AND PRINTERS RELATING THERETO; OR
- (ii) ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER CAUSE, OF ANY SYSTEM OR SERVICE OF THE EXCHANGE OR CME, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, CAUSED BY ANY THIRD PARTIES INCLUDING, BUT NOT LIMITED TO, INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS; OR
- (iii) ANY ERRORS OR INACCURACIES IN INFORMATION PROVIDED BY THE EXCHANGE OR CME OR ANY OR ANY OF THE EXCHANGE'S OR CME'S SYSTEMS, SERVICES OR FACILITIES; EXCEPT FOR INCORRECT ORDER STATUSING INFORMATION AS PROVIDED IN ~~CME~~-RULE 11G.579 (~~GLOBEX CONTROL CENTER AND ORDER STATUSING~~); OR
- (iv) ANY UNAUTHORIZED ACCESS TO OR UNAUTHORIZED USE OF ANY OF THE EXCHANGE'S OR CME'S SYSTEMS, SERVICES OR FACILITIES BY ANY PERSON.

THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER A CLAIM ARISES IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, CONTRIBUTION OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT DIRECTLY OR AS A THIRD PARTY CLAIM.

THE FOREGOING LIMITATION OF LIABILITY SHALL BE SUBJECT TO THE COMMODITY EXCHANGE ACT AND REGULATIONS THEREUNDER. A PARTY WHO HAS BEEN FINALLY

ADJUDICATED TO HAVE ENGAGED IN WILLFUL OR WANTON MISCONDUCT MAY NOT AVAIL ITSELF OF THE PROTECTIONS IN THIS RULE.

- B. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS (INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE) PROVIDED BY THE EXCHANGE, THE CME (INCLUDING THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS, AND LICENSORS RELATING TO ANY SYSTEMS OR SERVICES OF THE EXCHANGE OR CME OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES, INCLUDING THE GLOBEX SYSTEM.
- C. ANY DISPUTE ARISING OUT OF THE USE OF SYSTEMS OR SERVICES OF THE EXCHANGE OR CME OR SERVICES, EQUIPMENT, OR FACILITIES USED TO SUPPORT SUCH SYSTEMS OR SERVICES IN WHICH THE EXCHANGE OR CME (INCLUDING THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES), OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONSULTANTS OR LICENSORS IS A PARTY SHALL BE ARBITRATED PURSUANT TO RULE 621 ("CERTAIN CLAIMS AGAINST THE EXCHANGE INVOLVING TRADING SYSTEMS OR SERVICES"). ANY ARBITRATION SHALL BE BROUGHT WITHIN THE PERIOD PRESCRIBED BY EXCHANGE RULES. ANY OTHER ACTIONS, SUITS OR PROCEEDINGS AGAINST ANY OF THE ABOVE MUST BE BROUGHT WITHIN TWO YEARS FROM THE TIME THAT A CAUSE OF ACTION HAS ACCRUED. THIS PARAGRAPH C SHALL IN NO WAY BE CONSTRUED TO LIMIT A PARTY'S OBLIGATION TO ARBITRATE ITS CLAIM OR TO CREATE A CAUSE OF ACTION AND SHALL NOT AUTHORIZE AN ACTION THAT WOULD OTHERWISE BE PROHIBITED BY ~~CME~~EXCHANGE RULES. IF FOR ANY REASON, A COURT OF COMPETENT JURISDICTION FINDS THAT SUCH DISPUTE IS NOT ARBITRABLE, SUCH DISPUTE MAY ONLY BE LITIGATED IN THE COUNTY OF COOK IN THE STATE OF ILLINOIS AND WILL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS WITHOUT REGARD TO ANY PROVISIONS OF ILLINOIS LAW THAT WOULD APPLY THE SUBSTANTIVE LAW OF A DIFFERENT JURISDICTION.
- D. THE CME OR THE EXCHANGE, MAY, IN THEIR RESPECTIVE SOLE DISCRETION, ASSUME RESPONSIBILITY FOR DIRECT, OUT-OF-POCKET LOSSES DIRECTLY CAUSED BY THE NEGLIGENCE OF GLOBEX CONTROL CENTER OR OTHER EXCHANGE STAFF AND/OR ORDER STATUS ERRORS PROVIDED BY THE GLOBEX CONTROL CENTER OR A CME OR EXCHANGE SYSTEM, SERVICE OR FACILITY. NOTWITHSTANDING THE ABOVE, i) THE EXCHANGE'S AND CME'S TOTAL COMBINED AGGREGATE OBLIGATIONS SHALL NOT EXCEED \$100,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED ON A SINGLE DAY; \$200,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE CALENDAR MONTH; AND \$2,400,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED IN A SINGLE CALENDAR YEAR. ANY DISPUTED CLAIM PURSUANT TO THIS PARAGRAPH D MUST BE ARBITRATED PURSUANT TO RULE 621 ("CERTAIN CLAIMS AGAINST THE EXCHANGE INVOLVING TRADING SYSTEMS OR SERVICES").
- E. IN NO EVENT SHALL THE EXCHANGE'S AND CME'S TOTAL COMBINED AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF ANY FAILURES, MALFUNCTIONS, FAULTS IN DELIVERY, DELAYS, OMISSIONS, SUSPENSIONS, INACCURACIES, INTERRUPTIONS, TERMINATIONS, ORDER STATusing ERRORS OR ANY OTHER CAUSES, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE EXCHANGE'S OR CME'S SYSTEMS OR SERVICES, OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEMS AND SERVICES, OR THE NEGLIGENCE OF EXCHANGE OR CME STAFF EXCEED \$2,400,000 IN ANY GIVEN CALENDAR YEAR.

IF THE NUMBER OF ALLOWED CLAIMS ARISING OUT OF ANY FAILURES OR MALFUNCTIONS ON A SINGLE DAY OR SINGLE MONTH CANNOT BE FULLY SATISFIED BECAUSE OF THE ABOVE DOLLAR LIMITATIONS, ALL SUCH CLAIMS SHALL BE LIMITED TO A PRO RATA SHARE OF THE MAXIMUM AMOUNT FOR THE RESPECTIVE PERIOD.

A CLAIM AGAINST THE EXCHANGE OR CME, ARISING OUT OF ANY FAILURE OR MALFUNCTION SHALL ONLY BE ALLOWED IF SUCH CLAIM IS BROUGHT IN ACCORDANCE WITH THIS RULE.

11G.579. GLOBEX CONTROL CENTER

11G.579.A. Customer Support

The Globex Control Center ("GCC") provides Globex customer support and problem management only to members, clearing members and customers designated by clearing members. ~~In addition, designated NYMEX, KCBT AND MGEX members and clearing members may also receive customer support and problem management from GCC with respect to contracts traded on Globex.~~ In order to be eligible for GCC support, such persons must register with the GCC ("Registered Contacts"). The GCC provides customer support via a specified telephone number and during specified hours. GCC employees may not always be available to assist Registered Contacts. Persons other than Registered Contacts, including non-members with Globex access pursuant to Rule 11G.574, must contact their clearing members to make support requests.

