

Notice No. 08-665
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NYMEX Basis Allocation Methods

In response to inquiries from a number of members, New York Mercantile Exchange, Inc. ("NYMEX") is providing to holders of NYMEX Class A Memberships (each a "NYMEX Member" and, collectively, "NYMEX Members") this memorandum describing several methods NYMEX Members might use to determine their tax basis in the common stock of NYMEX Holdings, Inc. ("NYMEX Holdings") and the NYMEX Class A Memberships (each a "Class A Membership" and, collectively, "Class A Memberships") the NYMEX Members held at the time of NYMEX Holdings' merger with and into CME NY Inc., a wholly-owned subsidiary of CME Group Inc. ("CME Group") based upon, among other things, the period in which a NYMEX Member acquired its interest in NYMEX and/or NYMEX Holdings. NYMEX Members could also use a number of other methods to determine their tax basis, and NYMEX is not advocating any particular alternative. Different methods of allocation could yield different tax results. Further, the method of allocation for a particular NYMEX Member may differ depending on the timing and method by which the NYMEX Member acquired its Class A Membership and/or common stock of NYMEX Holdings, and, as described in greater detail below, the Internal Revenue Service (the "IRS") may have its own contention as to the appropriate method NYMEX Members should use to allocate basis among their various NYMEX interests.

This is not tax advice to any particular member and does not purport to cover all issues for all members or for NYMEX. This discussion is not an opinion that can be used for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code. Rather, this is a limited set of observations about how U.S. federal income tax law may apply to certain circumstances surrounding the Class A Memberships, how the IRS generally might view certain events in NYMEX's history, and several issues that members may have to consider. The tax considerations may be materially different for certain members, including in particular any member who does not hold a Class A Membership as a capital asset, and any member who acquired, other than by purchase: (i) a membership in NYMEX prior to its demutualization, (ii) a Class A Membership, or (iii) shares in NYMEX Holdings. In all events, however, NYMEX strongly recommends that members consult their tax advisors concerning the U.S. federal income tax consequences of the transactions described herein and of any sale or exchange of interests following such transactions, as well as state, local, and foreign tax consequences.

RECENT NYMEX HISTORY

Demutualization

On November 17, 2000, the New York Mercantile Exchange ("Old NYMEX") converted from a New York not-for-profit membership association into a Delaware for-profit non-stock corporation and became a subsidiary of NYMEX Holdings, a Delaware for-profit stock corporation. NYMEX Holdings and NYMEX were formed as a result of a two-step transaction involving two mergers (the "Demutualization").

In the first merger, Old NYMEX merged into NYMEX, a newly-formed, non-stock corporation organized under Delaware law ("First Merger"). NYMEX survived the merger. In this merger each Old NYMEX member received one Class A Membership and one Class B membership in NYMEX for each membership in Old NYMEX (each an "Old NYMEX Membership" and, collectively, "Old NYMEX Memberships") that the member owned at the time of the Demutualization. At the time of the First Merger, Old NYMEX Memberships had two components: (i) a trading right component and (ii) an equity component. In the First Merger NYMEX Members each exchanged the trading right component of their Old NYMEX Memberships for one Class A Membership and exchanged the equity component of their Old NYMEX Memberships for one Class B membership.

Immediately after the first merger was completed, NYMEX merged with a transitory merger subsidiary of NYMEX Holdings (the "Second Merger"). NYMEX survived the merger and became a wholly-owned subsidiary of NYMEX Holdings. In the Second Merger NYMEX Members each exchanged their Class B memberships for one share of stock in NYMEX Holdings ("Old NYMEX Holdings Stock"). As a consequence, each Old NYMEX Membership interest was represented by one Class A Membership in NYMEX, which represented the trading right formerly contained in an Old NYMEX Membership, and one share of Old NYMEX Holdings Stock, which represented the equity right formerly contained in an Old NYMEX Membership.

For U.S. federal income tax purposes, the Demutualization was treated as a tax-free transaction.¹ As a result, the aggregate basis of one share of Old NYMEX Holdings Stock and one Class A Membership was generally equal to a NYMEX Member's basis in the NYMEX Member's Old NYMEX Membership. Finally, as a condition of the Demutualization, NYMEX Members were permitted to transfer only jointly shares of Old NYMEX Holdings Stock and Class A Memberships ("NYMEX Stapled Units") following the Demutualization.

