



Christopher Bowen
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Legal Department

June 7, 2012

VIA E-MAIL

Mr. David Stawick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

**RE: Modifications to the NYMEX Flex Energy Futures and Options Incentive Program
NYMEX Submission No. 12-161**

Dear Mr. Stawick:

New York Mercantile Exchange, Inc. ("NYMEX" the "Exchange" or the "Clearing House") hereby notifies the Commodity Futures Trading Commission ("Commission") of modifications to the existing Flex Energy Futures and Options Incentive Program ("Program"). The Program will extend until September 30, 2012. The modifications to the Program will become effective July 1, 2012.

Exhibit 1 sets forth the terms of this Program. The modifications appear below, with additions underscored and deletions ~~overstruck~~.

NYMEX business staff responsible for the Program and the NYMEX legal department collectively reviewed the designated contract market core principles and the derivatives clearing organization core principles (collectively the "Core Principles") as set forth in the Commodity Exchange Act ("CEA"). During the review, NYMEX staff identified the following Core Principles as potentially being impacted;

Designated Contract Market Core Principles: Prevention of Market Disruption, Execution of Transactions, Protection of Market Participants, Compliance with Rules and Recordkeeping.

The proposed Program will not impact the Exchange's ability to perform its trade practice and market surveillance obligations under the CEA and NYMEX market regulation staff will continue to monitor all market participants that trade the Program's products to prevent manipulative trading and market abuse.

Additionally, NYMEX has implemented systems to track Program participants' volume to ensure proper distribution of earned incentives. The products included in this Program are listed for trading in the open and competitive market. Participants who might meet the criteria for this Program generally perform complex trading strategies that include both on-exchange and off-exchange activities. The set of incentives encompassed by the Program have been developed to increase volume across all NYMEX venues through additional execution of these strategies, ultimately having a positive impact on the price discovery process taking place in the centralized market as the Program is designed to increase liquidity on that venue. Participants in the Program will be selected by NYMEX staff using criteria as further stated in Exhibit 1. Chapter 4 of the NYMEX rules includes prohibitions against fraudulent, non-competitive, unfair or abusive practices. All participants must execute a contractual agreement with NYMEX in which each participant will expressly agree to comply with and be subject to, applicable regulations and NYMEX rules. The Program will be subject to the Exchange's record retention policies which comply with the CEA.

Derivatives Clearing Organization (“DCO”) Core Principles: Financial Resources, Participant and Product Eligibility, Rule Enforcement, Recordkeeping, Public Information and Information Sharing:

The incentives in this Program will have a non-material impact on the financial resources of the Clearing House. As such, it will not prevent the Clearing House from demonstrating that it has adequate financial, operational, and managerial resources to discharge its responsibilities as a DCO. When selecting an applicant into the Program, NYMEX will take into account multiple factors from a candidate firm including those set forth in Exhibit 1. The incentives provided under the Program will not impact the Clearing House’s ability to perform its monitoring or enforcement obligations under the CEA. Chapter 4 of the NYMEX rules includes prohibitions against fraudulent, non-competitive, unfair or abusive practices. All participants must execute a contractual agreement with the Clearing House in which each participant will expressly agree to comply with and be subject to, applicable regulations and NYMEX rules. The Program will be subject to the Clearing House’s records retention policies which comply with the CEA. The Program contains “information concerning” each clearing and other fee that the DCO charges members and participants. A potential participant in the Program who wishes to subscribe to the Program may contact the Clearing House to receive further information regarding the fees that are charged to Program participants.

The Exchange certifies that the Program complies with the CEA and the regulations thereunder. There were no substantive opposing views to this Program.

The Exchange certifies that this submission has been concurrently posted on the Exchange’s website at <http://www.cmegroup.com/market-regulation/rule-filings.html>

If you require any additional information regarding this submission, please contact Robert Lev at 312-930-3019 or via e-mail at robert.lev@cmegroup.com, or contact me at 212-299-2200. Please reference our NYMEX Submission No. 12-161 in any related correspondence.

Sincerely,

/s/ Christopher Bowen
Managing Director, Chief Regulatory Counsel

Attachments

EXHIBIT 1

Flex Energy Futures and Options Incentive Program

Program Purpose

The purpose of the Program is to incentivize higher levels of volume contribution in the products listed below during both day and overnight trading hours, across all NYMEX trading and clearing venues from significant market participants. Higher levels of volume and liquidity in the products listed below benefits all participants in the marketplace.

Product Scope.

NYMEX Light Sweet Crude Oil futures, Natural Gas Futures, Heating Oil Futures and RBOB Gasoline futures listed on Globex®, and all NYMEX over-the-counter (“OTC”) futures and options products that are submitted for clearing through the Clearing House.

Eligible Participants.

NYMEX may designate up to three (3) participants in the Program. A participant must be a NYMEX non-member. In order to be considered for the Program, an applicant must (i) have, over a recent time period, achieved a significantly high average daily volume in NYMEX crude oil contracts including WTI Calendar Spread (1 Month) Options, WTI Calendar Spread (12 Month) Options, Light Sweet Crude Oil Futures, Light Sweet Crude Oil Options, and WTI Average Price Options (ii) have, over a recent time period, maintained a significantly high percentage of their trades as position-taking trades, or a trades in which a position is opened and subsequently not closed within that same trading day, and (ii) not currently be participating in another incentive program that includes the Products.

Program Term.

Start date is December 22, 2011. End date is ~~June 30, 2012~~ September 30, 2012.

Hours

N/A

Incentives

1. Volume Incentives. Once accepted into the Program Participants will be eligible to participate in tiered volume incentives whereby participants may be charged reduced fee rates in certain NYMEX futures products traded on Globex® and in certain NYMEX OTC energy options products that a participant submits for clearing to the Clearing House. The tiered volume levels are predetermined by NYMEX and are based on a participant’s volume in the above-referenced products.
2. Fee Discounts. Once accepted into the Program, participants will receive predetermined discounted fee rates for (i) trades in certain NYMEX energy products traded on Globex® that would normally not be charged the NYMEX day trade rate, and (ii) all trades executed and/or cleared in NYMEX products, regardless of venue.
3. Fee Waivers. Participants will be eligible to receive predetermined fee waivers for ~~(i) certain NYMEX energy products that are traded on Globex®, (ii) certain NYMEX OTC energy products that are cleared through the Clearing House, and (iii) Exchange Futures for Swaps surcharges for certain NYMEX energy products.~~

Monitoring and Termination of Status

The Exchange shall monitor trading activity and participants' performance and shall retain the right to revoke Program participant status if they conclude from review that a Program participant no longer meets the eligibility requirements of the Program.