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OFFICE OF THE SECRETARIAT

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January 21, 2010

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: Rule Certification. New York Mercantile Exchange, Inc. Submission# 10-021: Notification Regarding the Listing of Sour Crude Index ("ASCI") Financial Futures on Globex<sup>®</sup>, NYMEX Trading Floor and CME ClearPort<sup>®</sup>**

Dear Mr. Stawick:

The New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying the listing of a financially settled Argus Sour Crude Index ("ASCI") Financial Futures for trading on Globex and the NYMEX trading floor and for clearing through CME ClearPort. The commodity code for the CME ClearPort and NY Trading Floor venues shall be A0 (A zero) and for the Globex venue, the code shall be A0X (A zero X). The rule chapter for this contract is 226.

Effective January 24 for trade date January 25, 2010, this contract will be available for trading on Globex, the NYMEX trading floor, and for clearing through CME ClearPort. The new contract will be available during normal trading hours on NYMEX trading floor from 9:00 a.m. until 2:30 p.m. (New York prevailing time). The contract will also be available on Globex and CME ClearPort from 6:00 p.m. Sunday until 5:15 p.m. Friday (New York prevailing time). There is a 45-minute halt each day between 5:15 p.m. (current trade date) and 6:00 p.m. (next trade date).

The first listed month for this contract will be the March 2010 contract month. The financially settled contract will be listed for thirty-six consecutive months. In addition, the Exchange will allow an Exchange for Related Position transaction which shall be governed by the provisions of Exchange Rule 538.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rules 40.2 and 40.6, the Exchange hereby certifies that the attached contract complies with the Act, including regulations under the Act. The effective date of this listing shall be Monday, January 25, 2010.

Should you have any questions concerning the above, please contact Daniel Brusstar at (212) 299-2604 or me at (312) 648-5422.

Sincerely,

/s/ Stephen M. Szarmack  
Regulatory Counsel

Attachments: Contract terms and conditions  
Supplemental Market Information

## Chapter 226 Argus Sour Crude Index ("ASCI") Financial Futures

### 226.01 SCOPE

The provisions of these Rules shall apply to all contracts bought or sold on the Exchange for cash settlement based on the Floating Price.

### 226.02 FLOATING PRICE

The Floating Price for each contract month is equal to the outright index price from Argus Media for the Argus Sour Crude Index ("ASCI") on the last trading day for the delivery month.

### 226.03 CONTRACT QUANTITY AND VALUE

The contract quantity shall be 1,000 barrels. Each contract shall be valued as the contract quantity (1,000) multiplied by the settlement price.

### 226.04 CONTRACT MONTHS

Trading shall be conducted in contracts in such months as shall be determined by the Exchange.

### 226.05 PRICES AND FLUCTUATIONS

Prices shall be quoted in U.S. dollars and cents per barrel. The minimum price fluctuation shall be \$0.01 per barrel. There shall be no maximum price fluctuation.

### 226.06 TERMINATION OF TRADING

Trading shall cease at the close of trading one business day prior to the last trading day of the Light Sweet Crude Oil Futures contract, i.e., the fourth business day prior to the twenty-fifth calendar day of the month preceding the delivery month. If the twenty-fifth calendar day of the month is a non-business day, trading shall cease on the fourth business day prior to the last business day preceding the twenty-fifth calendar day.

### 226.07 FINAL SETTLEMENT

Delivery under the contract shall be by cash settlement. Final settlement, following termination of trading for a contract month, will be based on the Floating Price. The final settlement price will be the Floating Price calculated for each contract month.

### 226.08 EXCHANGE OF FUTURES FOR RELATED POSITION TRANSACTIONS

Any Exchange of Futures for Related Position (EFRP) transactions shall be governed by the provisions of Exchange Rule 538.

### 226.09 DISCLAIMER

Argus Media ("Argus") licenses the New York Mercantile Exchange, Inc. ("NYMEX") to use various Argus price assessments in connection with the trading of the contract.

NEITHER NYMEX AND ITS AFFILIATES NOR ARGUS GUARANTEES THE ACCURACY AND/OR COMPLETENESS OF THE ASSESSMENT OR ANY OF THE DATA INCLUDED THEREIN.