General Atlantic Transaction

On March 13, 2006, the NYMEX Members approved a stock purchase agreement with General Atlantic Partners 82 L.P., GapStar LLC, GAP Coinvestments III LLC, GAP Coinvestments IV LLC, GAP Coinvestments CDA L.P., and GAPCO GmbH & Co. KG (collectively "General Atlantic"), whereby General Atlantic acquired a 10 percent equity interest

¹ In conjunction with the transaction, Old NYMEX sought and received a private letter ruling from the IRS that the First Merger was a tax-free transaction. The IRS reserved ruling on the tax effects of the Second Merger pending an IRS audit of the tax returns of Old NYMEX, NYMEX, and NYMEX Holdings for the taxable year in which the Second Merger occurred.

in NYMEX Holdings (the "GA Transaction"). The GA Transaction closed on March 14, 2006. To facilitate the GA Transaction and to prepare for an eventual initial public offering, NYMEX Holdings adopted a merger as a mechanism to create a new capital structure. In the merger, NYMEX Merger Sub Inc., a subsidiary of NYMEX Holdings, created solely to effectuate the merger, was merged with and into NYMEX Holdings, with NYMEX Holdings surviving the merger. As a result of the merger, the number of authorized shares of NYMEX Holdings' capital stock was increased to 89,760,000 shares, which consisted of 8,160,000 shares of preferred stock in NYMEX Holdings and 73,440,000 shares of common stock in NYMEX Holdings ("New NYMEX Holdings Common Stock").

In the merger of NYMEX Merger Sub Inc. and NYMEX Holdings, NYMEX Members each exchanged one share of Old NYMEX Holdings Stock for 90,000 shares of New NYMEX Holdings Common Stock.² In addition, immediately following the merger, NYMEX Holdings sold the 8,160,000 shares of the newly created preferred stock in NYMEX Holdings to General Atlantic. NYMEX Holdings then distributed the gross proceeds from this sale to the holders of New NYMEX Holdings Common Stock in the form of a dividend.

The merger of NYMEX Merger Sub Inc. and NYMEX Holdings was treated as a tax-free reorganization for U.S. federal income tax purposes in which the NYMEX Members exchanged their shares of Old NYMEX Holdings Stock for shares of New NYMEX Holdings Common Stock. NYMEX Members' aggregate tax basis in their shares of New NYMEX Holdings Common Stock was equal to their tax basis in their Old NYMEX Holdings Stock (allocated to the various shares of New NYMEX Holdings Common Stock in accordance with the shares' relative fair market values).

Upon consummation of the GA Transaction, shares of New NYMEX Holdings Common Stock and Class A Memberships became separately transferable to a limited number of eligible transferees. Specifically, holders of shares of New NYMEX Holdings Common Stock could transfer such shares only to other NYMEX Members, other owners of New NYMEX Holdings Common Stock, or General Atlantic under certain limited conditions.³ However, an entity or individual who sought to own shares of New NYMEX Holdings Common Stock, but was not permitted to purchase such shares alone, could purchase shares of New NYMEX Holdings Common Stock as part of a bundle consisting of a Class A Membership and 90,000 shares of New NYMEX Holdings Common Stock ("New NYMEX Bundled Units").

Initial Public Offering

On November 17, 2006, NYMEX Holdings completed an initial public offering (the "IPO") of its common stock, which was listed on the New York Stock Exchange. In the IPO, NYMEX

² The 90,000 shares of New NYMEX Holdings Common Stock exchanged for each share of Old NYMEX Holdings Stock was constituted of 30,000 shares of Series A-1 Common Stock, 30,000 shares of Series A-2 Common Stock, and 30,000 shares of Series A-3 Common Stock. The three classes of stock were identical except for certain transfer restrictions that expired at different intervals of time depending upon the class. To simplify this analysis, the three classes of New NYMEX Holdings Common Stock have been aggregated. These restrictions lifted on May 9, 2008.

³ In the time period between the GA Transaction and NYMEX Holdings' IPO, NYMEX facilitated a market for shares of New NYMEX Holdings Common Stock. Within this market, shares of New NYMEX Holdings Common Stock could be purchased in blocks of 1,000 shares by a limited number of eligible individuals or entities, including NYMEX Members and GA (under certain limited conditions).

Holdings offered approximately 5,390,000 shares of New NYMEX Holdings Common Stock to the public. Following the IPO, certain classes of New NYMEX Holdings Common Stock became separately transferable. However, the New NYMEX Holdings Common Stock received by NYMEX Members in the GA Transaction continued to be subject to certain transfer restrictions, which generally expired 18 months following the IPO.

CME Merger

On August 18, 2008, the holders of New NYMEX Holdings Common Stock approved a merger between NYMEX Holdings and CME Group (the "CME Merger"). The CME Merger subsequently closed on August 22, 2008. In the merger, NYMEX Holdings merged with and into CME NY Inc., a wholly-owned subsidiary of CME Group, with CME NY Inc. surviving the merger.⁴ As consideration for their shares of New NYMEX Holdings Common Stock, holders of New NYMEX Holdings Common Stock received, at their election, cash and/or CME Group Class A Common Stock ("CME Group Stock") in exchange for their shares of New NYMEX Holdings Common Stock. New NYMEX Holdings Common Stockholders who exchanged their shares solely for CME Group Stock took an aggregate tax basis in the CME Group Stock generally equal to their aggregate tax basis in the shares of New NYMEX Holdings Common Stock they surrendered in the merger.⁵ New NYMEX Holdings Common Stockholders who exchanged their shares for a combination of CME Group Stock and cash took an aggregate tax basis in the CME Group stock they received in the merger generally equal to their aggregate tax basis in the shares of New NYMEX Holdings Common Stock surrendered in the merger, increased by the amount of taxable gain, if any, recognized in the merger, and decreased by the amount of cash, if any, received in the merger.

