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December 7, 2009

**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. Commodity Exchange, Inc. Submission #09-302:  
Notification of Amendment to Supplement No. 1, "Official List of Approved  
Brands and Markings" of the Copper Futures Contract – Minera Spence  
S.A.**

Dear Mr. Stawick:

The Commodity Exchange, Inc. ("COMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of an amendment to its Supplement No. 1, "Official List of Approved Brands and Markings" of the Exchange's Copper Futures contract. The amendment will add the SPENCE copper brand, produced by Minera Spence S.A., as an Approved Brand to be acceptable for delivery against the Exchange's Copper Futures contract.

**BACKGROUND**

Minera Spence S.A., a subsidiary of Rio Algom Limited, which is a subsidiary of BHP Billiton, has submitted an application to the Exchange requesting that its copper brand, "SPENCE", produced at the company's facility at 8Kms NW Sierra Gorda, Calama, Atacama Desert, Chile be approved as acceptable for delivery against the Exchange's Copper Futures contract. The application, submitted by Minera Spence S.A. for registering the "SPENCE" copper brand, meets the requirements of the Exchange. Minera Spence S.A. is 99.9% owned by and guaranteed (Rio Algom Limited has guaranteed that the SPENCE brand of copper cathode conforms to the ASTM Specification B115-00 for Grade 1 Copper Cathode as specified by ASTM and all other specifications for Grade 1 Copper Cathodes established pursuant to Exchange Rules) by BHP Billiton's Rio Algom Limited and is located in the Atacama Desert close to Sierra Gorda township. The operation at Minera Spence S.A. is designed to produce 200,000 tons per year of copper cathodes through open pit mining, pile leaching, solvent extraction and electrowinning. In 2008, the plant produced 164,761 metric tons, and in 2007 it produced 129,320 metric tons. Projected annual production for 2009 is 191,106 metric tons, and it is projected to produce 199,939 metric tons for the year 2010. In 2008, about 52% of the general geographical distribution for Spence copper cathode production was in Europe, 25% in North America, 14% in North East Asia (Korea and Taiwan), and 9% in China. In the United States, Spence has regular sales contracts with United Copper Industries in Denton, TX, and Southwire Company, in Carrollton, GA. The "SPENCE" brand of copper cathode meets all of the Exchange's minimum requirements for listing as good delivery against the Exchange's Copper Futures contract.

**REFERENCES**

Minera Spence S.A. has submitted letters from the following wire rod manufacturers: Deutsche Giesdraht Gesellschaft mbH (Rhein Rod), SIA Copper S.A., and Aurubis AG. All have tested a minimum of two 200-to lots from different months of production and have confirmed that the cathodes conform to the chemical specifications required by ASTM B115-00. Based on these tests, all three wire rod manufacturers will accept the SPENCE copper brand for purposes of manufacturing continuous cast

copper rod at their plants and the brand has been added to their approved list of suppliers of copper cathode.

### **ASSAYS**

Sampling of the SPENCE copper cathodes was supervised by Alfred H Night limitada in Atofagasta, Chile, and Alex Stewart Assayers Limited, in Sierra Gorda, Chile. Both assayers inspected the process of weighing and sampling procedures by Spence for the quality control of the production of Copper Cathodes. After assaying the SPENCE brand copper cathode, both assayers found the SPENCE brand to be in accordance with ASTM B115-00 specifications. Alfred H. Knight and Alex Stewart Assayers Limited sampled 204 metric tons of Spence brand copper cathode on February 27, 2009 and March 27, 2009, respectively. The chemical analysis shown in the summary table below, Figure 2 is within the specifications of ASTM B115-00, the current quality specification for the Exchange's Copper Futures contract.

### **FINANCIAL ANALYSIS**

Minera Spence S.A.'s audited financial statements have been analyzed and their net worth exceeds the \$25 million Exchange requirement. The Registrar's Office has reviewed the audited statements of Minera Spence S.A. for its fiscal years ending December 31, 2008 and 2007. For the fiscal year ended December 31, 2008, Minera Spence S.A. had approximately \$1.572 billion total shareholders' equity, up from approximately \$949 million the previous year. The statements were audited by KPMG Auditores Consultores Ltda. in Santiago Chile and found to present fairly, in all material respects, the financial position of the Minera Spence S.A. as at December 31, 2008 and 2007, and of its financial performance and its cash flows for the years then ended in accordance with the International Financial Reporting Standards.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached amendment complies with the Act, including regulations under the Act. This amendment will go into effect on Wednesday, December 9, 2009.