NYMEX AND ITS AFFILIATES AND ARGUS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE RESULTS TO BE OBTAINED BY ANY PERSON OR ENTITY FROM USE OF THE ASSESSMENT, TRADING BASED ON THE ASSESSMENT, OR ANY DATA INCLUDED THEREIN IN CONNECTION WITH THE TRADING OF THE CONTRACT, OR, FOR ANY OTHER USE. NYMEX AND ITS AFFILIATES AND ARGUS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AND HEREBY DISCLAIM ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE WITH RESPECT TO THE ASSESSMENT OR ANY DATA INCLUDED THEREIN. WITHOUT LIMITING ANY OF THE FOREGOING, IN NO EVENT SHALL NYMEX AND ITS AFFILIATES OR ARGUS HAVE ANY LIABILITY FOR ANY LOST PROFITS OR INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES.

## Supplemental Market Information

### Price Source: Argus

The price reporting services used for the final settlement of the new petroleum futures contracts is Argus Media ("Argus"). This price source is a major pricing service that is used in the over-the-counter (OTC) market for pricing swap contracts, and the methodology utilized is well-known in the oil industry.

The New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") has entered into a license agreement with Argus to utilize their pricing data. Argus has a long-standing reputation in the industry in publishing price benchmarks that are fair and not manipulated. Argus' pricing methodology is derived from telephone surveys and electronic data collected from multiple market participants to determine market value.

### U.S. Gulf Coast Crude Oil Market

#### *Description*

The U.S. Gulf Coast crude oil market represents a robust trading hub which consists of storage facilities, major pipelines for distribution of crude oil to the Gulf Coast and Midcontinent refineries. The domestic production of sour crude oil is mainly centered in the Gulf Coast. The new Argus Sour Crude Index ("ASCI") reflects the value of sour crude oil traded in the U.S. Gulf Coast market. It is based on three different crude oil streams that are produced and traded in the U.S. Gulf: Mars, Poseidon, and Southern Green Canyon. These streams are traded in the physical market at differentials to the NYMEX settlement price. According to estimates from Purvin & Gertz, an independent energy industry consultancy, and other industry sources, daily deliverable supply of sour crude oil is approximately 800,000 to 1.0 million barrels. The demand for sour crude oil comes from refineries located in the Gulf Coast area and the Midcontinent.

The estimated trading volume of various sour crude oil streams in the U.S Gulf Coast cash market is approximately 1.0 million to 1.5 million barrels per day. The total oil production in the U.S. Gulf Coast is over one million barrels per day, and is expected to climb to 1.5 million over the next few years. The typical transaction size is 35,000 to 45,000 barrels, with hundreds of separate transactions conducted daily. The Poseidon and the Southern Green Canyon crude oil streams trade roughly 150,000 to 200,000 barrels per day while the Mars Blend crude oil stream trades approximately 350,000 to 400,000 barrels per day in the cash market according to data from Argus Media (see Figure 2 "Spot Market Trade Volume" below). The typical transaction size is 35,000 to 45,000 barrels, with hundreds of separate transactions conducted daily.

In addition, all domestic crude oil grades, such as Mars, Poseidon, Southern Green Canyon and WTS, are traded and priced at a differential to WTI, and consequently, every physical crude oil transaction in the U.S. crude oil market involves a buy/sell transaction with WTI as one leg in the cash transaction. Typically, the crude oil cash market uses WTI as a unit of currency to establish a differential between WTI and other domestic grades. The volume of spot transactions is more than half of all cash transactions, and the balance of trades are longer-term contracts

Table 1 below provides selected statistics for crude oil in the U.S. and U.S. Gulf Coast Markets. On average, Gulf Coast production during the 2006-2008 period was 1.2 million barrels per day. Mars crude oil production accounts for approximately 25% of Gulf Coast production. The average annual imports of crude oil for Iraq and Russia is approximately 667,000 barrels per day.

