



Christopher Bowen  
Managing Director and Chief Regulatory Counsel  
Legal Department

March 15, 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: Diverse Trading Non-Member International Commercial Firms Energy  
Incentive Program  
NYMEX Submission No. 12-085**

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 an incentive program for diverse trading non-member international commercial firms in support of certain NYMEX energy NYMEX energy products, including those that are traded on the CME Globex Platform, traded via open outcry on the NYMEX trading floor and over-the-counter energy products cleared by NYMEX ("Program"). The proposed Program will become effective on March 30, 2012.

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 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 available under the Program will apply to transactions by participants via any of NYMEX's execution and/or clearing venues, including the pit and our central limit order book. Additionally, the incentives are equal across all NYMEX execution venues. Therefore, the incentives under this Program protect any price discovery taking place in the centralized market.

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.

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Derivatives Clearing Organization ("DCO") Core Principles: Financial Resources, Participant and Product Eligibility, Rule Enforcement, Recordkeeping, Public Information and Information Sharing:

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 the Clearing House 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 Clearing House's records retention policies which comply with the CEA. The Program contains "information concerning" each clearing and other fee that the DCO charges members and participants. A potential participant in the Program who wishes to subscribe to the Program may contact the Clearing House to receive further information regarding the fees that are charged to Program participants.

NYMEX certifies that the Program complies with the CEA 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. 12-085 in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director, Chief Regulatory Counsel

Enclosure: Exhibit 1 – Diverse Trading Non-Member International Commercial Firms Energy Incentive Program

# **EXHIBIT 1**

## **Diverse Trading Non-Member International Commercial Firms Energy Incentive Program**

### **Program Purpose**

The purpose of this Program is to incentivize trading in NYMEX energy products across all NYMEX venues for non-member international commercial trading firms which have historically traded a diverse product set. Increasing the overall volume levels in the products listed below will enhance market liquidity. A more liquid contract benefits all participants in the market.

### **Product Scope**

All NYMEX energy products that are (i) traded on the Globex Platform, (ii) traded on the NYMEX floor via open outcry, or (iii) OTC energy products submitted to and cleared by NYMEX ("Products").

### **Eligible Participants**

NYMEX may designate up to three (3) participants in the Program. Participants must be NYMEX non-member international commercial firms. In order to be considered for the Program, an applicant must (i) have, over a recent time period, maintained a significant average daily volume levels in the Products and (ii) have, over a recent time period, traded a significantly diverse energy product set.

### **Program Term**

Start date is March 30, 2012. End date is June 30, 2012.

### **Hours**

N/A

### **Incentives**

Once accepted into the Program, participants will receive predetermined reduced fee rates for all trades executed and/or cleared in the 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 it concludes from review that a Program participant no longer meets the eligibility requirements of the Program.