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

Sincerely,

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

Attachment

(Strikeout indicates deletion; underline indicates addition)

Copper Supplement  
No. 1

COMMODITY EXCHANGE, INC.  
GRADE 1 COPPER CATHODES

OFFICIAL LIST OF APPROVED BRANDS AND MARKINGS

	<u>COMPUTER CODE</u>	<u>BRAND NAME(1)</u>
ASARCO Incorporated-----	ATR	ATR
ASARCO Incorporated Ray Unit -----	RAY	ASARCO RAY GRADE 1
Atlantic Copper S.A. -----	FMS	FMS
BHP Copper Inc.-----	BHPP	BHP Copper/Pinto
Cobre de Mexico, S.A.-----	CDM	CDM
Codelco-Chile---Corporacion Nacional del-----	AE	AE
Cobre de Chile	CCC	CCC
	ASXW	AE SX-EW
	CCCP	CCC-P
	CSBL	cCc SBL
	CHUI	CHUQUI-P
	NAMI	ENM
	RT	RT
Compania Minera Cerro Colorado Ltda-----	CMCC	CMCC
Compania Minera Dona Ines de Collahuasi SCM---	COLL	COLL
Compania Minera Falconbridge Lomas Bayas -----	MFLB	LBF
Compania Minera Quebrada Blanca S.A.-----	QB	QB
Compania Minera Zaldivar-----	ZALD	ZALDIVAR
Dowa Mining Co. Ltd.-----	DOWA	DOWA
Falconbridge Limited, Kidd Creek Division-----	FKA	FKA

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 COPPER BRANDS AND MARKINGS  
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 GRADE 1 CATHODE COPPER (Cont.)

<u>PRODUCER</u>	<u>COMPUTER CODE</u>	<u>BRAND NAME (1)</u>
INCO Limited-----	ORCO	ORC
Kennecott Utah Copper Corporation-----	KUCU	KUC
LG-Nikko Copper Inc. -----	ONSN	ONSAN
Metallo-Chimique International N.V.-----	SME	SME
Minera El Tesoro-----	MELT	MET
Minera Escondida Limitada -----	ESOX	ESOX
<u>Minera Spence S.A.-----</u>	<u>SPEN</u>	<u>SPENCE</u>
Mitsubishi Materials Corporation-----	MTSB	MITSUBISHI
Mitsui Mining & Smelting Co. Ltd.-----	MITS TAMA	MITSUMI TAMANO
Nippon Mining & Metals Co., Ltd-----	HM SR	HM SR
Noranda Inc. -----	NORA	NORANDA
Norddeutsche Affinerie AG-----	NAEN	NA-ESN
Norddeutsche Affinerie AG -----	HKAG	HK
Onahama Smelting & Refining CO. Ltd.-----	OSR	OSR
Phelps Dodge Corporation-----	PD PDSR PDSS BCCC PDMI CBCC TWIN PDGO	P*D SANTA RITA PDSS BCCC ("BURRO CHIEF") PDMI CBCC CTB PD*GO

COMMODITY EXCHANGE, INC.  
 COPPER BRANDS AND MARKINGS  
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 GRADE 1 CATHODE COPPER (Cont.)

<u>PRODUCER</u>	<u>COMPUTER CODE</u>	<u>BRAND NAME (1)</u>
Philippine Associated Smelting & Refining Corp.--	PSAR	PASAR
Sociedad Contractual Minera El Abra-----	ABRA	ABRA
Sociedad Minera Cerro Verde S.A.-----	SMCV	SMCV
Southern Peru Copper Corp.-----	SPCC	SPCC-ILO
Southern Peru Copper Corporation/ Southern Peru Copper Ltd.-----	SPLX	SPCC-SXEW
Sumitomo Metal Mining Co. Ltd.-----	SUMI	SUMIKO
White Pine Copper Refinery, Inc.-----	WPCR	White Pine Copper
Xstrata Tintaya S.A. -----	TINT	Tintaya
Zambia Consolidated Copper Mines		
Mufulira Copper Refining-----	MCM	MCM
Nkana Copper Refinery-----	REC	REC

(1) Copper Cathodes do not bear a brand marking. Accordingly, a written declaration of brand pursuant to Rule 111.45(f) of the Comex By-Laws must accompany all deliveries.