



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 Cross-Venue Energy and Metals Incentive Program for High Volume Contributors  
NYMEX/COMEX Submission No. 12-192**

Dear Mr. Stawick:

New York Mercantile Exchange, Inc ("NYMEX" or the "Clearing House") and the Commodity Exchange, Inc. ("COMEX") (NYMEX and COMEX collectively the "Exchanges") hereby notify the Commodity Futures Trading Commission ("Commission") that they plan to extend the Cross-Venue Energy and Metals Incentive Program for High Volume Contributors ("Program"). Modifications to the Program will become effective on July 1, 2012.

Exhibit 1 sets forth the terms of this Program. Additions to the Program have been underlined and deletions to the Program have been ~~overstruck~~.

NYMEX and COMEX 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 and COMEX 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 and proposed modifications will not impact the Exchanges' ability to perform their trade practice and market surveillance obligations under the CEA and NYMEX and COMEX 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 and COMEX have 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 and COMEX 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 Exchanges' record retention policies which comply with the CEA.

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Derivatives Clearing Organization (“DCO”) Core Principles: Financial Resources, Participant and Product Eligibility, Rule Enforcement Recordkeeping 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 an application or 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 Exchanges certify that the Program complies with the CEA and the regulations thereunder. There were no substantive opposing views to this Program.

The Exchanges certify that this submission has been concurrently posted on the Exchanges’ 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/COMEX Submission No. 12-192 in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director, Chief Regulatory Counsel

Attachments

# **EXHIBIT 1**

## **Cross-Venue Energy and Metals Incentive Program For High Volume Contributors**

### **Program Purpose**

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

### **Product Scope**

All NYMEX/COMEX energy and metals futures, options and miNY® contracts that are traded on Globex®, and all over-the-counter ("OTC") energy and metals products that are cleared by the Clearing House with a base member rate exceeding fifteen cents (\$ 0.15) (collectively the "Products").

### **Eligible Participants**

NYMEX/COMEX may designate up to three (3) participants in the Program. A participant may be a NYMEX or COMEX member or non-member firm. In order to be considered for the Program, an applicant must (i) have, over a recent time period, achieved a significantly high combined cross-venue average daily volume in all NYMEX and COMEX products, (ii) have, over a recent time period, achieved a significantly high combined cross-venue average daily volume in all NYMEX and COMEX options products, (iii) not currently be participating in another incentive program that includes the Products in order to be considered for participation in the Program.

### **Program Term**

Start date is December 2, 2011. End date is ~~June 30, 2012~~ December 31, 2012.

### **Hours**

N/A

### **Progressive Tiered Volume Incentives**

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

1. Fee Discounts. Participants will be eligible to receive predetermined fee discounts for certain NYMEX and COMEX energy and metals options products that are traded on Globex® and for certain NYMEX and COMEX futures products used to offset or hedge an options position.
2. Volume Incentives. Participants will be eligible to participate in tiered volume incentives whereby participants may be charged reduced fee rates in certain NYMEX and COMEX futures and miNY® contracts traded on Globex® and in certain OTC energy and metals products with a base member rate exceeding fifteen cents (\$0.15) that a participant submits for clearing to the Clearing House. The progressive tiered volume levels are predetermined by NYMEX and COMEX and are based on a participant's volume in the above-referenced products.

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

The Exchanges 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.