11G.579.B. GCC Communications

As provided in Rule 11G.578, the Exchange shall not be liable for any loss resulting from any inability to communicate with the GCC. The liability of the Exchange for the negligent acts of GCC staff shall be subject to the limitations and conditions of Rule 11G.578. In no event, however, shall the Exchange be liable for the negligence of the GCC if the person claiming to have suffered a loss could have secured the support it sought from GCC through its own administrative terminal, its clearing member's terminal or an Independent Software Vendor's ("ISV") terminal. For purposes of this rule, a person is deemed able to take action through its own administrative terminal, a clearing member's terminal or an ISV's terminal unless such terminal was inoperative or such terminal service was interrupted at the time the GCC took action.

11G.579.C. Order Status

A person who believes he has received an incorrect order status or does not receive an appropriate status shall immediately notify the GCC. Additionally, such person shall take any necessary and appropriate market action to mitigate any potential losses arising from the incorrect order status or lack of appropriate order status immediately after the person knew or should have known that the order status information was incorrect or should have been received. Any liability of the Exchange for incorrect order status shall be subject to the limitations and conditions of Rule 11G.578.

Notwithstanding the above, the Exchange shall not be liable for losses related to incorrect order status information if the Exchange provides prior notification that an Exchange system, service or facility may produce such incorrect information and also provides notification of a means to obtain correct order status information from such system, service or facility. In the event that the GCC and an Exchange system, service or facility provide conflicting information relating to an order status, a customer may only reasonably rely on the information received from the GCC. Any liability of the Exchange shall be subject to the liability caps and conditions of Rule 11G.578.

11G.579.D. Cancellation of Orders at Prices Outside of the Applicable Globex Price Limits

In certain circumstances, the price limits applicable to contracts traded on Globex may vary depending on the time of day. In this situation, it is possible for an order to be entered into the Globex system during one time period at a price that is outside of the price limit that applies during a subsequent time period. If this order remains in the system at the beginning of the subsequent time period, the system will freeze in the event a market order on the opposite side of the market is entered and there are no other resting orders against which it can be matched rather than allow the match to occur at a price outside of the applicable price limit. Accordingly, whenever the GCC becomes aware of a bid or offer in the Globex system for any contract that is outside of the applicable price limit, the GCC will cause such bid or offer to be cancelled and will promptly notify the affected Globex user of such cancellation.

11G.587. PHANTOM ORDERS

11G.587.A. Definition

A phantom order is an order: 1) that was not authorized by any person but was caused by a failure, malfunction or negligent operation of Globex or any other Exchange system, service or facility, or 2) whose terms (e.g., contract, contract month, quantity, price or direction) were changed without authorization of the person placing the order solely as a result of a failure, malfunction, or negligent operation of Globex or any other Exchange system, service or facility.

11G.587.B. Permissible Responses

If the Exchange has reason to believe that phantom orders have been or are being entered into and/or executed on any Exchange system, service or facility, the Exchange shall be empowered to take appropriate action with respect to any affected market, including without limitation, closing the market, deleting bids and offers, and/or suspending new bids and offers.

The Exchange shall promptly give notice that all Globex transactions that were directly or indirectly

caused by the execution of phantom orders and were executed at prices outside of the no-bust range, as determined in accordance with Rule 11G.588, shall be voided. The Exchange shall have no liability or responsibility to the parties to any transactions that are voided pursuant to this paragraph.

The Exchange shall also be empowered to void Globex transactions that were directly or indirectly caused by the execution of phantom orders and were executed at prices within the no-bust range or phantom orders that were executed in the pit if the Exchange concludes that such transactions impair the integrity of the market. The Exchange's liability for voiding transactions within the no-bust range or voiding transactions executed in the pit is limited as provided in paragraph C.

11G.587.C. Limitation of Liability

Any liability of the Exchange for transactions voided by the Exchange that are within the no-bust range shall be subject to the limitations and conditions of Rule 11G.578.

If phantom order transactions executed on the Globex system, by open outcry in the pit, or by means of any other Exchange system, service or facility, are not voided, the person who traded opposite a phantom order shall have no recourse against the Exchange. The gain or loss on the liquidation of positions resulting from execution of such phantom orders shall be the Exchange's responsibility. The Exchange shall promptly direct the member or clearing member carrying such positions to liquidate them in a commercially reasonable manner. Such member or firm shall liquidate within 30 minutes of such notification or within 30 minutes of the time it knew or should have known that it had been assigned transactions resulting from phantom orders, whichever is sooner. The Exchange's liability to such person shall be limited to the prices at which the positions could have been liquidated during the relevant time period.

11G.588. TRADE CANCELLATIONS AND PRICE ADJUSTMENTS

11G.588.A. Globex Control Center Trade Cancellation Authority

The following policy shall be applied to balance the adverse effects on market integrity of executing trades and publishing trade information inconsistent with prevailing market conditions while preserving legitimate expectations that executed transactions will not be cancelled. The Exchange's trade cancellation policy authorizes the Globex Control Center ("GCC") to adjust trade prices or cancel (bust) trades when such action is necessary to mitigate market disrupting events caused by the improper or erroneous use of the electronic trading system or by system defects. Notwithstanding any other provisions of this rule, the GCC may adjust trade prices or cancel any trade if the GCC determines that allowing the trade to stand as executed may have a material, adverse effect on the integrity of the market. The decision of the GCC shall be final.

11G.588.B. Review of Trades

The GCC may review a trade based on its analysis of market conditions or a request for review by a user of the electronic trading system. A request for review must be made within eight minutes of the execution of the trade. The GCC shall promptly determine whether the trade will be subject to review, and upon deciding to review a trade, the GCC will promptly issue an alert indicating that the trade is under review.

In the case of illiquid contracts, the GCC may initiate a review up to one hour after the execution of the trade, and has the authority, but not the obligation, to review trades reported more than one hour following execution if it determines that the trade price was egregiously out of line with fair value.

11G.588.C. Trade Price Adjustment and Cancellation Process

The GCC will first determine whether the trade price is within the No Bust Range for futures or within the Bid/Ask Reasonability Allowance for options, as described in Section K. The Bid/Ask Reasonability Allowance for an option is the maximum width of the bid/ask range which will be considered reasonable for use in applying the parameters necessary to establish the no bust range for the option. During fast market conditions, upon the release of significant news, or in other circumstances in which the GCC determines it is appropriate, the GCC may, without prior notice, temporarily double the published No Bust Range or Bid/Ask Reasonability Allowance.

In applying the No Bust Range, the GCC shall determine the actual or implied market price for that contract immediately before the trade under review. The GCC may consider any relevant information, including, but not limited to, the existing market conditions, the volatility of the market, the prices of related instruments in other markets, the last trade price on the electronic trading system, a better bid or offer price, a more recent price in a different contract month, the price of the same or related contract established in open outcry trading, theoretical value of an option based on the most recent implied volatility, responses to RFQs, and any other factors that the GCC deems relevant.