POTENTIAL TAX ALLOCATION ALTERNATIVES

The following discussion offers potential alternatives that might be used by NYMEX Members to calculate their tax basis in the Class A Memberships and the shares of New NYMEX Holdings Common Stock that NYMEX Members held at the time of the CME Merger. The potential alternatives available to NYMEX Members to determine their basis in the respective components of an Old NYMEX Membership, NYMEX Stapled Unit, or New NYMEX Bundled Unit may depend in large part on the date on which the NYMEX Members acquired their interests in NYMEX and/or NYMEX Holdings. For simplicity, the discussion below has been separated into the following four categories of NYMEX Members:

- 1) NYMEX Members that purchased Old NYMEX Memberships before November 17, 2000, the date of the Demutualization;
- 2) NYMEX Members that purchased NYMEX Stapled Units after November 17, 2000, the date of the Demutualization, and before March 14, 2006, the date of the GA Transaction;
- 3) NYMEX Members that purchased Class A Memberships and/or shares of New NYMEX Holdings Common Stock after March 14, 2006, the date of the closing of the GA

⁴ Immediately following the merger, CME NY Inc. changed its name to CME NYMEX Holdings Inc.

⁵ New NYMEX Holdings Common Stock shareholders that exchanged all of their New NYMEX Holdings Common Stock solely for cash in the merger generally recognized capital gain or loss equal to the difference between the amount of cash they received and their tax basis in the shares of New NYMEX Holdings Common Stock exchanged therefor.

Transaction and before November 17, 2006, the date of effectiveness of NYMEX Holdings' IPO; and

- 4) NYMEX Members who purchased Class A Memberships and/or shares of New NYMEX Holdings Common Stock after November 17, 2006, the date of NYMEX Holdings' IPO.

For those NYMEX Members falling within the third and fourth categories above, the task of allocating basis among their New NYMEX Bundled Units may generally prove less onerous than for those NYMEX Members falling within the first two categories. As described in greater detail below, for those members in the third and fourth categories, the markets for individual Class A Memberships and New NYMEX Holdings Common Stock during portions of the two time periods in which these NYMEX Members purchased their New NYMEX Bundled Units may permit them to rely on market prices set relatively close to their own purchases of New NYMEX Bundled Units. Conversely, those NYMEX Members falling within the first two categories above - those that purchased Old NYMEX Memberships or NYMEX Stapled Units - face a potentially more difficult task due to the timing of their purchases and the transfer restrictions in place on Class A Memberships and shares of Old NYMEX Holdings Stock following the Demutualization.

Practically speaking, a NYMEX Member falling within either of the first two categories above, and possibly the third category, is unlikely to have allocated the purchase price for the NYMEX Member's Old NYMEX Membership, NYMEX Stapled Unit, or New NYMEX Bundled Unit among the individual components of these interests or to have had any information on the valuation of these respective components when the NYMEX Member purchased its interests. For instance, a NYMEX Member who held an Old NYMEX Membership is unlikely to have allocated the purchase price for its Old NYMEX Membership among the trading right and equity components of the Old NYMEX Membership or had any information on the valuation of the components when the NYMEX Member purchased the Old NYMEX Membership. Similarly, a NYMEX Member who purchased a NYMEX Stapled Unit may not have allocated the purchase price for the NYMEX Stapled Unit among the Class A Membership and the one share of Old NYMEX Holdings Stock that constituted the NYMEX Stapled Unit when the NYMEX Member purchased the NYMEX Stapled Unit, even though, notwithstanding the bundling, two different assets constituted the NYMEX Stapled Unit. If this is the case, then a NYMEX Member will need to make a reasonable determination of how the purchase price should be allocated between each component of an Old NYMEX Membership, or, in the case of a NYMEX Member that purchased a NYMEX Stapled Unit, how the purchase price should be allocated between the Class A Membership and the one share of Old NYMEX Holdings Stock of the NYMEX Stapled Unit. In turn, this allocation may allow NYMEX Members to determine their tax basis in the individual components of their Old NYMEX Membership or NYMEX Stapled Unit. Although there may be other appropriate methodologies, possible approaches to allocating a NYMEX Member's tax basis among these components are described below. Further, as discussed in greater detail below, the IRS may have its own contention as to the proper allocation of basis among the components of a Class A Membership, a NYMEX Stapled Unit, or a New NYMEX Bundled Unit.