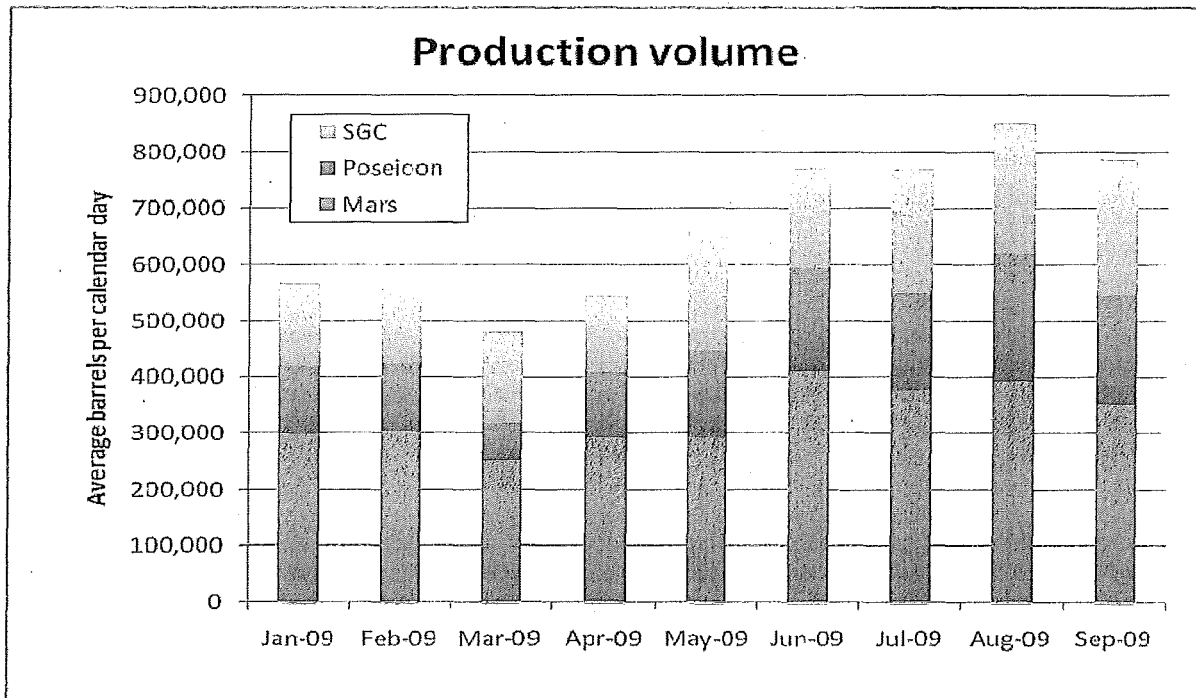
Table 1. Selected Statistics for Crude Oil: U.S. and U.S. Gulf Coast Markets.

(Thousand Barrels per Day)

Item and Region	2006	2007	2008	Average 2006-2008
<b>Annual Production, Crude Oil</b>				
Gulf Coast Sour Crude Oil - Federal Offshore (PADD 3) <sup>1</sup>	1,299	1,277	1,152	1,243
Mars Production <sup>2</sup>	300	300	350	317
<b>Annual Stocks, Crude Oil<sup>3</sup></b>				
Crude Oil PADD 3 (Excluding SPR)	162,696	145,094	163,051	156,947
Gulf Coast (PADD 3) Tank Farms and Pipelines	110,232	87,982	109,484	102,566
Refinery Stocks (PADD 3)	38,845	42,928	39,376	40,383
<b>Refinery Inputs, 4-Week Average<sup>4</sup></b>				
Gulf Coast PADD 3	12/18/2009	12/25/2009	1/01/2010	1/08/2010
Gulf Coast PADD 3	6,826	6,800	6,688	6,724

As illustrated in Figure 1 from Argus Media, the levels of production for Mars have risen close to 400,000 barrels per day. The spot market volume from Argus Media in Figure 2 represents an estimate of the Gulf Coast crude streams trading activity which has steadily risen since January 2009. Figure 3 illustrates Mars crude oil prices over the last three years.

Figure 1. Production Volume



<sup>1</sup> EIA Crude Oil Production Data [http://tonto.eia.doe.gov/dnav/pet/pet\\_crd\\_crpdn\\_adc\\_mbbldp\\_a.htm](http://tonto.eia.doe.gov/dnav/pet/pet_crd_crpdn_adc_mbbldp_a.htm).

