



Christopher Bowen  
Managing Director and Chief Regulatory Counsel  
Legal Department

June 11, 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 NYMEX Energy Products Cross-Venue Incentive Program  
NYMEX Submission No. 12-167**

Dear Mr. Stawick:

New York Mercantile Exchange, Inc ("NYMEX," the "Clearing House", or the "Exchange") hereby notifies the Commodity Futures Trading Commission ("Commission") of modifications to an existing NYMEX Energy Products Cross-Venue Incentive Program ("Program"). The proposed modifications to the Program will become effective on July 1, 2012.

Exhibit 1 sets forth the terms of this Program. The modifications appear below with additions underlined 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 Commodities 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 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.

Mr. David Stawick  
June 11, 2012  
Page 2

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.

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

NYMEX certifies that this submission has been concurrently posted on the NYMEX 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](mailto:robert.lev@cmegroup.com), or contact me at 212-299-2200. Please reference our NYMEX Submission No. 12-167 in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director, Chief Regulatory Counsel

Attachment: Exhibit 1 – NYMEX Energy Products Cross-Venue Incentive Program

# EXHIBIT 1

## **NYMEX Energy Products Cross-Venue Incentive Program**

### **Program Purpose**

The purpose of this Program is to incentivize volume and liquidity in certain energy products traded and/or cleared across NYMEX's trading venues. The resulting addition of liquidity for these products benefits all participants in the market.

### **Product Scope**

Light Sweet Crude Oil futures, Natural Gas Futures, Heating Oil Futures, RBOB Gasoline futures, Henry Hub natural Gas Swap Futures, European Gasoil Swap Futures, Singapore Gasoil vs. ICE Gasoil Swap Futures), Heating Oil Arb, European Gasoil Bullet Swap Futures, Brent Crude Oil Futures and Brent Crude Oil Penultimate Financial Futures that are traded on Globex®, traded on the NYMEX trading floor via open outcry or cleared by the Clearing House ("Products").

### **Eligible Participants**

NYMEX may designate up to three (3) participants in the Program. Participants may be a NYMEX member or non-member firm. NYMEX, in its sole discretion, will use a variety of factors in determining whether or not a prospective participant is selected to participate in the Program, including the prospective participant's overall historical volume in the Products across all NYMEX trading venues, the prospective participant's historical percentage of volume in energy products traded as resting volume, and the prospective participant's historical volume in NYMEX energy contracts, other than those previously mentioned above. Notwithstanding the forgoing, NYMEX may, from time to time, add to or subtract from the factors listed above as it deems necessary.

### **Program Term**

Start date is January 31, 2012. End date is ~~June 30, 2012~~ December 31, 2012.

### **Hours**

N/A

### **Incentives**

Once accepted into the Program, participants will be eligible to receive the following incentives:

1. Volume Incentives. Participants will be eligible to participate in tiered volume incentives whereby participants may be charged reduced fee rates in Light Sweet Crude Oil futures, Natural Gas Futures, Heating Oil Futures and RBOB Gasoline futures across all NYMEX trading venues. The tiered volume levels are predetermined by NYMEX and are based on a participant's daily volume in the Products.
2. Fee Discounts. Participants will be eligible to receive predetermined fee discounts (as applicable) for certain NYMEX energy products.

### **Monitoring and Termination of Status**

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