NYMEX Members That Purchased Old NYMEX Memberships Before November 17, 2000, the Date of the Demutualization

At the time of the CME Merger, a NYMEX Member (i) that had purchased an Old NYMEX Membership prior to the Demutualization, (ii) received a Class A Membership and one share of Old NYMEX Holding Stock in exchange for its Old NYMEX Membership in the Demutualization, and (iii) exchanged its one share of Old NYMEX Holdings Stock for 90,000 shares of New NYMEX Holdings Common Stock in the merger accompanying the GA Transaction generally would have a tax basis in Class A Membership equal to the amount of the NYMEX Member's purchase price for its Old NYMEX Membership that was allocable to the trading right component of the NYMEX Member's Old NYMEX Membership and a tax basis in the NYMEX Member's shares of New NYMEX Holdings Common Stock equal to the amount of the NYMEX Member's purchase price for its Old NYMEX Membership that was allocable to the equity component of the NYMEX Member's Old NYMEX Membership. As noted above, if the NYMEX Member did not allocate the purchase price for the NYMEX Member's Old NYMEX Membership between the trading right component and the equity component of the Old NYMEX Membership when the NYMEX Member purchased an Old NYMEX Membership, the NYMEX Member will need to make a reasonable determination of how much the NYMEX Member paid for each component in order to determine the NYMEX Member's tax basis in the NYMEX Member's Class A Membership and the shares of New NYMEX Holdings Common Stock the NYMEX Member held at the time of the CME Merger. Two possible approaches to allocating a NYMEX Member's purchase price in an Old NYMEX Membership among the Old NYMEX Membership's trading right component and equity component are described below.

One possible approach to allocating a NYMEX Member's purchase price in an Old NYMEX Membership among the Old NYMEX Membership's trading right component and equity component lies in the recent court case Fisher v. United States.⁶ In Fisher the U.S. Court of Federal Claims adopted the "open transaction" doctrine in a case addressing the tax treatment of a policy holder upon the demutualization of a mutual insurance company. In Fisher, as part of the conversion of a mutual insurance company to a stock insurance company, the taxpayer received stock in the stock insurance company in exchange for the taxpayer's equity rights in the former mutual insurance company. The taxpayer subsequently sold the stock. The taxpayer argued that a portion of the premiums the taxpayer paid to the mutual insurance company was for the equity rights that the taxpayer exchanged for the stock, and, as such, the taxpayer should have basis in the stock received equal to the taxpayer's basis in the equity rights surrendered. Under its view of the tax treatment of policy holders upon the demutualization of a mutual insurance company, the IRS contended that the equity rights the taxpayer exchanged for stock had no value and in turn the stock received for the taxpayer's equity rights had a zero tax basis. The taxpayer responded that the equity rights had value, but that this value was not discernible at the time the taxpayer purchased the insurance policy. The court rejected the IRS's argument that the equity rights had a zero tax basis and agreed with the taxpayer that the equity rights did have value constituting basis to the taxpayer, but that this value was not discernible at the time the taxpayer purchased the insurance policy. Consequently, the court applied the "open transaction" doctrine to hold that the taxpayer did not realize income on the sale of the stock.

Several questions remain following the Fisher decision. First, whether the IRS will seek to appeal either of the Fisher court's holdings: (i) that the equity right in the mutual insurance company the taxpayer held in Fisher through its insurance policy did not have a zero basis and (ii)

⁶ Fisher v. United States, 82 Fed. Cl. 780 (Fed. Cl. 2008).

that the "open transaction" doctrine applied to the taxpayer's sale of the shares representing such equity right. Second, whether the IRS will accept either of the Fisher court's holdings outside the context of the demutualization of a mutual insurance company, such as in the context of the Demutualization. The answer to either of these questions is not presently known. If the IRS were to appeal and succeed in overturning the Fisher decision, it could challenge any attempt by NYMEX Members to allocate any portion of their purchase price in their Old NYMEX Memberships to the equity component of such interest. Even if the IRS does not appeal the Fisher decision, the IRS could maintain the position, as it did in Fisher and its rulings involving mutual insurance company demutualizations, that the equity component of the Old NYMEX Membership had zero value and therefore a zero tax basis. However, there is a question as to whether the IRS's position would succeed in contexts outside of the demutualization of a mutual insurance company. It is possible that an argument based on the underlying differences between the demutualization of a mutual insurance company and the demutualization of a member-owned securities exchange, such as the Demutualization, could rebuff an IRS attempt to extend its rulings in the mutual insurance company context. However, as this position has not been directly addressed by the IRS or the courts, it is not known whether such a position could succeed.

If the IRS succeeded in arguing that the equity component of an Old NYMEX Membership had zero value, NYMEX Members would have zero tax basis in the one share of Old NYMEX Holdings Stock they received in exchange for the equity component of their Old NYMEX Memberships during the Demutualization.⁷ In turn, at the time of the CME Merger, NYMEX Members that exchanged their Old NYMEX Memberships in the Demutualization, would have a zero tax basis in their shares of New NYMEX Holdings Common Stock and a tax basis in their Class A Membership equal to what they paid for their Old NYMEX Memberships.