<sup>2</sup> Mars Production Data is provided from Shell Pipeline.

<sup>3</sup> EIA Crude Oil Stock Data, [http://tonto.eia.doe.gov/dnav/pet/pet\\_stoc\\_typ\\_d\\_r30\\_SAX\\_mbbi\\_a.htm](http://tonto.eia.doe.gov/dnav/pet/pet_stoc_typ_d_r30_SAX_mbbi_a.htm) (Excluding SPR);

[http://tonto.eia.doe.gov/dnav/pet/pet\\_stoc\\_typ\\_d\\_r30\\_STT\\_mbbi\\_a.htm](http://tonto.eia.doe.gov/dnav/pet/pet_stoc_typ_d_r30_STT_mbbi_a.htm) (Tank Farms and Pipelines); and

[http://tonto.eia.doe.gov/dnav/pet/pet\\_stoc\\_ref\\_dc\\_r30\\_mbbi\\_a.htm](http://tonto.eia.doe.gov/dnav/pet/pet_stoc_ref_dc_r30_mbbi_a.htm) (Refinery Stocks -- PADD 3).

<sup>4</sup> EIA Refinery Input Data [http://tonto.eia.doe.gov/dnav/pet/pet\\_pnp\\_wiup\\_dcu\\_r30\\_4.htm](http://tonto.eia.doe.gov/dnav/pet/pet_pnp_wiup_dcu_r30_4.htm) (Gulf Coast PADD 3).