1. Trade Price Inside the No Bust Range

If the GCC determines that the price of the trade was inside the No Bust Range, the GCC will promptly issue an alert indicating that the trade shall stand.
2. Trade Price Outside the No Bust Range
 - a. Implied-Eligible Futures Contracts

If the GCC determines that a trade price is outside the applicable No Bust Range for an implied-eligible contract, the trade price shall be adjusted to a price that equals the actual or implied market price for that contract at the time of the questioned trade, plus or minus the standard or doubled No Bust Range, as applicable. In the event there are multiple parties, prices and/or contracts involved in the transactions at issue, the GCC has the authority, but not the obligation, to bust rather than price adjust such transactions. The GCC will promptly issue an alert indicating that the prices of the trades outside the No Bust Range have been adjusted to the No Bust Range limit or have been busted.
 - b. All Other Futures Contracts

If the GCC determines that the trade price is outside the No Bust Range for a non-implied-eligible futures contract, the GCC shall bust the trade. The GCC will promptly issue an alert indicating that trades outside the No Bust Range have been busted.
 - c. Option Contracts

If the GCC determines that a trade price is outside the applicable No Bust Range for an option contract, the trade price shall be adjusted. In the case of a buy error, the price will be adjusted to the determined ask price plus the applicable no bust parameter. In the case of a sell error, the price will be adjusted to the determined bid price minus the applicable no bust parameter. In the event there are multiple parties, prices and/or contracts involved in the transactions at issue, the GCC has the authority, but not the obligation, to bust rather than price adjust such transactions. The GCC will promptly issue an alert indicating that the prices of the trades outside the No Bust Range have been adjusted to the No Bust Range limit or have been busted.
 - d. Notwithstanding the above, trades consummated pursuant to Rule 585 that are determined by the GCC to be outside the No Bust Range will stand, and a reciprocal trade negating the original trade will be consummated by means of a "type 8 transfer."
3. Liability for Losses Resulting from a Price Adjustment or Trade Bust

A party responsible for entering an order that results in a trade price adjustment shall not be liable for losses incurred by persons whose trade prices were adjusted, except as provided in 3.a., 3.b. and 3.c. below.

 - a. Implied Eligible Contracts – Price Adjusted Stop Orders

A party responsible for an order(s) that results in a trade price adjustment shall be liable for actual losses incurred by persons whose stop orders were elected as a result of the order(s). The compensable loss on each futures contract executed as part of a stop order shall be the difference between the adjusted price, as determined by the GCC, and the price in the market at the time the person knew or should have known that his stop order was erroneously elected.
 - b. Implied Eligible Contracts – Price Adjusted Spread Trades

A party responsible for an order that results in a trade price adjustment shall not be liable to persons whose spread orders were executed and adjusted unless the adjusted execution price of the spread is less favorable than the market equilibrium price for the relevant spread. The liability of the party responsible for an order that results in a price adjustment shall be limited to the difference between the adjusted price and the equilibrium market price, but shall not exceed the relevant No Bust Range.
 - c. Option Contracts – Price Adjusted Trades

A party responsible for an order that results in a trade price adjustment shall not be liable to persons whose option orders were executed and adjusted unless the adjusted execution price of the option is less favorable than the market equilibrium price for the relevant option. The liability of the party responsible for an order that results in a price adjustment shall be limited to the difference between the adjusted price and the market equilibrium price, but shall not exceed the relevant No Bust Range.
 - d. Busted Trades

A party responsible for an order that results in a trade bust may be liable for the reasonable out-of-pocket losses incurred by persons whose trades were busted or persons whose stop orders were elected and not busted. Issues of liability in such cases will be determined based upon all relevant facts and circumstances, including the conduct of the respective parties.

11G.588.D. Claim Process

A claim for a loss pursuant to Sections C.3.a., b. and c. must be submitted to the Exchange, on an Exchange claim form, within five business days of the event giving rise to the claim. The Exchange shall reject any claim that is not permitted by Sections C.3.a., b. or c. and such decision shall be final. All claims, which are not rejected by the Exchange, shall be forwarded to the party responsible for the order(s) that resulted in a trade bust or a price adjustment and to the clearing member through which the trade was placed. Such party, or the clearing member on behalf of the party, shall, within ten business days of receipt of the claim, admit or deny responsibility in whole or in part. The liability for losses for a single incident shall be limited to \$500,000.

To the extent that liability is admitted, payment shall be made within ten business days. If liability is admitted but the total claims exceed \$500,000, the claims shall be reduced pro rata so that the total payment does not exceed \$500,000. To the extent that liability is denied, the claims shall be submitted to arbitration in accordance with Rule 622.

A claim for a loss pursuant to Section C.3.d. must be pursued under the applicable arbitration rules of Chapter 6A.

11G.588.E. Trade Cancellation or Offset Procedures

Upon a determination by the GCC that a trade shall be busted or that trade prices shall be adjusted, that decision will be implemented. The busted trade price and any price quotes that have been adjusted will be reflected as cancelled in the Exchange's official record of time and sales. Time and sales will reflect the trades at the adjusted price.

If the trade is not busted, the parties to the transaction cannot reverse the transaction by using a "type 8 transfer" except as provided in Section C.2.d. and Section F. Additionally, if the trade is not busted, the parties may not reverse the trade by entering into a prearranged offsetting transaction unless such transactions are permitted and effected in accordance with Rule 11G.539.C.

11G.588.F. "Type 8 Transfers"

Positions that result from a trade determined by the GCC to be outside the No Bust Range that cannot be busted because the trade was not reported within eight minutes of the execution of the trade may be transferred between the parties using a "type 8 transfer" upon agreement of the parties. The transfer must use the original trade price and quantity. Any party may, but is not required to, include a cash adjustment to another party to the trade. Trades determined by the GCC to be inside the No Bust Range may not be reversed by using a "type 8 transfer."

11G.588.G. Arbitration of Disputes Regarding "Type 8 Transfers"

If a party does not agree to transfer a position pursuant to Section F., any other party to the trade may file an arbitration claim against the member or clearing member representing the other side of the trade. Written notice of such claim must be provided to the Exchange within five business days of the execution of the trade. Failure to file the claim within five business days shall be deemed a waiver of all claims. The arbitration claim will be dismissed by the Exchange if the owner of the account on the other side of the trade is not deemed a Member as defined in Rule 400 or a person otherwise subject to the Exchange's jurisdiction. If not dismissed, the arbitration claim will be conducted in accordance with Rule 622.

In deciding the claim, the Arbitration Committee may consider, among other factors, the reasonableness of the actions taken by each party and what action the party on the other side of the error trade took before being notified that the trade was being questioned.

11G.588.H. Voluntary Adjustment of Trade Price

When a trade outside of the No Bust Range is busted in accordance with this rule, the parties to the trade may agree voluntarily to reestablish the trade but to adjust its price and make a cash adjustment provided that all of the following conditions are met:

1. The GCC approves the adjustment.
2. The quantity of the position being reestablished is the same as the quantity of the trade that was busted.
3. In the case of a trade below the actual or implied market price, the adjusted price must be the lowest price that traded at or about the time of the trade without being busted. In the case of a

trade above the actual or implied market price, the adjusted price must be the highest price that traded at or about the time of the trade without being busted.

4. The parties to the adjusted trade must report it to the clearing system using a "type 8 transfer" with a "G" transfer code not later than the close of business on the business day after the trade occurred.

11G.588.I. Busting Trades After System Freeze

In the event that the matching engine freezes with live orders in the queue waiting to be matched, such orders may be matched when the system is unfrozen before the GCC can halt the matching engine. The GCC is authorized to bust trades resulting from such matches if the price of such trades is outside of the No Bust Range at the time that a confirmation of the trades was sent.

