



New York  
Mercantile Exchange

April 28, 2005

REC. OF THE SECRETARIAT

2005 MAY -4 AM 1:54

RECEIVED  
C.F.T.C.

**VIA 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 05.77: New NYMEX  
Incentive Program for New NYMEX Northwest Europe Gasoil Futures  
("Gasoil") Contract**

Dear Ms. Webb:

The New York Mercantile Exchange, Inc. ("NYMEX") is notifying the Commodity Futures Trading Commission ("CFTC") of a self-certification filing involving the implementation of NYMEX incentive programs applicable to the Exchange's new Gasoil contract as set forth in attached Exchange Notice to Members No. 164 dated April 15, 2005. Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that these programs comply with the Act, including regulations under the Act. 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.

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

*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, coal, propane, platinum, and palladium. The COMEX Division  
offers trading in gold, silver, copper, and aluminum.*

Home About the Exchange News **Markets** Education Visitors Resources Shareholder Relations

Energy »



NYMEX ACCESS »  
**Notice to Members**

Inventory Options »

Market Data »

NYMEX Direct

Notice No. 164  
04/15/2005

**Revised Incentive Programs for all NYMEX Dublin Traded Contracts and New Market Maker Program for the NYMEX Northwest Europe Gasoil Futures Contract**

>> Exchange Se  
Overnight Tradin  
>> Exchange to l  
Contact Us | Gic  
Search   
Login

(Revisions are in *boldfaced italics*.)

In connection with the listing for trading at the Exchange's branch trading floor in Dublin, Ireland, of NYMEX Northwest Europe Gasoil (Gasoil) futures contract, the Exchange has determined to revise and/or initiate related incentive programs.

The terms of two existing equity allocation programs, which are presently applicable only for trading in the Exchange's Brent Crude Oil (Brent) futures contract, now will be extended to all contracts listed for trading in Dublin, including the Gasoil contract. The terms of the current Local Incentive Program similarly will be expanded to include all contracts listed for trading in Dublin.

By comparison, one other program, the Gasoil Tiered Volume Market Maker Program, will be established as a specific program distinct from a similar program now in effect for the Brent contract.

This notice sets forth the terms of the following programs:

- **Equity Allocation Volume Incentive Program:** An incentive program which allocates equity ownership in the new NYMEX Europe subsidiary to be established in London based on trading volume *in all contracts listed for trading in Dublin*.
- **Equity Allocation Open Interest Incentive Program:** An incentive program which allocates equity ownership in the new NYMEX Europe subsidiary based on open interest *in all contracts listed for trading in Dublin*.
- **Gasoil Tiered Volume Market Maker Program:** An incentive program based upon the level of trading volume in Dublin.
- **Local Incentive Program:** A fee reduction program for certain individuals based on trading volume *in all contracts listed for trading in Dublin*.

A description of each program follows:

Name of Program: **Equity Allocation Volume Incentive Program**

Commencement Date: April 1, 2005

Term for Eligibility:

Period that *all contracts listed for trading in Dublin* are trading at the NYMEX Europe Dublin facility PLUS one year from commencement of trading at NYMEX Europe London facility.

Implementation condition:

Participants in this incentive program should note that the allocation of Class C shares in NYMEX Europe Limited is subject to the conditions precedent that:

(a) NYMEX Europe Limited obtains an order declaring it to be a UK Recognised Investment Exchange (RIE); and

(b) the proposed share structure of NYMEX Europe Limited, the award of shares and other aspects of this incentive program are approved by all relevant regulatory authorities.

Types of Trades Required for Eligibility:

All proprietary trading *in any and or all contracts listed for trading in Dublin* traded via open outcry.

Description of Program:

NYMEX Holdings expects NYMEX Europe Limited to create a class of shares, Class C which will be available to provide an equity stake in NYMEX Europe Limited and is intended to be representative of the users of NYMEX Europe Limited and to award under this program an amount of Class C shares having an economic interest equivalent to approximately 13% of the common shareholding equity of NYMEX Europe Limited.

Subject to the necessary regulatory approvals and satisfaction of any conditions that the Board of NYMEX Holdings may impose and which it will notify to all members, NYMEX Holdings expects NYMEX Europe Limited to award Class C Shares to participants in this program based on trading volume *in all contracts listed for trading in Dublin* for executed transactions on the Dublin and London facilities. At the end of the Term set forth above, and subject to all regulatory reviews and approvals it intends that Class C shares be allocated to the top 15 participants based upon the following formula:

- Actual **total** Dublin volume will be calculated and multiplied by a factor of five ("Dublin Incentive volume");
- Actual **total** London volume will be calculated and added to the Dublin Incentive volume ("Total Volume");
- Total **Dublin** volume *for all listed contracts* for the top 15 volume participants will be compared and a pro rata portion of the total Class C shares awarded under this program will be allocated to each participant.

