

**SUBMISSION COVER SHEET**

**IMPORTANT:** Check box if Confidential Treatment is requested

Registered Entity Identifier Code (optional): 16-552 (3 of 4)

Organization: New York Mercantile Exchange, Inc. ("NYMEX")

Filing as a:  DCM  SEF  DCO  SDR

Please note - only ONE choice allowed.

Filing Date (mm/dd/yy): December 14, 2016 Filing Description: Modifications to the Retail Broker Incentive Program

**SPECIFY FILING TYPE**

Please note only ONE choice allowed per Submission.

**Organization Rules and Rule Amendments**

- Certification § 40.6(a)
- Approval § 40.5(a)
- Notification § 40.6(d)
- Advance Notice of SIDCO Rule Change § 40.10(a)
- SIDCO Emergency Rule Change § 40.10(h)

Rule Numbers: Not Applicable

**New Product**

Please note only ONE product per Submission.

- Certification § 40.2(a)
- Certification Security Futures § 41.23(a)
- Certification Swap Class § 40.2(d)
- Approval § 40.3(a)
- Approval Security Futures § 41.23(b)
- Novel Derivative Product Notification § 40.12(a)
- Swap Submission § 39.5

Official Product Name:

**Product Terms and Conditions (product related Rules and Rule Amendments)**

- Certification § 40.6(a)
- Certification Made Available to Trade Determination § 40.6(a)
- Certification Security Futures § 41.24(a)
- Delisting (No Open Interest) § 40.6(a)
- Approval § 40.5(a)
- Approval Made Available to Trade Determination § 40.5(a)
- Approval Security Futures § 41.24(c)
- Approval Amendments to enumerated agricultural products § 40.4(a), § 40.5(a)
- "Non-Material Agricultural Rule Change" § 40.4(b)(5)
- Notification § 40.6(d)

Official Name(s) of Product(s) Affected:

Rule Numbers:

December 14, 2016

**VIA ELECTRONIC PORTAL**

Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**RE: Modifications to the Retail Broker Incentive Program  
NYMEX Submission No. 16-552 (3 of 4)**

Dear Mr. Kirkpatrick:

Chicago Mercantile Exchange Inc. ("CME"), The Board of Trade of the City of Chicago, Inc. ("CBOT"), New York Mercantile Exchange, Inc. ("NYMEX"), and Commodity Exchange, Inc. ("COMEX") (collectively, the "Exchanges") hereby notify the Commodity Futures Trading Commission ("CFTC" or "Commission") of plans to modify the Retail Broker Incentive Program ("Program"). The modifications to the Program will become effective on January 1, 2017.

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

The Exchanges reviewed the designated contract market core principles ("Core Principles") as set forth in the Commodity Exchange Act ("CEA"). During the review, Exchange staff identified the following Core Principles as potentially being impacted: Prevention of Market Disruption, Execution of Transactions, Protection of Market Participants, Compliance with Rules, and Recordkeeping.

The Program will not impact the Exchanges' ability to perform their trade practice and market surveillance obligations under the CEA. The Exchanges' market regulation staff will monitor activity in the Program's products to prevent manipulative trading and market abuse. Additionally, the Exchanges have implemented systems to track Program participants' volume to ensure proper distribution of earned incentives. The Program does not affect the Exchanges' order execution. Participants in the Program will be selected by Exchanges' staff using criteria as set forth in Exhibit 1. Each of the Exchanges' respective rules includes prohibitions against fraudulent, non-competitive, unfair or abusive practices. All participants must execute a contractual agreement with the Exchanges' in which each participant expressly agrees to comply with, and be subject to, applicable regulations and applicable rules. The Program is subject to the Exchanges' record retention policies which comply with the CEA.

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 e-mail [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com) or contact Rachel Johnson at 312-466-4393 or via e-mail at [Rachel.Johnson@cmegroup.com](mailto:Rachel.Johnson@cmegroup.com). Please reference our NYMEX Submission No. 16-552 (3 of 4) in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director and Chief Regulatory Counsel

Attachment: Exhibit 1

# EXHIBIT 1

## Retail Broker Incentive Program

### **Program Purpose**

The purpose of the Program is to incentivize participants to educate their clients about the benefits of trading the Exchanges' products and centralized clearing, ultimately providing additional liquidity to the marketplace. A more liquid contract benefits all participants in the market.

### **Product Scope**

All CME, CBOT, NYMEX, and COMEX products that are traded on the Globex Platform ("Products").

### **Eligible Participants**

There is no limit to the number of firms that can participate in the Program. Online retail based brokerage firms with at least ~~20,000~~ 10,000 active direct retail trading accounts or retail business at CME Clearing Firms may apply for participation in the Program. Participants must have at least one (1) full calendar year of trading activity in order to be eligible for the Program. Notwithstanding the forgoing, the Exchanges may add or subtract from the aforementioned criteria as they deem necessary.

### **Program Term**

Start date is June 17, 2013. End date is ~~December 31, 2016~~ December 31, 2017.

### **Hours**

N/A

### **Obligations**

Participants must, at minimum, have one (1) Futures-specific educational/marketing initiative per month that focuses on a specific Exchange product. Initiatives may include, but not limited to, educational events, advertising, and written product content such as whitepapers/articles. To receive the Program incentives, participants must supply the Exchange with invoices showing expenses of the initiatives. CME will rebate the lesser of the cost of the initiative or the amount of rebate credited to the participant. It will be the responsibility of each participant to provide Exchange defined detailed metrics on all initiatives on a monthly basis.

### **Program Incentives**

Upon satisfying all Program obligations, as determined by the Exchanges, each calendar month participants may be eligible to receive fee rebates in accordance with the following:

*Monthly Baseline:* Once accepted into the Program, the Exchanges will calculate the average monthly revenue attributable to the applicable participant that was generated from direct end-user non-member customer trading activity ("Customer Revenue") during the previous full twelve (12) months ("Monthly Baseline"). Each calendar year, the Monthly Baseline will be recalculated for all existing participants and will be based off of the previous full calendar year. At the beginning of every month, the Exchanges will calculate each participant's revenue growth for the prior month versus the Monthly Baseline.

Qualifications: For each calendar month of participation in the Program that a participant's revenue;

U.S. Firms

- (i) exceeds the Monthly Baseline by ten percent (10%) or more, the participant will receive a rebate of fifty percent (50%) off the additional growth for that month's revenue.

EMEA Firms

- (i) exceeds the Monthly Baseline by ten percent (10%) or more, the participant will receive a rebate of fifty percent (50%) off the additional growth for that month's revenue.

**Monitoring and Termination of Status**

The Exchanges' shall monitor activity in the Products and participants' performance 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.