11G.588.J. Schedule of Administrative Fees

When GCC busts a trade, the party responsible for entering the order into the electronic trading system that gave rise to the trade bust shall pay an administrative fee to the Exchange in accordance with the following schedule. The fee is \$250 for each of the first five occasions in a calendar year where a party's order entry results in a trade bust, \$500 for each of the next three occasions within the same calendar year where a party's order entry results in a trade bust, and \$1,000 for each subsequent occasion within the same calendar year where a party's order entry results in a trade bust.

If a non-member customer responsible for entering an order that results in a trade bust fails to pay the fee in accordance with this section, the clearing member carrying the customer's account shall be responsible for payment of the fee.

11G.588.K. No Bust Ranges

<u>Futures Contract</u>	<u>No Bust Range</u>
Eurodollar, E-mini Eurodollar and LIBOR	2.5 basis points
U.S. T-Bond	30/32nds
10 Yr. T-Note	30/32nds
5 Yr. T-Note	15/32nds
2 Yr. T-Note	15/32nds
30-Day Fed Funds	5 basis points
3-Month Overnight Index Swaps	5 basis points
Interest Rate Swaps (30 Yr., 10 Yr., 7 Yr., and 5 Yr.)	10/32nds
Credit Default Swap Index	1 point
E-mini Eurodollar Bundle	2.5 basis points
Euroyen	2.5 basis points
T-Bills	5 basis points
Swaps	5 basis points
CME Lehman Brothers U.S. Aggregate Index	2.00 index points
Eurozone HICP Futures	25 basis points
Currency Futures (except British pound and Mexican Peso)	20 ticks
British Pound Futures and Mexican Peso Futures	30 ticks
Spot FX	20 pips
S&P 500 and E-mini S&P 500	6.00 index points
DJIA (\$5, \$10, \$25)	60 index points
S&P Citigroup Growth	4.00 index points
S&P Citigroup Value	4.00 index points
S&P Midcap 400 and E-mini S&P Midcap 400	4.00 index points
S&P Smallcap 600 and E-mini S&P Smallcap 600	4.00 index points
E-Mini S&P Asia 50	12.00 index points
E-Mini MSCI EAFE	12.00 index points
E-Mini MSCI Emerging Markets	12.00 index points
S&P 500 Depository Receipts	0.60 index points
iShares Russell 2000	0.40 index points
Nasdaq-100 and E-mini Nasdaq-100	12.00 index points
E-mini Nasdaq Composite	12.00 index points
E-mini Nasdaq Biotechnology	12.00 index points
Nasdaq-100 Index Tracking Stock	0.30 index points
Nikkei 225 (\$ and ¥)	60.00 index points
FTSE / Xinhua China 25	100 index points
S&P 500 Technology SPCTR	3.00 index points
S&P 500 Financial SPCTR	3.00 index points
Kansas City Value Line	40 index points
Housing Futures	2.00 index points
Dow Jones US Real Estate Index	4 points

<u>Futures Contract</u>	<u>No Bust Range</u>
TRAKRS Futures	25 cents
Goldman Sachs Commodity Index	2.50 index points
CME Weather	25.00 index points
Weekly Average Temperature Index	1 degree
CME Snowfall	50 ticks or 5 inches
Carvill Hurricane Index	0.50 index points
Carvill Hurricane Index Seasonal	0.50 index points
Carvill Hurricane Index Seasonal Maximum	0.50 index points
Credit Index Event Futures	10 basis points
Non-Farm Payroll	None
Corn & Mini-sized Corn	10 cents per bushel
Wheat & Mini-sized Wheat	10 cents per bushel
Soybeans & Mini-sized Soybeans	10 cents per bushel
Oats	10 cents per bushel
Rough Rice	20 cents per hundredweight
Soybean Meal	\$8.00 per ton
Soybean Oil	.80 cents per pound
South American Soybeans	20 cents per bushel
Lean Hogs	\$0.0100 per pound
Live Cattle	\$0.0100 per pound
Feeder Cattle	\$0.0100 per pound
Pork Bellies	\$0.0100 per pound
Dow AIG-ER Commodity Index	4 Points
Milk	\$0.20 per cwt.
Dry Milk	\$0.00750
Butter (Cash-Settled)	\$0.0075 per pound
Dry Whey	\$0.00750
Softwood Pulp	\$15.00 per ton
Random Length Lumber	\$4.00 or less
Ethanol	4 cents per gallon
Kansas City Hard Red Winter Wheat	10 cents per bushel
Minneapolis Hard Red Spring Wheat	10 cents per bushel
Minneapolis National Corn Index	10 cents per bushel
Minneapolis National Soybean Index	10 cents per bushel
Minneapolis Hard Red Spring Wheat Index	10 cents per bushel
Minneapolis Hard Red Winter Wheat Index	10 cents per bushel
Minneapolis Soft Red Winter Wheat Index	10 cents per bushel
NYMEX Crude Oil and NYMEX miNY Crude Oil	\$1.00
NYMEX Brent	\$1.00
NYMEX Crude Oil MACI Index	2.00 Index points
NYMEX Crude Oil Backwardation Contango Index	2.00 index points
NYMEX REBCO	\$1.00
NYMEX Heating Oil and NYMEX miNY Heating Oil	\$0.025
NYMEX Gulf Coast ULSD	\$0.025
NYMEX New York ULSD	\$0.025
NYMEX Gulf Coast Gasoline	\$0.025
NYMEX Singapore 380 Fuel Oil	\$2.00
NYMEX RBOB Gasoline and NYMEX miNY RBOB Gasoline	\$0.025
NYMEX Natural Gas and NYMEX miNY Natural Gas	\$0.10
NYMEX Propane	\$0.01
NYMEX Ethanol	\$0.008
NYMEX Uranium	\$2.50
NYMEX Ardour Global Index	12.5 index points
Carbon EUA Emission Euro	€ .40 per metric ton or less
Carbon CER Euro	€ .40 per metric ton or less
NYMEX SO2 Emissions	\$4.00 per allowance or less
NYMEX Seasonal NOX	\$2.00 per ton or less
NYMEX Annual NOX	\$2.00 per ton or less
NYMEX RGGI CO2 Emissions	\$0.50 per ton or less
COMEX Gold and miNY Gold	\$10.00
COMEX Asian Gold	\$0.40
COMEX Silver and miNY Silver	\$0.20
NYMEX Platinum	\$10.00
NYMEX Asian Platinum	\$0.40
NYMEX Palladium	\$5.00
NYMEX Asian Palladium	\$0.40

<u>Futures Contract</u>	<u>No Bust Range</u>
COMEX Copper and miNY Copper	\$0.04
COMEX Aluminum	\$0.01
NYMEX Hot Rolled Steel	\$1000 or less
NYMEX Cocoa	\$40.00
NYMEX Coffee	\$0.01
NYMEX Cotton	\$0.008
NYMEX Sugar 11	\$0.0035
NYMEX CAT Risk	50.00 index points

<u>Futures Combinations</u>	
Eurodollar Combinations & E-mini Eurodollar Bundles	2.5 basis points
Non-Eurodollar, Non-Implied Eligible, Intra-Commodity Futures Spreads	5 ticks
Implied Eligible Inter- and Intra-Commodity Futures Spreads	Same as the no bust range of the individual legs
Inter-Commodity Futures Spreads	The wider of the no bust ranges of the two individual legs