Figure 2. Spot Market Trade Volume

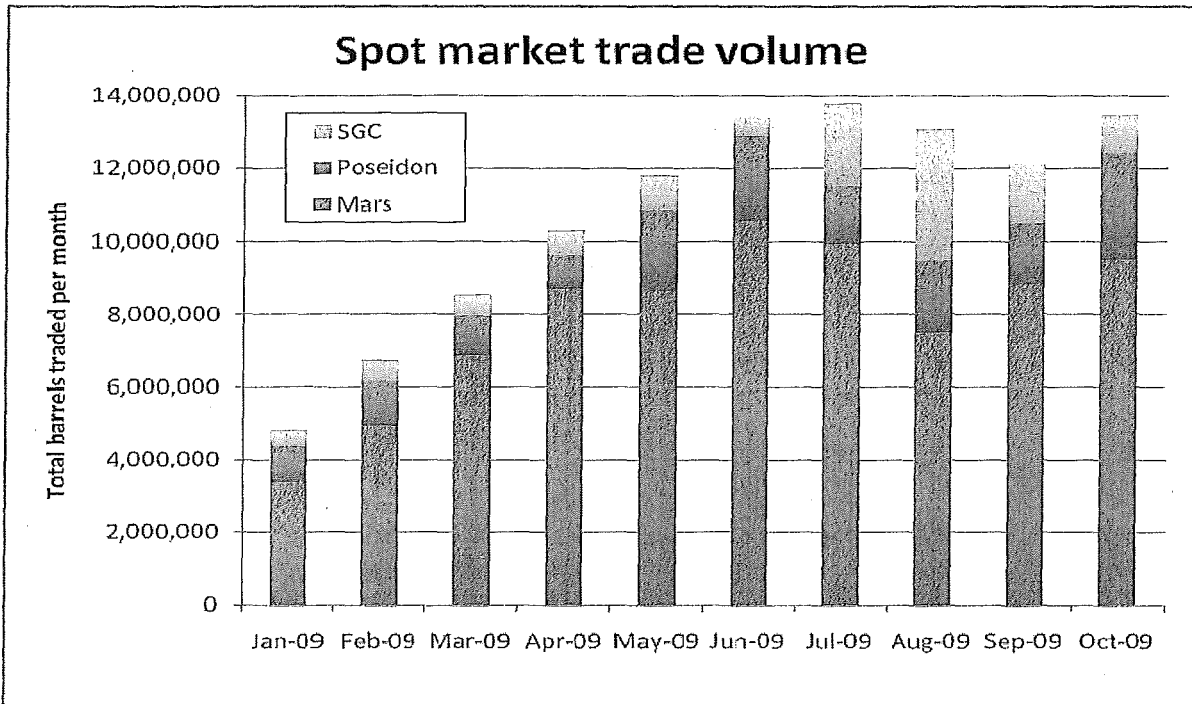
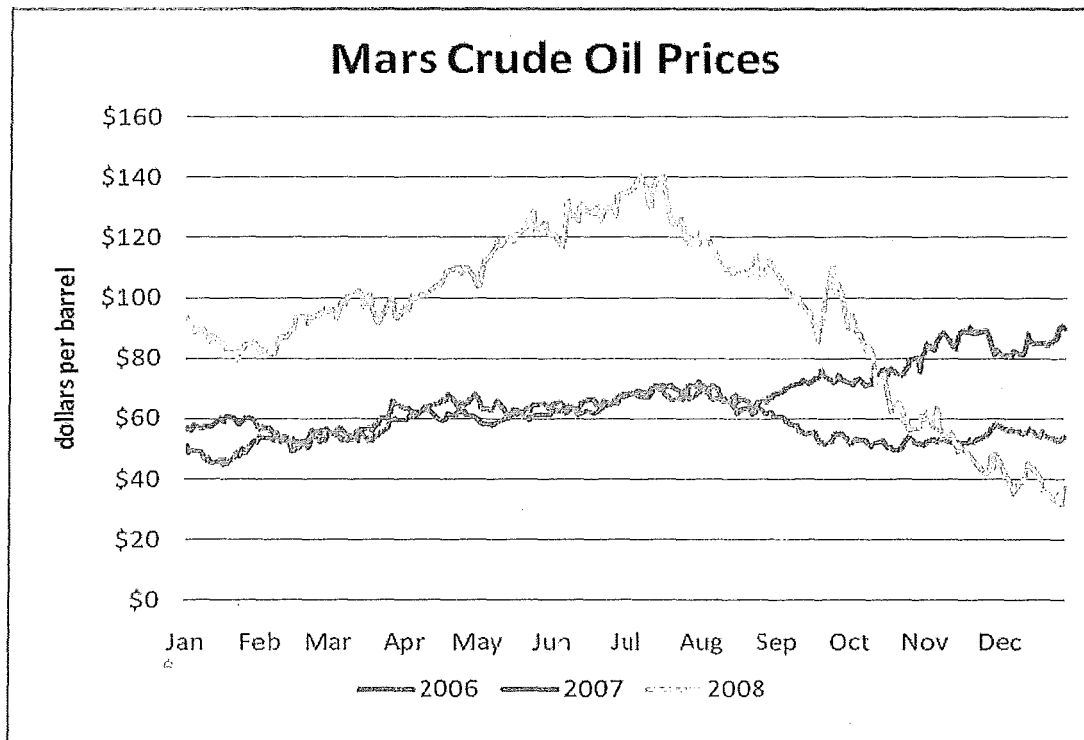


Figure 3. Mars Crude Oil Prices



### ***Market Participants***

The U.S. Gulf Coast sour crude oil cash market and OTC market participants are diverse and include approximately 40 to 50 commercial companies. A partial listing is as follows:

<b><u>Refiners</u></b>	<b><u>Traders/Importers</u></b>	<b><u>Brokers</u></b>	<b><u>Financial (Swaps)</u></b>
ConocoPhillips	Occidental Petroleum	United	Citibank
Valero	Vitol	GFI Starsupply	Deutsche Bank
Shell	Glencore	United	Barclays
ExxonMobil	Plains	PVM	BankAmerica
BP	Koch	United	Wachovia Bank
Sunoco	Cargill	ARC Oil	JP Morgan Chase
Amerada Hess	Morgan Stanley	Oil Brokers Inc.	Credit Suisse Bank
Marathon	Goldman Sachs (J. Aron)		
Murphy Oil	Trafigura		
Chevron	Hess Energy Trading		
Total	BHP Billiton		
	Anadarko		
	Gunvor		

### **Speculative Limits for Gulf Coast Sour Crude Oil Futures Contract**

A conservative estimate of deliverable supply for the Argus Sour Crude Index ("ASCI") Financial Futures contract is approximately 1.16 million barrels per day or 35 million barrels per month.

The Exchange has set the speculative limits for the spot month at 5,000 contracts, which represents 14% of the monthly deliverable supply.