



Christopher Bowen  
Managing Director and Chief Regulatory Counsel  
Legal Department

February 12, 2013

**VIA E-MAIL**

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

**RE: Modifications to Cross-Venue Energy and Metals Incentive Program for High Volume Contributors. NYMEX/COMEX Submission No. 13-043**

Dear Ms. Jurgens:

New York Mercantile Exchange, Inc. ("NYMEX") and the Commodity Exchange, Inc. ("COMEX") (collectively, NYMEX and COMEX or the "Exchanges") hereby notify the Commodity Futures Trading Commission (the "Commission") of modifications to the Cross-Venue Energy and Metals Incentive Program for High Volume Contributors ("Program"). The proposed modifications to the Program will become effective on February 28, 2013.

Exhibit 1 sets forth the terms of this Program. The modifications appear below, with additions underscoring and deletions ~~overstruck~~.

NYMEX and COMEX business staff responsible for the Program and the Exchanges' legal department collectively reviewed the designated contract market core principles and the derivatives clearing organization core principles (the "Core Principles") as set forth in the Commodity Exchange Act ("CEA"). During the review, NYMEX and COMEX 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 and proposed modifications will not impact the Exchanges' ability to perform their trade practice and market surveillance obligations under the CEA. NYMEX and COMEX market regulation staff will continue to monitor trading in the Program's products to prevent manipulative trading and market abuse. Additionally, NYMEX and COMEX have 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 and COMEX 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 and COMEX staff using criteria as set forth in Exhibit 1. Chapter 4 of the NYMEX and COMEX rules includes prohibitions against fraudulent, non-competitive, unfair or abusive practices. All participants must execute a contractual agreement with NYMEX in which each participant expressly agrees to comply with, and be subject to, applicable regulations and NYMEX rules. The Program will be subject to the Exchanges' record retention policies which comply with the CEA.

The Exchanges certify that the Program and the proposed modifications to the Program comply with the CEA and the regulations thereunder. There were no substantive opposing views to this Program or the proposed modifications.

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 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/COMEX Submission No. 13-043 in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director, Chief Regulatory Counsel

Attachment: Exhibit 1

# EXHIBIT 1

## Cross-Venue Energy and Metals Incentive Program For High Volume Contributors

### **Program Purpose**

The purpose of this Program is to incentivize volume and liquidity in energy and metals products across NYMEX's and COMEX's trading venues. The resulting addition of liquidity for these products benefits all participants in the market.

### **Product Scope**

All NYMEX/COMEX energy and metals futures, options and miNY® contracts that are traded on Globex®, and all over-the-counter ("OTC") energy and metals products that are cleared by the Clearing House with a base member rate exceeding fifteen cents (\$ 0.15) (collectively the "Products").

### **Eligible Participants**

NYMEX/COMEX may designate up to three (3) participants in the Program. A participant may be a NYMEX or COMEX member or non-member firm. In order to be considered for the Program, an applicant must (i) have, over a recent time period, achieved a significantly high combined cross-venue average daily volume in all NYMEX and COMEX products, (ii) have, over a recent time period, achieved a significantly high combined cross-venue average daily volume in all NYMEX and COMEX options products, ~~(iii) not currently be participating in another incentive program that includes the Products in order to be considered for participation in the Program.~~

### **Program Term**

Start date is December 2, 2011. End date is December 31, 2013.

### **Hours**

N/A

### **Progressive Tiered Volume Incentives**

Once accepted into the Program, participants will be eligible to receive the following incentives.

1. Fee Discounts. Participants will be eligible to receive predetermined fee discounts for certain NYMEX and COMEX energy and metals options products that are traded on Globex® and for certain NYMEX and COMEX futures products used to offset or hedge an options position.
2. Volume Incentives. Participants will be eligible to participate in tiered volume incentives whereby participants may be charged reduced fee rates in certain NYMEX and COMEX futures and miNY® contracts traded on Globex® and in certain OTC energy and metals products with a base member rate exceeding fifteen cents (\$0.15) that a participant submits for clearing to the Clearing House. The progressive tiered volume levels are predetermined by NYMEX and COMEX and are based on a participant's volume in the above-referenced products.

### **Monitoring and Termination of Status**

The Exchanges 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.