One possible approach for a NYMEX Member to allocate the NYMEX Member's basis among the components of its Old NYMEX Membership would be for a NYMEX Member to take the position that the "open transaction" doctrine, as interpreted by the court in Fisher, should be extended to the sale of either the NYMEX Member's Class A Membership or shares of New NYMEX Holdings Common Stock. Under the "open transaction" doctrine, as interpreted by the court in Fisher, if an allocation of the taxpayer's purchase price for property among the property's various components is impossible because the components' values are not ascertainable at the time of the purchase, the taxpayer will not recognize gain or loss until all of the property is disposed of or the entire cost of the property is recovered out of the proceeds of sales of the components of the property. In other words, the "open transaction" doctrine, as interpreted by the court in Fisher, may permit a taxpayer to reduce the taxpayer's aggregate tax basis in the property by the proceeds of each sale of the individual components of the property until the taxpayer's aggregate tax basis in the property is exhausted. Based on the IRS's arguments in Fisher and the IRS's position in prior

⁷ In Old NYMEX's request for a private letter ruling as to the tax treatment of the Demutualization, Old NYMEX expressly requested that the IRS rule that the Class A Memberships, which represented the trading right component of the Old NYMEX Memberships, have the same tax basis as the Old NYMEX Memberships, while the Class B memberships, which represented the equity component of the Old NYMEX Memberships, have a zero tax basis. In support of this position, NYMEX cited as precedent an IRS ruling that the equity component of an insurance policy purchased from a mutual insurance company had a zero tax basis upon the demutualization of the mutual insurance company. The IRS, however, declined to rule as such and instead stated in the private letter ruling to NYMEX that the IRS would express no opinion as to the allocation of the tax basis, if any, between the Class A Memberships and Class B memberships.

rulings, the IRS may not agree with this position and NYMEX strongly encourages NYMEX Members to consult with their tax advisors as to the U.S. federal income tax consequences of the sale or exchange of either their Class A Memberships or their shares of New NYMEX Holdings Common Stock.

Another possible approach for a NYMEX Member to allocate the NYMEX Member's basis among the components of its Old NYMEX Membership would be to compare the value of a lease of the Old NYMEX Membership when it was purchased prior to the Demutualization. Although not determinative, the ratio of the value of the lease to the price the NYMEX Member paid for the NYMEX Member's Old NYMEX Membership could be indicative of what portion of the NYMEX Member's purchase price for a Class A Membership should be allocated to the trading right component of the Old NYMEX Membership when the Old NYMEX Membership was purchased.

NYMEX Members That Purchased NYMEX Stapled Units After November 17, 2000, the Date of the Demutualization, and Before March 14, 2006, the Date of the GA Transaction

A NYMEX Member that purchased a NYMEX Stapled Unit between the dates of the Demutualization and the GA Transaction would generally have a tax basis in its Class A Membership equal to the amount of the NYMEX Member's purchase price for a NYMEX Stapled Unit allocable to the Class A Membership and a tax basis in the New NYMEX Holdings Common Stock equal to the amount of the NYMEX Member's purchase price allocable to the NYMEX Member's one share of Old NYMEX Holdings Stock. As noted above, if the NYMEX Member did not allocate the purchase price for the NYMEX Member's NYMEX Stapled Unit between the Class A Membership and the one share of Old NYMEX Holdings Stock when the NYMEX Member purchased the NYMEX Stapled Unit, the NYMEX Member will need to make a reasonable determination of how to allocate the NYMEX Member's purchase price for the NYMEX Stapled Unit between each interest in order to determine the tax basis in the NYMEX Member's Class A Membership and the shares of New NYMEX Holdings Common Stock the NYMEX Member held at the time of the CME Merger.

One possible alternative that a NYMEX Member might use to determine the basis in the respective interests constituting the NYMEX Stapled Unit would be to allocate the aggregate basis among the interests based on the relative fair market values of the Class A Membership and the one share of Old NYMEX Holdings Stock as of the date the NYMEX Member purchased the NYMEX Stapled Unit. This approach would involve comparing the market price of the Class A Membership, or the market price of the one share of Old NYMEX Holdings Stock, or their equivalent, to the market price of the NYMEX Stapled Unit, when such markets in these interests developed. In this regard, NYMEX began to facilitate a market in Class A Memberships (without associated Old NYMEX Holdings Stock or New NYMEX Holdings Common Stock) following the GA Transaction. Likewise, the market for New NYMEX Holdings Common Stock shares (without associated Class A Membership), which were received by NYMEX Members in exchange for their one share of Old NYMEX Holdings Stock in the merger accompanying the GA Transaction, began following the GA Transaction. Although not determinative, the ratio of the value of the Class A Membership or the value of the shares of New NYMEX Holdings Common Stock to the value of the combined interests could be indicative of the relationship between the

value of the Class A Membership and the one share of Old NYMEX Holdings Stock when a NYMEX Member purchased a NYMEX Stapled Unit.