Example:

"XYZ" Co. trades **a total** of 100,000 contracts in Dublin (**which includes, for example, 60,000 Brent contracts and 40,000 Gasoil contracts**) and 800,000 contracts in London during the Term and is one of the top 15 **overall** volume participants. "XYZ" Co. Total Volume for the purposes of calculating the amount of Class C share eligibility is 1.3 million (5 X 100,000 plus 800,000). "XYZ" Co. Total Volume would then be compared to the Total Volume of all other top 15 volume participants and a pro rata allocation of Class C shares awarded under this program would be made based on relative Total Volume.

Name of Program: **Equity Allocation Open Interest Incentive Program**

Commencement Date: April 1, 2005

Term for Eligibility:

Period that **all contracts listed for trading in Dublin** are trading at the NYMEX Europe Dublin facility PLUS one year from commencement of trading at NYMEX

Europe London facility.

**Implementation condition:**

**Participants in this incentive program should note that the allocation of Class C shares in NYMEX Europe Limited is subject to the conditions precedent that:**

**(a) NYMEX Europe Limited obtains an order declaring it to be a UK Recognised Investment Exchange (RIE); and**

**(b) the proposed share structure of NYMEX Europe Limited, the award of shares and other aspects of this incentive program are approved by all relevant regulatory authorities.**

**Types of Trades Required for Eligibility:**

All proprietary trading in *any and all contracts listed for trading in Dublin* traded via open outcry.

**Description of Program:**

NYMEX Holdings expects NYMEX Europe Limited to create a class of shares, Class C which will be available to provide an equity stake in NYMEX Europe Limited and is intended to be representative of the users of NYMEX Europe Limited and to award under this program an amount of Class C shares having an economic interest equivalent to approximately 6% of the common shareholding equity of NYMEX Europe Limited.

Subject to the necessary regulatory approvals and satisfaction of any conditions that the Board of NYMEX Holdings may impose and which it will notify to all members, NYMEX Holdings expects NYMEX Europe Limited to award Class C Shares to participants in this program based on continuous (as calculated below) open interest *in all contracts listed for trading in Dublin*. At the end of the Term set forth above and subject to all regulatory reviews and approvals, it intends that Class C shares be allocated to the top 10 participants based upon the following formula:

- **Actual total** Dublin Daily Open Interest (averaged on a daily basis per business day) will be calculated and multiplied by a factor of five ("Dublin Incentive Open Interest");
- **Actual total** London Daily Open Interest (averaged on a daily basis per business day) will be calculated and added to the Dublin Incentive Open Interest ("Total Daily Open Interest");
- Total open interest *for all listed Dublin* contracts for the top 10 holders (averaged on a daily basis per business day) of open interest will be compared and a pro rata portion of the total Class C shares awarded under this program will be allocated to each participant.

**Example:**

"XYZ" Co. has an average daily open interest of 2,000 contracts in Dublin (*1,000 contracts in Brent and 1,000 contracts in Gasoil*) and 5,000 contracts in London during the Term and is one of the top 10 open interest holders *for all listed contracts* based on the daily average. "XYZ" Co. Total Daily Open Interest for the purposes of calculating the amount of Class C share eligibility is 15,000 (5 X 2,000 plus 5,000). "XYZ" Co. Total Daily Open Interest would then be compared to the Total Daily Open Interest of all other top 10 holders of open interest and a pro rata allocation of Class C shares awarded under this program would be made based on relative Total Daily Open interest.

Name of Program: **Gasoil Tiered Volume Market Maker Program**

Commencement Date: April 18, 2005

Eligibility:

Number of participants will be limited to applicants who register for the program by April 22, 2005.

Participation will be limited to persons/entities who: (i) must reasonably demonstrate continuous market-making presence on the Dublin trading floor and (ii) upon request, make a bid/ask market for **10** contracts on either side of the market. The satisfaction of these criteria is determined by NYMEX Europe staff in its sole discretion.

Term:

The market maker program will continue for the duration that the **Gasoil** futures are traded at the NYMEX Europe facility in Dublin.

Any extension of the market maker program to apply following the launch of the NYMEX Europe Limited trading floor in London will be subject to Board of Directors discretion and regulatory review and/or approval. In this regard, please note that any establishment of an extension of the program to London would be subject to a separate regulatory review and approval by another regulator.

