

January 14, 2013

**VIA E-MAIL**

Ms. Sauntia Warfield  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**RE: NYMEX Bi-Venue Energy Tiers Incentive Program  
NYMEX Submission No. 13-007**

Dear Ms. Warfield:

New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") hereby notifies the Commodity Futures Trading Commission ("Commission") of that it plans to implement an incentive program in support of certain NYMEX energy futures and options contracts that are traded on the Globex Platform or submitted for clearing to the CME Clearing House ("Program"). The proposed Program will become effective January 30, 2013.

Exhibit 1 sets forth the terms of this Program.

NYMEX business staff responsible for the Program and the NYMEX legal department collectively reviewed the designated contract market core principles ("Core Principles") as set forth in the Commodity Exchange Act ("CEA"). During the review, NYMEX 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 proposed 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 trading in 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 proposed Program will be subject to the Exchange's record retention policies which comply with the CEA.

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

The Exchange certifies that this submission has been concurrently posted on the Exchange's 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. 13-007 in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director, Chief Regulatory Counsel

Attachment: Exhibit 1

# EXHIBIT 1

## Bi-Venue Energy Tiers Incentive Program

### Program Purpose

The purpose of the Program is to incentivize higher levels of volume contribution in the products listed below during both day and overnight trading hours. Higher levels of volume and liquidity in the products listed below benefits all participants in the marketplace.

### Product Scope

Certain NYMEX futures and options products that are traded on Globex, traded on the NYMEX trading Floor or submitted for clearing to the CME Clearing House.

### Eligible Participants

NYMEX may designate up to three (3) participants in the Program. A participant may be a NYMEX member or non-member. In order to be considered for the Program, an applicant must have, through the participating firm itself or through key individuals who trade on behalf of the participating firm, averaged significant volume in both NYMEX energy options and NYMEX energy futures.

### Program Term

Start date is January 30, 2013. End date is December 31, 2013.

### Hours

N/A

### Incentives

1. Volume Incentives. Once accepted into the Program participants will be eligible to participate in tiered volume incentives whereby participants may be charged reduced fee rates in certain NYMEX futures products traded on Globex® and in certain NYMEX energy options products that a participant submits for clearing to the CME Clearing House. The tiered volume levels are predetermined by NYMEX and are based on a participant's volume in the above-referenced products.
2. Fee Discounts. Once accepted into the Program, participants will receive predetermined discounted fee rates for (i) trades in certain NYMEX energy options and futures products regardless of venue.
3. Fee Waivers. Participants will be eligible to receive fee waivers for (i) certain NYMEX energy products regardless of venue, and (ii) Block transaction surcharges and Exchange Futures for Swaps surcharges for certain NYMEX energy products.

### Monitoring and Termination of Status

The Exchange 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.