Please note that this method may be limited to those NYMEX Members who purchased NYMEX Stapled Units only within a reasonable period of time prior to the completion of the GA Transaction. That is, Class A Memberships and, in certain circumstances, New NYMEX Holdings Common Stock shares, could be sold alone following the GA Transaction. Thus, those NYMEX Members that purchased their interests well in advance of the GA Transaction may not be able to rely on this method to set the value of the respective components of their NYMEX Stapled Unit as too much time may have elapsed between when these NYMEX Members purchased their NYMEX Stapled Units and the sale of de-stapled Class A Memberships and de-stapled shares of New NYMEX Holdings Common Stock following the GA Transaction.

Note also that because the Class A Membership and the one share of the Old NYMEX Holdings Stock could only be transferred together between the dates of the Demutualization and GA Transaction, the IRS may attempt to argue that none of the purchase price of a NYMEX Stapled Unit should be allocated to the one share of Old NYMEX Holding Stock in such unit. As described in greater detail above in the section "NYMEX Members that Purchased Old NYMEX Memberships Before November 17, 2000, the Date of the Demutualization," the IRS could maintain the position that the one share of Old NYMEX Holdings Stock, like the equity rights received by a policy holder in the demutualization of a mutual insurance company, had no value upon its purchase and therefore no tax basis upon a later disposition of the shares of New NYMEX Holdings Common Stock received in exchange for the one share of Old NYMEX Holdings Stock. On the other hand, an argument might be made in response to the IRS that the NYMEX Stapled Units were distinguishable from the Old NYMEX Memberships because the NYMEX Stapled Unit constituted two distinct properties at the time the NYMEX Stapled Unit was purchased: (i) the Class A Membership and (ii) the one share of Old NYMEX Holdings Stock. While these properties may have been stapled together when purchased, each property was clearly distinct from the other and therefore it may present a more difficult challenge for the IRS to argue that either component had zero value. If the IRS's argument succeeded, however, the IRS could challenge any attempt by a NYMEX Member to allocate any portion of the NYMEX Member's purchase price in the NYMEX Member's NYMEX Stapled Unit to the equity component of such interest.

Another possible approach for a NYMEX Member to allocate the NYMEX Member's basis among the components of its NYMEX Stapled Unit would be to compare the value of a lease of a Class A Membership when the NYMEX Stapled Unit was purchased. Although not determinative, the ratio of the value of the lease to the price the NYMEX Member paid for the NYMEX Member's NYMEX Stapled Unit could be indicative of what portion of the NYMEX Member's purchase price for a NYMEX Stapled Unit should be allocated to the Class A Membership contained in the NYMEX Stapled Unit when the NYMEX Stapled Unit was purchased.

NYMEX Members That Purchased Class A Memberships and/or Shares of New NYMEX Holdings Common Stock After March 14, 2006, the Date of the Closing of the GA

Transaction and Before November 17, 2006, the Date of Effectiveness of NYMEX Holdings' IPO

For a NYMEX Member that purchased a Class A Membership or shares of New NYMEX Holdings Common Stock following the GA Transaction and before the IPO, the determination of the NYMEX Member's tax basis in the Class A Membership and/or shares of New NYMEX Holdings Common Stock may depend on whether the NYMEX Member purchased the Class A Membership or shares of a New NYMEX Holdings Common Stock as part of a New NYMEX Bundled Unit or purchased either interest alone. That is, since de-stapled Class A Memberships were transferable following the GA Transaction, a NYMEX Member that purchased a Class A Membership following the GA Transaction generally would have a tax basis in such membership equal to the price paid for the Class A Membership. Likewise, since de-stapled shares of New NYMEX Holdings Common Stock were transferable following the GA Transaction, a NYMEX Member that purchased shares of New NYMEX Holdings Common Stock following the GA Transaction generally would have a tax basis in such shares equal to the price paid for the shares. Those NYMEX Members that purchased a New NYMEX Bundled Unit may have several possible alternatives, one of which is described below, under which to allocate their purchase price among the Class A Membership and the shares of New NYMEX Holdings Common Stock that constituted the New NYMEX Bundled Unit.

One possible approach for a NYMEX Member to allocate the aggregate basis in a NYMEX Stapled Unit would be to compare the market price of the Class A Membership, or the market price of the shares of the New NYMEX Holdings Common Stock, or their equivalent, to the market price of the New NYMEX Bundled Unit when such markets in these interests developed. In this regard, NYMEX began to facilitate a market in Class A Memberships (without the associated shares of New NYMEX Holdings Common Stock) following the GA Transaction. Likewise, the market for New NYMEX Holdings Common Stock (without the associated Class A Membership) began following the GA Transaction. Although not determinative, the ratio of the value of the Class A Membership or the value of the shares of New NYMEX Holdings Common Stock to the value of the combined interests could be indicative of the relationship between the value of the Class A Membership and the shares of New NYMEX Holdings Common Stock when a NYMEX Member purchased a New NYMEX Bundled Unit.