Types of Trade:

This program is available only for trading for a trade's or trading firm's own proprietary account and is not available for the execution of customer orders. In addition, this program is available only for trading executed via open outcry in Dublin and is not available for transactions in **Gasoil** executed on NYMEX ACCESS®, the Exchange's applicable electronic trading platform or for EFP or EFS transactions.

Description of Program:

All persons/entities who register and qualify for the program will be eligible for the following payments as follows:

**Tier 1 User**

Payment: **\$40,000/month**

Volume requirement: Average of **400** sides/day in **Gasoil** for each business day of the relevant month.

**Tier 2 User**

Payment: **\$20,000/month**

Volume requirement: Average of **200 - 399** sides/day in **Gasoil** for each business day of the relevant month.

**Tier 3 User**

Payment: **\$5,000/month**

Volume requirement: Average of **100 - 199** sides/day in **Gasoil** for each business day of the relevant month.

Limitations:

Program is capped at a total of \$2,400,000. In the event that this cap should be approached prior to the termination of the program such that the full amount of the incentive payments would not be available for the most recent month of trading volume, the Exchange would disburse payments for that month on a pro-rata basis up to the level of the cap.

Implementation of all market maker programs are subject to regulatory review and/or approval by the applicable regulators and, as noted, any extension of the program in

London would be subject to separate review by another regulatory agency.

Applications to participate in the gasoil market maker program must be submitted to Membership Services and must include the name of the individual/entity applying to be the market maker, the name of the individual trader who will be on the floor of the Dublin facility authorized to provide market quotes on behalf of the market maker, the name of the account where the trades will clear, the account number, and the name of the firm at which the account is carried.

Name of Program: **Local Incentive Program**

Commencement Date: March 29, 2005

Term: Two years after launch of NYMEX Europe London facility.

Implementation condition:

Participants in this incentive program should note that the fee reduction and allocation of a NYMEX Europe Limited seat is subject to the conditions precedent that:

- (a) NYMEX Europe Limited obtains an order declaring it to be a UK Recognised Investment Exchange (RIE); and
- (b) this incentive program is approved by all relevant regulatory authorities.

Eligible person:

All individual "local" participants trading proprietarily for their own account *in any contract listed for trading at the Exchange's branch trading floor in Dublin.*

Description of Program:

All persons/entities who participate in the program will be eligible for the following incentive credits as follows:

Participants will receive a 50% fee reduction during the term of the program based upon volume traded in Dublin.

Average daily volume ("Dublin volume") will be calculated for each individual for each business day the NYMEX Europe Dublin facility is open from the commencement of the program until the launch of the NYMEX Europe facility in London.

**Participants will receive on a daily basis reduced fees for five (5) times the number of Dublin volume trades.** For instance, Trader XYZ trades an average of 200 trades per day from the beginning of the program until the London launch. Trader XYZ will be entitled to reduced fees on the first 1000 trades (five times 200 Dublin volume) on a daily basis.

#### **Cap on Transaction-Based Incentive Programs**

In connection with the Tiered Volume Market Maker Program and the Local Incentive Program, the Exchange also wishes to confirm that the Exchange is committed to monitoring the benefits of these programs to preclude and to limit the benefits (to any one participant of any one of these programs or of a participant in any combination of these programs) from exceeding more than \$5.00 per lot for any transaction under the programs.

Thus, for example, if a participant under the Tiered Volume Market Maker Program received a benefit of \$5.00 per contract based on a particular volume of executed transactions on the Dublin trading floor, that individual would be unable to receive any additional benefits under the Local Incentive Program.

**Forward Looking and Cautionary Statements**

NYMEX Holdings has attempted, wherever possible, to make statements in good faith, as of the date of this release, by using words such as anticipates, believes, expects, and words and terms of similar substance in connection with any discussion of its present and future operations within the industry. Any forward-looking statements made by, or on behalf of, NYMEX Holdings and NYMEX Europe involve a number of risks, trends, uncertainties, and other factors which may cause actual results to differ materially, including receipt of the necessary Commodity Futures Trading Commission and Financial Services Authority approval; timely performance and cooperative effort of exchange partners; and changes in financial or business conditions at NYMEX.

Should you have any questions or require any further information, please contact [exchangeinfo@nymex.com](mailto:exchangeinfo@nymex.com)

© 2005 New York Mercantile Exchange, Inc. All Rights Reserved.  
[Disclaimer](#)   [Privacy Policy](#)   [Report abuse](#)