<u>Option Contract</u>	<u>Bid/Ask Reasonability</u>	<u>No Bust Range</u>
Eurodollars, Euroyen	2 basis points	2 minimum ticks
U.S. Treasuries (2, 5, 10 and 30Yr)	4/64ths	20% of premium up to 2/64ths with minimum of 1 tick
30-Day Fed Funds	4 basis points	20% of premium up to 2 basis points with a minimum of 1 tick
Binary Fed Funds	10 ticks	20% of premium from nearest endpoint (0 or 100) stated in positive terms
5Yr and 10Yr Swaps	10/64ths	20% of premium up to 5/64ths with a minimum of 1 tick
Equities (excluding DJIA)	2.00 index points	20% of premium up to 1.00 index point with a minimum of 1 tick
DJIA	10 points	20% of premium up to 5 points with a minimum of 1 tick
FX	8 ticks	20% of premium up to 4 ticks with a minimum of 1 tick
Agricultural (excluding Grains, Oil & Meal)	\$0.01	20% of premium up to \$0.005 with a minimum of 1 tick
Grains	\$0.02	20% of premium up to \$0.01 with a minimum of 1 tick
Soybean Oil	\$0.001	20% of premium up to \$0.0005 with a minimum of 1 tick
Soybean Meal	\$1.00	20% of premium up to \$0.50 with a minimum of 1 tick
Non-Farm Payroll	None	None
Ethanol	\$.05	20% of premium up to \$0.025 with a minimum of 1 tick
MGEX Options	\$0.01	20% of premium up to \$0.005 with a minimum of 1 tick
KCBT Options	\$0.01	20% of premium up to \$0.005 with a minimum of 1 tick
NYMEX Crude Oil, Cracks	\$0.25	20% of premium up to \$0.50 with a minimum of 1 tick
NYMEX Heating Oil	\$0.015	20% of premium up to \$0.0075 with a minimum of 1 tick
NYMEX RBOB	\$0.015	20% of premium up to \$0.0075 with a minimum of 1 tick

<u>Option Contract</u>	<u>Bid/Ask Reasonability</u>	<u>No Bust Range</u>
NYMEX Natural Gas	\$0.10	20% of premium up to \$0.05 with a minimum of 1 tick
COMEX Gold	\$4.00	20% of premium up to \$2.00 with a minimum of 1 tick
COMEX Silver	\$0.10	20% of premium up to \$0.05 with a minimum of 1 tick
COMEX Copper	\$0.02	20% of premium up to \$0.01 with a minimum of 1 tick

Chapter 101 COMEX Division – Definitions

101.01C Rules of Uniform Application

Chapters Two, Two-A, Three, Four, ~~Five~~Six-A, Seven, Eight, Nine, ~~Nine-A, Ten, Eleven, and Eleven-G of the NYMEX Division rules shall apply to both the NYMEX Division and the COMEX Division unless otherwise specified.~~

Chapter 104 COMEX Division – Trading Rules

[The following rule will become effective on 12/15/08.]

104.03 Reserved Trading Floor Telephone Calls and Electronically Conveyed Message Retention

(A) Each Member, Member Firm and employees of the foregoing shall keep all trading floor transaction records, including electronically conveyed records. Electronically conveyed records, include but are not limited to instant messages and e-mail, received on or originating from the trading floor of the Exchange. All trading floor transactions records, including instant messages, e-mail and any other form of electronic communication must be retained for a minimum of five years in permanent form, and shall at all times be open to the inspection of Exchange Staff, or any representative of the Commodity Futures Trading Commission or the United States Department of Justice.

(B) Each Member, Member Firm and employees of the foregoing shall enter into a trading floor telephone services Subscriber agreement with the Exchange under which the Subscriber agrees to pay the Exchange to record and archive all communications conveyed via Exchange maintained and authorized trading floor telephone lines. Pursuant to the agreement, the Exchange will record and archive phone calls for a minimum of ten business days from the date of the call, and the Exchange is permitted to inspect and allow the inspection of the archived calls by any representative of the Commodity Futures Trading Commission or the United States Department of Justice. Repeated failures to pay a monthly trading floor telephone services fee may result in the disruption of a Subscriber's trading floor telephone services.

104.13 Qualifying for Floor Privileges

[Sections (a) – (c)(4) are unchanged.]

(5) comply with the financial requirements for guarantors as set forth in Rules 2.327.04 (“Financial Requirements for Guarantors”).

104.23 Solicitation of Orders

No member or member firm that has received on the trading floor an order to buy or sell a futures contract or futures option by open outcry shall attempt to obtain the other side by soliciting a selling order or buying order until such order has been bid or offered in the ring. In the case of an order eligible for execution on Globex®, solicitation of a matching order prior to the entry of the initial order on Globex may not occur only unless the order has been first

~~offered or bid on Globex® for at least five (5) seconds, or is otherwise eligible for pre-execution discussion in accordance with Exchange Rule 11G.53-9.~~

104.24 Crossing of Orders

[Sections (a) – (d)(5) are unchanged.]

(6) members of a broker association, as defined in Rule ~~3.406.43A~~.

[The remainder of the rule is unchanged.]

104.29 Errors Discovered After Trading Session

Whenever possible, an error discovered after the end of regular trading hours shall be resolved between the opposite members prior to the opening of trading on the next following business day. No such resolution shall result in the formation of a new commitment between the opposite members. If the error cannot be so resolved, either member may submit the matter to arbitration ~~in accordance with the provisions of Chapter 9 of the Rules~~under the rules of the Exchange.

104.30 Unacknowledged Transactions

(a) Discovered During Trading Day. In the event a member discovers, during trading hours, that the member believed to have taken the opposite side of a transaction disclaims any knowledge of, or denies having participated in, the transaction, and the aggrieved member is unable to determine the identity of the other party to the transaction, the aggrieved member may as soon as possible liquidate the transaction and may submit the matter to arbitration ~~in accordance with the provisions of Chapter 9 of the Rules~~under the rules of the Exchange.

(b) Discovered After Trading Day. In the event a member discovers, after the end of trading hours, that the member believed to have taken the opposite side of the transaction disclaims any knowledge of, or denies having participated in, the transaction, and the aggrieved member is unable to determine the identity of the other party to the transaction, such member may liquidate his position at the opening or on the opening call on the next following business day, and may submit the matter to arbitration ~~in accordance with the provisions of Chapter 9 of the Rules~~under the rules of the Exchange.

104.36 Exchange of Futures for, or in Connection with, Product (Physical)

[Sections (A) – (C) are unchanged.]

(D) A report of EFP transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such submission shall be made by its inclusion in the daily Large Trader Reporting to the Exchange of each reportable customer, pursuant to Rule 9A.33, and identified as an EFP within the Large Trader file format. The reporting of EFP transactions via Large Trader shall identify the reportable customer who executed the EFP and the kind and quantity of the futures cleared.

[Section (E) is unchanged.]

(F) All omnibus accounts and foreign brokers shall submit a signed EFP reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department. Such Agreement shall provide that any omnibus account or foreign broker identified by a Clearing Member (or another omnibus account or foreign broker) as the buyer or seller of an EFP pursuant to Rule 6.21(C), shall supply the name of its customer and such other information as the Exchange may require. A report of EFP transactions shall be submitted to the Exchange by each omnibus account and foreign broker representing the buyer and/or seller. Such submission shall be made by its inclusion in the daily Large Trader Reporting to the Exchange of each reportable customer, pursuant to Rule 9A.33, and identified as an EFP within the Large Trader file format. The reporting of EFP transactions via Large Trader shall identify the reportable customer who executed the EFP and the kind and quantity of the futures cleared. Failure by an omnibus account or foreign broker to submit either the agreement or the particular EFP information to the Exchange may result in a hearing by the Business Conduct Committee to limit, condition or deny access of such omnibus account or foreign broker to the market.

