



New York  
Mercantile Exchange

NYMEX/COMEX. Two divisions, one marketplace

January 31, 2005

**VIA ELECTRONIC MAIL AND FACSIMILE TRANSMISSION**

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. NYMEX Submission 05.10: Continuation of Temporary NYMEX Incentive Program in Support of the Listing for Trading of the NYMEX Brent Crude Oil Futures Contract on New Dublin Trading Floor**

Dear Ms. Webb:

The New York Mercantile Exchange, Inc. ("NYMEX") is notifying the Commodity Futures Trading Commission ("CFTC") of a self-certification filing involving a three-month extension of a temporary NYMEX incentive program ("Incentive Program") (that was implemented in connection with the listing of the NYMEX Brent Crude Oil Futures Contract ("Brent") on the Exchange's new Dublin trading floor).

The Incentive Program includes three basic components. These components include the following: a travel stipend available to floor traders relocating to Dublin and to their clerks; a payment to market participants in the Brent contract (but excluding trading for floor members' own accounts) of fifty cents a lot (per side); and a waiver of Exchange transaction and clearing fees in the NYMEX Brent contract.

We continue to believe that these short-term incentives will lower market participants' transactions costs in the Brent contract being listed on the new Dublin trading floor and that the incentives accordingly will result in greater trading and liquidity in this contract. Consequently, we believe strongly that these temporary incentives provide a procompetitive effect.

As noted, the Exchange will continue provide a short-term fee waiver or "holiday" of all Exchange transaction and clearing fees in the Brent futures contract, including a waiver of the surcharge charged by the Exchange for transactions on NYMEX ACCESS® in the Brent contract. In addition, the Exchange currently charges a monthly access fee of \$100 for non-members who trade directly on NYMEX ACCESS®. This monthly charge also will be waived during this period for NYMEX Europe permittees.

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*The New York Mercantile Exchange, Inc., is composed of two divisions. The NYMEX Division offers trading in crude oil, heating oil, unleaded gasoline, natural gas, electricity, propane, platinum and palladium. The COMEX Division offers trading in gold, silver, copper, aluminum, and the FTSE Eurotop 100® index, and the FTSE Eurotop 300® index.*

Second, the Exchange will continue to provide a stipend of \$1,000 (U.S. dollars) per week to NYMEX Europe permittees and to their clerks. This stipend is intended to defray in part transportation and living expenses, such as hotel bills, incurred in connection with establishing trading operations in Dublin. This stipend is based upon a demonstrated commitment to active involvement in the Brent contract as reflected by a regular presence on the trading floor. While the stipend will continue to be calculated on a weekly basis, actual payment will now shift to the end of each calendar month.

Finally, all customer type indicator ("CTI") 2 and CTI 4 trades for the Brent contract will be eligible to receive a \$.50 per contract fee (per lot per side) for the Brent contracts that are traded on the Exchange's Dublin trading floor or traded pursuant to an exchange of futures for physicals or exchange of swaps transaction (the "Incentive Fee"). This program is not available for trading in the Brent contract executed on NYMEX ACCESS®. Thus, payment is available for trading for the account of a member firm or for the account of a non-member customer of the Exchange. But the Incentive Fee will not be available for any trading for the account of a NYMEX Dublin or New York floor member, regardless of whether the member is on or off the trading floor.

To take advantage of this program, accounts of participating customers and member firms will need to be registered by the account owners themselves through an online registration process that is now available through the Exchange's website. This payment will be made to the account of the applicable account owner. Thus, in the case of a non-member customer of the Exchange, the payment would be made to the customer account of that customer carried by the customer's clearing member. Similarly, with respect to trading by a member firm for its proprietary account, the payment would be made to the house or proprietary account of that member firm. In other words, all of these payments will result in payment to the ultimate account owner (of the customer or member firm engaging in transactions in the NYMEX Brent contract.)

All Incentive Fees generally will be paid quarterly 30 days after the end of the quarter, directly to the holder of the account identified at registration, via either check or wire transfer. Payments made to Incentive Program participants who reside outside the United States of America will be calculated in U.S. dollars and will be translated via the recipient's local currency on or about the date of payment and paid via a wire transfer. All payments made in the United States of America will require appropriate tax identification (e.g., Social Security numbers or employer identification numbers) upon registration. The Exchange reserves the right to alter any of the rights or obligations under the Incentive Program in its sole discretion, without prior notice to users.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the Incentive Program complies with the Act, including regulations under the Act. The Incentive Program is being extended for an additional three months until April 30, 2005. Should you have any questions concerning

the above, please contact the undersigned at (212) 299-2207.

Very truly yours,

  
Brian Regan  
Vice President & Counsel

cc: Riva Adriance, Esq.  
Clarence Sanders, Esq.