



Christopher Bowen  
Managing Director and Chief Regulatory Counsel  
Legal Department

January 13, 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: NYMEX European and Asian OTC Cleared Petroleum Products  
Incentive Program. NYMEX Submission No. 12-018**

Dear Mr. Stawick:

New York Mercantile Exchange, Inc ("NYMEX," the "Clearing House", or the "Exchange") hereby notifies the Commodity Futures Trading Commission ("Commission") that it plans to implement a broker incentive program in support of certain NYMEX over-the-counter energy products ("Program"). The proposed Program will become effective on January 31, 2012.

Exhibit 1 sets forth the terms of the proposed Program.

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 proposed Program will not impact the Exchange's ability to perform their 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. The incentives under the Program do not adversely impact any price discovery that may be taking place in the centralized market. Specifically, incentives under the Program are only available to brokers that submit previously matched third-party trades in the relevant products. Principals who submit trades or executed orders for their own, or through a proprietary account, are excluded from participation in the Program and are not eligible for incentives. The initiating party is the one who selects the venue, not the broker, and the incentives are earned by the broker well after venue selection is made.

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Thus, the Program does not influence the choice made by the principals regarding the execution 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 proposed 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

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 NYMEX in which each participant expressly agrees to comply with and be subject to applicable regulations and NYMEX rules. The proposed Program will be subject to NYMEX records retention policies which comply with the CEA.

NYMEX certifies that the Program complies with the Commodity Exchange Act 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. 12-018 in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director, Chief Regulatory Counsel

Attachments

# EXHIBIT 1

## NYMEX OTC Broker Incentive Program

### Program Purpose

The purpose of this Program is to encourage broker's to increase their volume in the products listed below, enhancing market liquidity for those products. A more liquid contract benefits all participants in the market.

### Product Scope

All NYMEX OTC energy products that are cleared by the Clearing House with the exception of with the exception of Light Sweet Crude Oil futures (CL), Natural Gas Futures (NG), Heating Oil Futures (HO), RBOB Gasoline Futures (RB), Crude Oil Option (LO), Henry Hub Natural Gas Options (ON), Heating Oil Options (OH), RBOB Gasoline Options (OB) ("Products"):

### Eligible Participants

There is no limit to the amount of participants that may register for the Program. The Program is open to all Voice Brokers, Floor Brokers, Introducing Brokers, Associated Persons and Futures Commission Merchants who submit matched trades to the CME ClearPort clearing systems for 3rd parties and all CFTC/NFA registrants who submit orders to, and which are executed on, the CME ClearPort trading platform. Principals who submit trades or executed orders for their own, or a proprietary account, are excluded from participation in the Program.

### Program Term

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

### Hours

N/A

### Program Obligations

Participants must disclose the accounts in which they plan to trade the Products and receive the incentives below. All must provide NYMEX with daily settlement data for requested Products.

### Program Incentives

Upon meeting all Program obligations, as determined by NYMEX, participants will be eligible for the following incentives:

1. North American Products. For North American Natural Gas, Crude Oil, Refined and Electricity products that a participant clears through the Clearing House ("North American Products"), the participant will receive a rebate of 20% of the net clearing fees collected from the participant by the Clearing House.

2. European Products. For European Crude, European Fuel Oil, European Gasoil and European Light End products that a participant clears through the Clearing House ("European Products"), the participant may receive progressive rebates based on the net clearing fees collected from the participant by the Clearing House in accordance with the following

	<b>Net Clearing Fees</b>		<b>Rebate</b>
European Crude	Between	\$0-\$10,000	25 %
	Between	\$10,001-\$25,000	30 %
	Between	\$25,001-\$50,000	35 %
	Exceeds	\$50,001	40 %
European Fuel Oil	Between	\$0-\$25,000	25 %
	Between	\$25,001-\$50,000	30 %
	Between	\$50,001-\$75,001	35 %
	Exceeds	\$75,001	40 %
European Gasoil	Between	\$0 and \$25,000	25 %
	Between	\$25,001 and \$50,000	30 %
	Between	\$50,001 and \$100,000	35 %
	Exceeds	\$100,001	40 %
European Light Ends	Between	\$0 and \$25,000	25 %
	Between	\$25,001 and \$75,000	30 %
	Between	\$75,001 and \$150,000	35 %
	Exceeds	\$150,001	40 %

3. Asian Products. For Asian Crude, Asian Fuel Oil, Asian LPG Asian Naphtha and Gasoline and Asian Middle Distillate products that a participant clears through the Clearing House ("Asian Products"), the participant may receive regressive rebates based on the net clearing fees collected from the participant by the Clearing House in accordance with the following:

	<b>Net Clearing Fees</b>		<b>Rebate</b>
Asian Crude	Between	\$0 and \$5,000	25 %
	Between	\$5,001 and \$15,000	35 %
	Exceeds	\$15,001	55 %
Asian Fuel Oil	Between	\$0 and \$10,000	25 %
	Between	\$10,001 and \$30,000	35 %
	Exceeds	\$30,001	55 %
Asian LPG	Between	\$0 and \$1,000	25 %
	Between	\$1,001 and \$2,000	35 %
	Exceeds	\$2,001	55 %
Asian Naphtha and Gasoline	Between	\$0 and \$5,000	25 %
	Between	\$5,001 and \$15,000	35 %
	Exceeds	\$15,001	55 %
Asian Middle Distillates	Between	\$0 and \$1,000	25 %
	Between	\$1,001 and \$10,000	35 %
	Exceeds	\$10,001	55 %

4. Henry Hub Natural Gas Look-Alike Options (LN). For Henry Hub Natural Gas Look-Alike Options that a participant, including its subsidiaries, clears through the Clearing House over a calendar quarter ("Measurement Period"), the participant may receive progressive rebates based on the net clearing fees collected from the participant by the Clearing House in accordance with the following:

Number of Contracts in LN Submitted for Clearing during Measurement Period	Percentage Applied to all Eligible Products
0-4,000,000	20%
Between 4,000,001-4,500,000	25%
Between 4,500,001-5,000,000	30%
Exceeds 5,000,000	35%

**Monitoring and Termination of Status**

NYMEX shall monitor trading activity 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.