104.36A Exchange of Futures for, or in Connection with, Swap Transactions

[Sections (A) – (C) are unchanged.]

(D) A report of EFS transactions shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such submission shall be made by its inclusion with EFP transactions in the daily Large Trader Reporting to the Exchange, pursuant to Rule 9A.33, within the Large Trader file format. The reporting of EFS transactions via Large Trader shall identify the reportable customer who executed the EFS and the kind and quantity of the futures cleared.

[Section (E) is unchanged.]

(F) All omnibus accounts and foreign brokers shall submit a signed EFS reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department. Such Agreement shall provide that any omnibus account or foreign broker identified by a Clearing Member (or another omnibus account or foreign broker) as the buyer or seller of an EFS pursuant to Rule 6.21A(C), shall supply the name of its customer and such other information as the Exchange may require. A report of EFS transactions shall be submitted to the Exchange by each omnibus account and foreign broker representing the buyer and/or seller. Such submission shall be made by its inclusion with EFP transactions in the daily Large Trader Reporting to the Exchange, pursuant to Rule 9A.33, within the Large Trader file format. The reporting of EFS transactions via Large Trader shall identify the reportable customer who executed the EFS and the kind and quantity of the futures cleared. Failure by an omnibus account or foreign broker to submit either the agreement or the particular EFS information to the Exchange may result in a hearing by the Business Conduct Committee to limit condition, or deny access of such omnibus account or foreign broker to the market.

104.36C Block Trades

[Sections (A)(1) – (A)(6) are unchanged.]

(7) Clearing members and members involved in the execution of block trades must maintain a complete record of the transaction ~~in accordance with Exchange Rule 8.50.~~

[The remainder of the rule is unchanged.]

[As of 12/15/08, Section (7) will be amended as set forth below.]

(7) Clearing members and members involved in the execution of block trades must maintain a complete record of the transaction in accordance with Exchange Rule 104.03.

104.46 Reporting Requirements

See Chapter 9A, including Rules 9A.33 and 9A.34 and Appendix A

104.47 Position Limits

See Exchange Rules, Chapter 9A, including Rules 9A.27 through 9A.32 and Appendix A.

104.48 Position Accountability

See Exchange Rules, Chapter 9A, including Rule 9A.26 and Appendix A.

104.71 Resolution of Errors, Out- and "Who" Trades

[Sections (a) – (h) are unchanged.]

(i) Arbitration. Nothing shall preclude the resolution of a dispute arising from or in connection with an error or out-trade by means of arbitration in accordance with ~~Chapter Five of these Rules~~ the rules of the Exchange.

104.86 Rejection and Resolution of Trades

(a) Rejection of Trades. Rejection of trades shall be made in accordance with the provisions and procedures of Rule 984. Trade data for each trade shall be submitted directly to the clearing member intended to clear the trade pursuant to Rule 104.82(b) or reported to the clearing member. If the data submitted or reported to the clearing member does not comply with the requirements set forth in Rule 104.82(a) or the account identification data is erroneous (i.e. is misnumbered or refers to an account which is not carried by the clearing member, to an account over which the floor member has no trade execution authority, or to an account for which the clearing member has advised the floor member, in writing, that trades may not be executed), the clearing member may reject the trade for clearance, provided that the clearing member so notifies the executing floor member within two (2) hours of receipt of the trade data from the floor member or report of the trade data by the Exchange or, in the case of data submitted after the close of trading in a particular market, within one (1) hour after receipt or report of the data.

[The remainder of the rule is unchanged.]

104.89 Settlement Price Committee Reserved

(A) The Settlement Price Committee, which shall be a Regular Committee, shall consist of such members and permittees as the Chairman may appoint with the consent of the Board. Additionally, one (1) Exchange employee will be a voting member of the Committee in the Silver and Gold Futures and Options Contracts and also the High Grade Copper Futures Contract. The Exchange employees shall have final authority in all instances to veto and override price determinations made by the Committee. The Committee shall be divided into sub-committees for each futures and options contract traded. To the extent possible, each sub-committee shall consist of at least six (6) Members, at least one of whom shall be a Floor Broker, one of whom shall be a Floor Trader, and one of whom shall represent trade interests (either personal, of his employer, or of a substantial customer base). (B) At the conclusion of the RTH trading session on the Exchange Floor each day, settlement prices shall be determined for every contract listed.

(C) The Settlement Price Committee, or any subcommittee thereof, shall have the authority to request from any member representing that certain market information should be considered in the determination of a settlement price, such documentation as it deems appropriate including, but not limited to, trading cards and order tickets.

104.91 Futures Settlement Prices Reserved

(a) Active Month. The settlement price of the most active futures contract month shall be the average (rounded off 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 104.93 ("Use of Discretion to Establish Settlement Price").

(b) 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 Settlement Price 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.

(c) Exception - Matched Order Price. The settlement price for the nearest copper futures delivery month (spot) shall be the matched order price established pursuant to Rule 104.42 ("Matched Orders"). If the only trades entered into during the closing period were effected through matching, the contract will be settled by the respective subcommittee of the Settlement Price Committee in accordance with sections (a) and (b) of this Rule 104.91.

104.91A Daily Settlement Prices - COMEX miNY Futures Contracts and COMEX Asian Gold Futures Contract Reserved

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.

(A) COMEX miNY 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.

(B) COMEX miNY 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.

~~(C) 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.~~

~~(D) 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.~~

~~(E) For each of the above-listed COMEX futures contracts, the settlement price for any contract month of a miNY 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.~~

104.91B Daily Settlement Prices for Contracts Listed Only for Trading on CME Globex~~Reserved~~

~~(A) The terms of this rule shall generally govern the establishment of settlement prices for COMEX contracts that are only listed for trading on Globex. For cash settled contracts, this rule shall govern only for trade dates other than the final day in an expiring contract month, and final settlement following termination in an expiring contract month in such contracts shall be determined in accordance with the terms and conditions chapter of rules for the applicable contract.~~

~~(B) The settlement prices established pursuant to this rule 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").~~

~~(C) Staff in its sole discretion and judgment shall determine settlement prices by considering market information deemed to be appropriate, and such information may include, but is not limited to:~~

~~(1) price data obtained from a cross-section of over-the-counter ("OTC") brokers collectively representing both buyers and sellers in OTC markets;~~

~~(2) price data obtained from OTC market participants, considering both buyers and sellers in such markets; and~~

~~(3) other relevant data and information.~~

104.92 Option Settlement Premiums~~Reserved~~

~~The settlement premiums for option series shall be determined upon the following procedures:~~

~~(A) With the exception of the day of expiration, option settlement premiums shall be determined in accordance with the following:~~

~~1. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium shall be based on, but not limit to, (i) the price traded, (ii) volume traded, (iii) the underlying futures price, (iv) the bid/offer spread on the underlying future, and (v) the length of time between trade and the close of trading.~~

~~2. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract and have traded during the closing range, the option settlement premium will be determined consistent with the corresponding put (call) using an appropriate option pricing model.~~

