U.S. COMMODITY FUTURES TRADING COMMISSION
Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5260
Facsimile: (202) 418-5527
www.cftc.gov

Division of
Market Oversight

July 19, 2007

Mr. Thomas LaSala
Chief Regulatory Officer
Mr. Robert A. Levin
Senior Vice President, Research
New York Mercantile Exchange
World Financial Center
One North End Avenue
New York, NY 10282-1101

Subject: Information request concerning the listing by the New York Mercantile Exchange of 23 new futures contracts on its ClearPort Trading and Clearing platform (NYMEX Submission 07.46)

Dear Messrs. LaSala and Levin:

In filings dated July 5, 2007, the New York Mercantile Exchange (NYMEX or Exchange) submitted to the Commission under the self-certification procedures of Section 5c(c)(1) of the Act and Commission Regulation 40.2 the terms and conditions of 23 new energy futures contracts on NYMEX ClearPort Trading and Clearing platform, including speculative position limits and position accountability provisions. These futures contracts are cash settled based variously on reported prices from ICE Futures, Platts, Argus, OPIS, and NYMEX.

As you know, designated contract markets (DCMs), such as the NYMEX, may list for trading new products by self-certification under Commission Regulation 40.2. In doing so, a DCM accepts responsibility, "for assuring that [its] products and rules comply with the applicable designation criteria and core principles. When a DCM self-certifies a product or rule, it is, in effect, pledging that the product or rule does meet those standards. Assuming the DCM is acting in good faith, it must have some reasonable basis for making that pledge."[1] As you also know, staff in the Commission's Division of Market Oversight (Division) reviews all new futures and option contracts that are listed for trading by DCMs to assure that the product or rule does indeed comply with applicable designation criteria and core principles. In this regard, when conducting its due diligence review, DMO staff gives special consideration to Core Principle 3 (listing contracts that are not readily susceptible to manipulation); Core Principle 4 (monitoring trading to prevent manipulation, price distortion or disruptions of the delivery or cash-settlement

[1] See the January 12, 2006, Federal Register notice (71 FR 1953) re amendments to Part 40 of the Commission's regulations.

process); and Core Principle 5 (adopting position limits or position accountability rules to reduce the threat of market manipulation or distortion, especially in the delivery month).

Accordingly, to determine whether the new NYMEX futures contracts meet the requirements of those Core Principles, Division staff hereby requests, pursuant to Commission Regulation 40.2(b), that the Exchange respond to the following questions concerning the characteristics of the underlying cash market, the cash-settlement price series, the Exchange's monitoring of trading, and the level of position limits for each new NYMEX contract.

1) For each futures contract, please provide a brief description of the underlying cash market at the pricing point, including supply and demand characteristics and the principal market participants. The description may include, in addition to or in lieu of material prepared by the Exchange, existing studies by industry trade groups, academics, governmental bodies or other entities, reports of consultants, or other materials which provide a description of the underlying cash market.

2) For each price series used to settle the new futures contracts, please explain the pricing methodology employed by the price service provider (ICE Futures, Platts, Argus, OPIS, and NYMEX), to wit:

- What information is used to compute the prices (i.e., transactions only, bids, offers, cash-market information, spread relationships, other information, etc.)?
- What formulas are employed (e.g., weighted average, etc.)?
- What is the volume of transactions underlying the cash settlement index price?
- Does the transaction volume vary materially by contract month?
- Who are the principal traders and what kind of market power does each exercise at this pricing point?
- Does the NYMEX believe that the index prices are accurate, reliable, and reflective of the values in the underlying cash markets? Are the prices acceptable for hedging?
- How susceptible are the index prices to manipulation? On what basis is this finding made?

3) Have any of the price providers (Platts, Argus, OPIS and ICE Futures) objected to the use of their prices to settle the NYMEX contracts, and if so, what is the basis of their objection?

4) Please explain the NYMEX's methodology and the information used to determine the speculative position limits for the new NYMEX futures contracts.

5) Monitoring of Trading. Adding cash-settled futures contracts based on the quoted prices will likely increase the incentive to manipulate these price series. Accordingly, mechanisms for detecting and preventing manipulation are essential.

- Does the NYMEX have information sharing agreements with the price providers (Platts, Argus, OPIS, and ICE Futures) to detect and prevent manipulation?
    - If not, what effect does the lack of information sharing have on the susceptibility of the index prices to manipulation?

- How would the NYMEX know about or address an attempt to distort prices in the underlying market to advantage a futures position?
- Do the price providers (Platts, Argus, OPIS, and ICE Futures) monitor trading activity and have procedures in place to prevent manipulation of their quoted prices? If so, what procedures are used?
- Are you aware of any instances of manipulation of these prices?
- With respect to the NYMEX European Gasoil Bullet Swap that is cash settled based on the ICE Futures settlement price, how will NYMEX monitor trading across both exchanges?

We would appreciate a response by August 20, 2007. If you have any questions about this request, please feel free to contact me at 202-418-5275 or Martin Murray at 202-418-5276.

Sincerely,

Richard A. Shilts
Director