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January 11, 2002

VIA FACSIMILE AND FEDERAL EXPRESS

Ms. Jean A. Webb
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Request of the Merchants Exchange for Approval of Six Cash-Settled Energy Contracts 66 Fed. Reg. 66404 (December 26, 2001)

Dear Ms. Webb:

The New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") appreciates the opportunity to comment, on its own behalf and on behalf of its wholly-owned subsidiary, Commodity Exchange, Inc. ("COMEX"), to the Commodity Futures Trading Commission ("CFTC" or "Commission") on the request for Commission approval of six new cash-settled energy futures contracts submitted by The Merchants Exchange ("ME"). Specifically, ME has requested approval of the following new contracts: Brent crude oil futures, European gas oil futures, light "sweet" crude oil futures, natural gas futures, no. 2 heating oil (New York Harbor delivery) futures, and unleaded gasoline (New York Harbor delivery) futures.

NYMEX is a for-profit corporation organized under the laws of the State of Delaware. It is a designated contract market for the trading of numerous commodity futures and commodity futures option contracts. NYMEX is the largest exchange in the world for the trading of futures and option contracts based on physical commodities. In 2001, more than 103 million contracts were traded at the Exchange. Public investors in our markets include institutional and commercial producers, processors, marketers and users of energy and metals products.

The Commission has made available the terms and conditions for each of these new contracts. All other information submitted by the ME in support of the proposed new contracts is subject to a request for information under the Freedom of Information Act, and thus will not be available to the Exchange prior to the end of the comment period. Accordingly, the Exchange's comments are limited to the information that is currently publicly available, and the Exchange may submit additional comments as other information becomes available.

The processes for final settlement for these proposed new contracts is an area that would appear to warrant additional scrutiny by the Commission. Specifically, the cursory description of the settlement methodology contained in the proposed new rules falls far short of the standards regarding the level of detail for such rules that NYMEX has been subject to over the years for its energy futures contracts.

World Financial Center
One North End Avenue
New York, NY 10282-1101
(212) 299-2000

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

This shortcoming poses two related issues. First, does the vague, amorphous language currently contained in the final settlement rules for the various new contracts provide adequate notice to the marketplace as to such procedures? Second, in the event that ME opted to provide adequate documentation of its final settlement processes, would such processes reasonably assure that the new contracts were not "readily subject" to manipulation? The answer on this latter question is by no means clear from the face of the proposed new rules that are currently pending Commission approval.

The specifications for ME's new contracts seem curiously familiar to those of energy futures contracts that have been approved by the Commission for other exchanges. Accordingly, the Exchange believes strongly that it is important for Commission and Commission staff to provide consistent regulatory treatment for similar products. In this regard, it is worth noting that the regulatory requirements applicable to designated contract markets under the CFTC's new Part 38 apply generally to all such markets regardless of the manner in which transactions are executed on a particular market. In sum, the Exchange urges the Commission to review these proposed new rules with care to ensure compliance with all applicable Core Principles and thus reduce the likelihood of market crises on this new market that could more broadly affect energy users.

* * * *

NYMEX thanks the Commission for the opportunity to submit comments concerning the ME's proposed new contracts and would be pleased to furnish additional information in this regard. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,


J. Robert Collins, Jr.
President

cc: Chairman James E. Newsome
Commissioner Thomas J. Erickson
Commissioner Barbara P. Holum
Commissioner David D. Spears