NYMEX Members Who Purchased Class A Memberships and/or Shares of New NYMEX Holdings Common Stock After November 17, 2006, the Date of NYMEX Holdings' IPO

A NYMEX Member that purchased Class A Memberships and/or shares of New NYMEX Holdings Common Stock following the IPO generally will be able to establish a tax basis in a Class A Membership or the shares of New NYMEX Holdings Common Stock purchased alone based on the price paid for either interest. For a NYMEX Member that purchased a Class A Membership together with the shares of New NYMEX Holdings Common Stock in a New NYMEX Bundled Unit following the IPO, one alternative to allocate the NYMEX Member's aggregate tax basis in the New NYMEX Bundled Unit among the Class A Membership and the shares of New NYMEX Holdings Common Stock that constituted such unit would be to allocate among the Class A Membership and the shares of New NYMEX Holdings Common Stock based on the relative fair market values of these interests as of the date the NYMEX Member purchased

the New NYMEX Bundled Unit. For purchases of New NYMEX Bundled Units following the IPO, these values could be established by (i) determining the fair market value of the shares of New NYMEX Holdings Common Stock on the date of the purchase based on the closing price of such shares on the applicable public market (the "Per Share Price"), (ii) multiplying the Per Share Price by the total number of shares of New NYMEX Holdings Common Stock in the purchasing NYMEX Member's New NYMEX Bundled Unit, and (iii) subtracting the figure calculated in clause (ii) from the total price the NYMEX Member paid for the New NYMEX Bundled Unit. The result of these calculations could be the fair market value of the NYMEX Member's Class A Membership.

In regard to all of the alternatives described above, the IRS may have its contention as to the proper allocation of basis among the components of a Class A Membership, a NYMEX Stapled Unit, or a New NYMEX Bundled Unit.

This is not tax advice to any particular member and does not purport to cover all issues for all members or for NYMEX. This discussion is not an opinion that can be used for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code. Rather, this is a limited set of observations about how U.S. federal income tax law may apply to certain circumstances surrounding the Class A Memberships, how the IRS generally might view certain events in NYMEX's history, and several issues that members may have to consider. The tax considerations may be materially different for certain members, including in particular any member who does not hold a Class A Membership as a capital asset, and any member who acquired, other than by purchase: (i) a membership in Old NYMEX, (ii) a Class A Membership, (iii) a NYMEX Stapled Unit, (iv) a New NYMEX Bundled Unit, or (v) shares of New NYMEX Holdings Common Stock. In all events, however, NYMEX strongly recommends that members consult their tax advisors concerning the U.S. federal income tax consequences of the transactions described herein and of any sale or exchange of interests following such transactions, as well as state, local, and foreign tax consequences.

For questions about the historical transactions as described in this memorandum, contact Donna Talamo at (212) 299-2372. For questions regarding tax basis, contact Jeff Rotter at (312) 466-4416.

GLOSSARY

"Class A Membership" The memberships that NYMEX members received in exchange for the trading right component of their old NYMEX memberships upon the Demutualization. These memberships are the memberships that NYMEX members held at the time of NYMEX's merger with CME Group.

"CME Group" The parent corporate entity of CME NY Inc., the entity which NYMEX Holdings merged with and into upon NYMEX Holdings' merger with CME Group.

"CME Group Stock" The shares of CME Group Class A Common Stock that NYMEX Holdings shareholders received in exchange for shares of NYMEX Holdings Common Stock upon NYMEX Holdings' merger with CME Group.

"Demutualization" The conversion of the New York Mercantile Exchange ("Old NYMEX") from a New York not-for-profit membership association into a Delaware for-profit non-stock corporation on November 17, 2000. In the demutualization, members of Old NYMEX received one Class A Membership and one share of NYMEX Holdings common stock in exchange for their memberships in Old NYMEX.

"GA Transaction" The transaction in which General Atlantic acquired a 10% equity interest in NYMEX Holdings whereby shareholders of NYMEX Holdings common stock received 90,000 shares of New NYMEX Holdings Common Stock in exchange for one share of Old NYMEX Holdings Stock. The transaction which was closed on March 14, 2006 resulted in the de-stapling of the Class A Membership from the NYMEX Holdings stock.

"IPO" The transaction in which NYMEX Holdings made an initial public offering of its common stock on the New York Stock Exchange. NYMEX Holdings Common Stock began trading on the New York Stock Exchange on November 17, 2006.

"IRS" The Internal Revenue Service.