~~3. Bids and offers for twenty-five (25) lots or more that have been posted at least ten (10) minutes before the close and throughout the closing range shall be considered for settlement, unless the Settlement Price Committee ("Committee") determines that it is unreasonable to do so given spread relationships at the close of trading. Any member wishing to protect a bid or offer posted during that period must remain available to the Committee until settlements are final and provide appropriate documentation of the bid offer if requested by the Committee.~~

~~4. The Committee shall endeavor to use its best efforts to maintain appropriate price spread relationships between and within listed months using an appropriate options model.~~

~~(B) On the day of option expiration, the option settlement premium shall be determined in accordance with the following:~~

~~1. For call (put) options whose strike price is greater (less) than or equal to the settlement price of the underlying futures contract the option settlement premium shall be zero.~~

~~2. For call (put) options whose strike price is less (greater) than the settlement price of the underlying futures contract, the option settlement premium shall be determined on the basis of the absolute difference between the futures price and the strike price.~~

~~(C) If, using the procedures specified in Subsections (A) or (B) above, a settlement premium being considered for a particular option would not be consistent with (1) trades made during the closing range in other option series on the same underlying future, (2) the settlement price of the underlying future, or (3) market information that is either known by Committee members or brought to their attention by Exchange officials (including but not limited to either open outcry trading or electronic trading) then the Committee may establish a settlement premium that is consistent with other trades, the settlement price of the underlying future, or market information. In all instances in which the Committee establishes a settlement premium pursuant to this Section (C), the Committee shall prepare a written record setting forth the basis for such settlement premium.~~

~~(D) After settlements for all contract months for a particular contract are completed by the Settlement Price Committee, there will be a ten minute period where members can object to a particular settlement. Following this ten minute period, members may no longer make objections to the settlement premiums.~~

104.93 Use of Discretion to Establish Settlement Price Reserved

~~If a subcommittee of the Settlement Price Committee believes that any settlement price arrived at through the application of the formula specified in Rule 104.91 is inappropriate, it shall settle the futures contracts at a price it judges to be proper, in their best judgment at a level consistent with such other transactions or market information, including but not limited to, information from open outcry and electronic trading venues. For any price established by use of the subcommittee's discretion, the subcommittee shall prepare a written explanation of its reasons for deviating from the price which would have been established by application of Rule 104.91.~~

104.94 Settlement Price Procedures for Copper Contracts Reserved

~~(A)(i) The term "base month" shall mean the March, May, July, September and December delivery months; (ii) the term "most active month" with respect to this Rule and the Rules in Chapters 111 and 117 shall mean the base month that is not the current delivery month, with the greatest reported open interest on the official COMEX daily open interest report.~~

~~(B) The settlement price for the current delivery month shall be comprised of the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range combined with the weighted average price of all spreads executed by open outcry between the current delivery month and the most active month during the final 30 minutes of trading. If no outright transactions occur in the closing range or no spreads are executed during the final 30 minutes of trading in the current delivery month, or, if in the opinion of the Settlement Committee, the settlement price determined is inconsistent with value indicated by other spread relationships established during the last thirty minutes of trading, the spread relationships occurring within the last thirty minutes, between and among contract months from the current delivery month to the most active month, shall be utilized by the Settlement Committee in their best judgment to establish a settlement price at a level consistent with such other transactions or market information, including but not limited to information from open outcry and electronic trading venues, with greater weight given to the weighted average of executed spread trades, and lesser weight given to the implied midpoint of spread bids and offers actively represented during the final 30 minute period of trading. In such event, the Committee shall prepare a written record of the basis for any settlement price so established.~~

~~(C) The settlement price for the most active month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If no outright transactions occur in the closing range of the most active month, the settlement price shall be the last trade price from either the open outcry or the electronic venue, unless during the closing range a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.~~

(D) In all other delivery months, the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Settlement Price 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 at open outcry later in the trading day, and (iii) spread transactions, bids and offers at open outcry from earlier in the trading day. Notwithstanding the foregoing, no settlement price shall be established that would be lower than the best outright bid, or higher than the best outright offer, that: (a) was for at least 20 contracts, and (b) had been posted with the Exchange and had remained available for execution and unfilled for the final 30 minutes of trading of that trading day.

(E) If any settlement price, determined pursuant to Paragraph (D), is inconsistent with transactions that occurred during the closing range for other delivery months of the same futures contract (including but not limited to either open outcry trading or electronic trading) or with other market information known to the Committee, the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event, the Committee shall prepare a written record of the basis for any settlement price so established.

104.94A Settlement Price Procedures for Aluminum Contracts Reserved

(A) For aluminum futures contracts, the settlement price for the current delivery month and the delivery month with the greatest reported open interest on the official COMEX daily open interest report that is not the current delivery month shall be the weighted average price (rounded to the nearest minimum fluctuation) of all outright transactions in that delivery month including both trades executed on the trading floor by open outcry and trades executed electronically in that delivery month which occur in the closing range. If no outright transactions occur in the closing range of either the current delivery month and the delivery month with the greatest reported open interest on the official COMEX daily open interest report that is not the current delivery month, the settlement price for the applicable month shall be the last trade price from either the open outcry or electronic venue, unless during the closing period a bid higher or offer lower than the last trade price is made. In such event, such higher bid or lower offer shall be the settlement price.

(B) In all other delivery months for such futures contracts, the settlement price shall be determined based upon spread relationships between and among contract months, which relationships shall be determined in the judgment of the Settlement Price Committee with: (a) greater weight given to spreads executed at open outcry late in the trading day in large volumes, and (b) lesser weight given to (i) spreads traded at open outcry in lesser volumes, (ii) spread bid and offers actively represented at open outcry late in the trading day, (iii) spread transactions, bids and offers at open outcry from earlier in the trading day. Notwithstanding the foregoing no settlement price shall be established that would be lower than the best outright bid, or higher than the best outright offer, that: (a) was at least for 20 contracts, and (b) had been posted with the Exchange and had remained available for execution and unfilled for the final 30 minutes of trading of that trading day.

(C) If any settlement price, determined pursuant to Paragraph (A) or (B), is inconsistent with transactions that occurred during the closing range for other delivery months of the same futures contract (including, but not limited to, either open outcry trading or electronic trading) or with other market information known to the Committee (including but not limited to either open outcry trading or electronic trading), the Committee may establish a settlement price at a level consistent with such other transactions or market information. In such event, the Committee shall prepare a written record of the basis for any settlement price so established.

104.96 Reporting of Positions to Committee Reserved

Every member and member firm carrying futures contracts or futures options for others and every clearing member carrying futures contracts or futures options for his own account or for the account of others, when required by the Board or the Control Committee, shall report in writing to such person or persons as may be designated by the Board or by the Control Committee, the names and interest in any designated position of any one or more of his clients as well as his own interest, direct or indirect, in any such positions, and such report shall include the interest of the member or member firm in any other account in which he is a participant. Such person shall tabulate such information and report the same to the Control Committee or the Board under a number or symbol. The Control Committee or the Board may require such person to reveal the name or names of the holders of any positions described in any report filed pursuant to this Rule.

