

February 18, 2004

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**Via E-Mail and US Mail**

Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

**Re: Rule Certification. COMEX Submission 04.17 - Notification  
of Amendments to COMEX Division Rule 4.46.**

Dear Ms. Jean Webb:

The New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") hereby notifies the Commodity Futures Trading Commission ("CFTC") of amendments to COMEX Division Rule 4.46, Reporting Requirements.

The amendments will become effective on Monday, February 23, 2004. Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the new amendments comply with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact the undersigned at 212-299-2940.

Very truly yours,

Nancy M. Minett  
Vice President  
Compliance Department

cc: Thomas LaSala  
Brian Regan

**COMEX Rule 4.46 - Reporting Requirements**  
**(Bold indicates additions; Strikethrough indicates deletions)**

(a) General. For purposes of position computation and reporting, if any person holds or has a financial interest of 10% or more in or controls the trading (directly or indirectly, by power of attorney or otherwise) in multiple accounts, the positions carried in all such accounts shall be aggregated and considered as a single position. Similarly, positions carried in the accounts of two or more persons acting pursuant to an express or implied agreement or understanding as if the accounts were held by a single person shall be aggregated and considered as a single position. The accounts in which all such positions are carried are referred to herein as "affiliated accounts."

(b) Reporting Levels. All positions which equal or exceed the levels prescribed below ("reportable positions") shall be reported to the Exchange:

<u>Future</u>	# of contracts long or short in any <u>one contract month</u>
Gold	200
Silver	150
Copper	100
Aluminum	25
# of any one type of contract (long call, short call, long put, short put) in any <u>one expiration</u>	
<u>Option</u>	
Gold	200
Silver	150
Copper	100

(c) Required Reports.

(1) After a position in an account or affiliated accounts reaches the prescribed reporting level, the clearing member carrying the account(s) shall promptly file with the Exchange a facsimile of the CFTC Form 102 prepared for the account(s). If this form identifies the account(s) numerically, the same numerical account identifier shall be used on all position reports relating to the account(s).

(2) A clearing member shall file a report with the Exchange for each business day on which a position is reportable as well as for the business day on which the position falls below the reporting level. Each such report shall separately identify the reportable position as well as the position in all delivery months of futures contracts for that commodity and in all expirations of options for that commodity, by strike price. **In addition, for each reportable customer, each such report shall also include all EFP and EFS transactions cleared for each business**

**day. The reporting of EFP and EFS transactions within the Large Trader file format shall identify the reportable customer who executed the EFP/EFS and the kind and quantity of the futures cleared.** During the delivery month of a futures contract, the report also shall specify the number of delivery notices stopped and the number of delivery notices issued as of the close of trading on the business day covered by the report. The Exchange also may require, from time to time, the report of additional information, such as traders' intentions, ownership of stocks, as well as other relevant market data.

(3) An omnibus account shall file a report with the Exchange for each business day on which a reportable position is carried in any constituent account or affiliated accounts within the omnibus account as well as for the business day on which the position falls below the reporting level. A foreign broker shall file such reports for reportable positions in any account it maintains, whether proprietary or for customers. Each report filed by an omnibus account or a foreign broker shall include all of the information described in paragraph (2) above. If an omnibus account or foreign broker fails to file such reports when and as required, the clearing member at which the accounts are cleared shall be required to submit the information with respect to the constituent accounts.

(4) All reports required to be submitted pursuant to section (b) of this rule shall be filed via computer transmission or by such other means as may be authorized by the Director of Market Surveillance by 8:00 a.m. on the next business day following the period covered by the report.

(d) Special Call. Upon special call by the Board or the Control Committee, or the Director of Market Surveillance at the request of either the Board or the Control Committee, a member or member firm shall furnish to the Director of Market Surveillance within the time period and in the form specified in such special call, the identity of the beneficial owner or owners of positions in an account or affiliated accounts and such other information relating to the account(s) as may be requested. In the event a member or member firm fails to supply the information when and as requested by the special call, the Board or, upon request and delegation by the Board, the Control Committee may require the member or member firm to liquidate, in whole or in part, the positions in the account or affiliated accounts, or to take such other actions, within such time period and upon such terms, with respect to such account(s) as the Board or the Control Committee may deem necessary or desirable.