"New NYMEX Bundled Units" The bundle of shares consisting of New NYMEX Holdings Common Stock and Class A Memberships that were sold following the GA Transaction.

"New NYMEX Holdings Common Stock" The stock that NYMEX Holdings' shareholders received upon the conversion of Old NYMEX Holdings Stock pursuant to the GA Transaction.

"NYMEX" New York Mercantile Exchange, Inc., a Delaware for-profit non-stock corporation and the current entity in which NYMEX members hold Class A Memberships.

"NYMEX Holdings" NYMEX Holdings, Inc., a Delaware for-profit stock corporation and the former parent entity of NYMEX that was merged with and into CME NY Inc.

"NYMEX Member" An entity or individual that holds a Class A Membership in NYMEX.

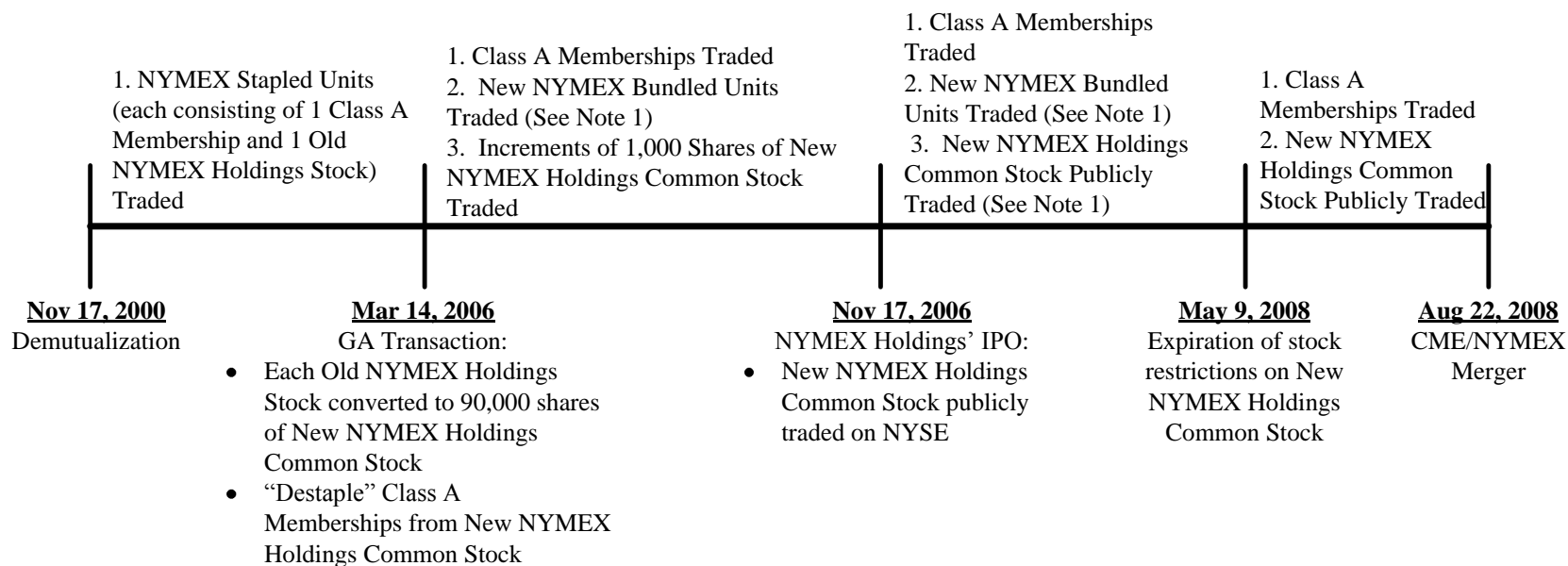
"NYMEX Stapled Units" Units consisting of one Class A Membership and one share of Old NYMEX Holdings Stock that were sold following the Demutualization up until the GA Transaction.

"Old NYMEX" The entity known as the "New York Mercantile Exchange," a New York not-for-profit membership association that existed prior to the Demutualization and in which NYMEX Members held Old NYMEX Memberships.

"Old NYMEX Holdings Stock" The NYMEX Holdings common stock issued and outstanding following the Demutualization and prior to the closing of the GA Transaction.

"Old NYMEX Membership" A membership in Old NYMEX.

TIMELINE OF NYMEX EVENTS



Note 1: Trading of New NYMEX Bundled Units

March 14, 2006 – March 11, 2007 –	1 Class A Membership + 90,000 shares of New NYMEX Holdings Common Stock
March 12, 2007 – May 15, 2007 –	1 Class A Membership + 75,000 shares of New NYMEX Holdings Common Stock
May 16, 2007 – Nov 11, 2007 –	1 Class A Membership + 60,000 shares of New NYMEX Holdings Common Stock
Nov 12, 2007 – May 9, 2008 –	1 Class A Membership + 30,000 shares of New NYMEX Holdings Common Stock