Chapter 110
COMEX Division – Bankruptcy of a Member

[Chapter 110 is being deleted in its entirety and is being replaced with Rule 993 (Customer Substitution in the Event of Clearing Member Bankruptcy)]

110.01 Applicability of Rules

(A) This Chapter shall apply whenever a Member becomes a debtor at a time that such debtor carries for a customer an open Exchange Futures Contract in a delivery month and one of the following events has occurred:

(1) Trading has ceased on the date of the entry of the Order for Relief; or,

(2) Notice of Delivery has been tendered on or before the date of the entry of the Order for Relief; or,

(3) Trading ceases before such open futures contract in a delivery month is liquidated by the trustee of the debtor's estate.

(B) The Rules of this Chapter apply to a particular case, they shall supersede any other By-Law, Rule or Order of the Exchange.

(C) This Chapter shall not apply to any Exchange Futures Contract against which delivery of the actual commodity is not provided in the Exchange Rules and which is settled in cash.

(D) This Chapter shall apply only in the event that the actual commodity to be delivered against Exchange futures contracts has not become part of the Debtor's Estate on the date of the Order for Relief.

110.02 Definitions

(A) The following definitions shall apply only to terms used in this Chapter.

(1) "Customer" shall mean any individual, corporation, partnership, estate, trust, or other organization for or with whom a Debtor deals and who has a claim against the Debtor arising out of a futures contract made, received, acquired, or held by the Debtor, in the ordinary course of the Debtor's business, from or for the account of such individual, corporation, partnership, estate, trust or other organization.

(2) "Debtor" shall mean any Member as defined in this Rule 110.02(A)(4) with respect to which a proceeding is commenced under Subchapter IV of Chapter 7 of the Bankruptcy Code (11 U.S.C. 7761 et seq.)

(3) "Exchange Futures Contract" shall mean any contract for the purchase or sale of a commodity for future delivery which is traded on, or subject to, the By-Laws and the Rules.

(4) "Member" for purposes of the Rules in this Chapter 110 means any Member, Clearing Member, Member Firm and any other person or entity with trading privileges on either the NYMEX Division or the COMEX Division, including Permit Holders, Electronic Traders, COMEX Division Option Members, or person with Eurotop Trading Privileges that carries positions on behalf of customers or proprietary accounts directly with the Clearing House or in an omnibus account at another Clearing Member.

(5) "Order for Relief" shall mean the filing of a Petition in Bankruptcy with respect to a voluntary case and the Adjudication of Bankruptcy with respect to an involuntary case.

(6) "Trustee" means the trustee in bankruptcy approved to administer the debtor's estate and any interim or successor trustee.

110.03 Obligation to Make or Take Delivery

(A) When a Member becomes a debtor under the circumstances set forth in Rule 110.01(A), the obligation to take or make delivery of the physical commodity is imposed on the customer of the Debtor. The customer shall make delivery to and receive payments from, or take delivery from and pay to any clearing member which has issued, issues, has received or receives a Delivery Notice to or from the Debtor under the circumstances set forth in Rule 110.01(A) without the intervention of the trustee and without, including the physical commodity or payment therefor in the debtor's estate.

(B) The making or taking of delivery or of payment under this Chapter shall discharge the obligation of the customer and the delivering or receiving clearing member to the Debtor but shall not discharge the Debtor from any obligations on the futures contract except to the extent that such delivery or payment is made.

(C) Any equity in the commodity contract against which delivery must be made or taken under Rule 110.03(A) will be included in the net equity claim of the customer under Regulation ? 190.09 (17 C.F.R. ? 190.07); will be distributed at the time of, and as part of, any distributions made by the trustee to customers of the Debtor, and will not be available to make or take delivery.

110.04 Delivery on Futures Prior to Expiration of Trading

(A) On futures contracts which trade during the period in which Delivery Notice may be issued under the Rules of the Exchange, the trustee shall liquidate in the manner provided in (B) all open long positions against which Delivery Notices have been issued but no delivery has taken place ("Notice Positions").

(B) The Trustee shall liquidate all Notice Positions by selling the futures contracts by open outcry and tendering a Delivery Notice as provided in the Rules. Such liquidation shall relieve the Debtor and the customer of the Debtor from all obligations to make or take delivery under the futures contract.

(C) The Member who issues the Delivery Notice to the Debtor shall deliver to the Clearing Member to which the Debtor issued the Delivery Notice under Subsection (B) of this Rule. The Delivery shall occur according to the appropriate Exchange Rules. However, the time within which delivery shall be made shall be governed by the Trustee's issuance of a Delivery Notice.

110.05 Delivery of Futures Contracts on Which Trading Stops Prior to Issuance of Delivery Notices

(A) When trading has stopped prior to the issuance of a Delivery Notice and this Chapter 110 applies, the Member who has issued to or received from a Debtor prior to the date of an Order for Relief but has not delivered the physical commodity prior to the date of an Order for Relief shall deliver to or receive from the customer of such Debtor the physical commodity.

(B) The Member who is obligated to make or to take delivery in accordance with Subsection (A) of this Rule shall make arrangements with a bank, which shall be a bank approved by the Exchange to accept margin deposits, that title to the physical commodity will be transferred upon receipt of the bank of acceptable evidence of delivery to or from the customer. The customer or the Clearing Member, prior to the delivery date, shall deposit with such bank funds sufficient to pay the par value of the delivery. The arrangements with the bank shall provide that payments will be made to the seller upon receipt by the bank of appropriate evidence of delivery.

(C) Nothing contained in this Chapter shall prevent a customer and a clearing member from making mutually agreeable arrangements to settle the delivery on terms other than those provided in these Rules.

110.06 Failure to Deliver (COMEX Division)

(a) Seller's Failure to Make Delivery.

Except where otherwise specifically provided in the By-laws and Rules, if a seller who is obligated to deliver a commodity in satisfaction of either a futures contract or a physical trade executed on the COMEX Division of the

~~Exchange fails to deliver, the buyer shall promptly purchase the commodity on the open market and notify the defaulting seller and the Exchange of the purchase price. The defaulting seller shall pay to the buyer as damages the difference between the notice price and the purchase price, in the case of delivery required to have been made to satisfy a futures contract, or the difference between the trade price and the purchase price, in the case of a physicals transaction executed on the Exchange.~~

~~(b) Buyer's Failure to Take Delivery and Make Payment.~~

~~Except where otherwise specifically provided in the By-laws and Rules, if a buyer who receives a delivery notice on a futures contract or who executes a physicals trade on the COMEX Division of the Exchange fails to present the delivery notice and/or to take delivery and make payment when payment is due, the issuer of the notice or the seller of the physicals shall promptly sell the commodity on the open market for the account of the delinquent and shall notify the defaulting buyer and the Exchange of such resale price. The defaulting buyer shall then pay to the seller the difference between the notice price and the resale price, in the case of a delivery required to have been taken to satisfy a futures contract, or the difference between the trade price and the resale price, in the case of a physicals transaction executed on the Exchange.~~

110.07 Trading Limits on First Day of Trading in New Delivery Months (COMEX Division)

~~(A) The price fluctuation limitations as set forth in the Rules for the several commodities traded on the COMEX Division of the Exchange shall be made applicable to each new delivery month on the first day of trading. The base from which the limits shall be measured will be established by the Settlement Committee by reference to the differential ordinarily prevailing between the new month and the next preceding delivery month.~~

~~(B) The settlement price for the next preceding delivery month established on the day before the opening of trading in the new month shall be used for the purpose of fixing the differential for the new month.~~