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OFFICE OF THE SECRETARIAT

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April 8, 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 # 10-073:
Notification Regarding the Listing of Two New Petroleum Futures Contracts for
Trading on the NYMEX Trading Floor and for Clearing through CME ClearPort®**

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 two (2) new financially settled petroleum futures contracts for trading on the NYMEX trading floor and for submission for clearing through CME ClearPort.

The two new petroleum futures contracts, commodity codes and rule chapters are as follows:

<u>Contracts</u>	<u>Code</u>	<u>Rule Chapter</u>
EIA Flat Tax U.S. Retail Gasoline Swap Futures	JE	313
Dated to Frontline Brent BALMO Swap Futures	FE	831

Effective Sunday, April 11, 2010, for trade date Monday, April 12, 2010, these new petroleum futures contracts will be listed for open outcry trading during the hours of 9:00 a.m. to 2:30 p.m. (New York Prevailing time) Monday through Friday, except on Exchange holidays. The contracts will also be listed for clearing through CME ClearPort® from 6:00 p.m. Sundays through 5:15 p.m. Fridays (New York Prevailing time), with a 45-minute break each day between 5:15 p.m. and 6:00 p.m., except on Exchange holidays.

The first listed month for the Dated to Frontline Brent BALMO Swap Futures contract will be the April 2010 contract month. The Dated to Frontline Brent BALMO Swap Futures contract will be listed for one month and the following month will be listed 10 business days prior to the start of the contract month. The first listed month for the EIA Flat Tax U.S. Retail Gasoline Swap Futures will be the May 2010 contract month. The EIA Flat Tax U.S. Retail Gasoline Swap Futures contract will be listed for 36 consecutive contract months.

In addition, the Exchange will allow exchange for related position ("EFRP") transactions to be submitted through CME ClearPort. The EFRP transactions in these futures contracts will be governed by the provisions of Exchange Rule 538.

Although the supplemental market information attached herewith includes the recommended position limits for these contracts, a separate filing will be submitted to the Commission to self-certify those position limits.

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 contracts comply with the Act, including regulations under the Act. The listing of these contracts will become effective on trade date April 12, 2010.

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

Sincerely,

Stephen Szarmack
Regulatory Counsel

Attachments: Contract terms and conditions
Supplemental Market Information

Chapter 313

EIA Flat Tax U.S. Retail Gasoline Swap Futures

313.01 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.

313.02 FLOATING PRICE

The Floating Price for each contract month is equal to the monthly arithmetic average of the weekly price published by the U.S. Department of Energy's Energy Information Administration ("EIA") for U.S. Regular Gasoline Prices under the heading "Weekly U.S. Retail Gasoline Prices, Regular Grade" for the entire U.S. adjusted for the tax rates in effect as of January 1, 2010. For purposes of this contract, the counterparties agree that the following Market Disruption Event shall apply: Tax Event, provided that such Tax Event shall be defined as follows: the imposition of, change in, or removal of, an excise, severance, sales, use, value-added, environmental, emissions, transfer, stamp, documentary, recording or similar tax on, or measured by reference to, gasoline (other than a tax on, or measured by reference to overall gross or net income) by or at the direction of the federal government (or any agency or organ thereof) after the Trade Date, if the direct effect of such imposition, change or removal is to raise (a "Tax Increase") or lower (a "Tax Decrease") the Floating Price from what it would have been without that imposition, change or removal. If the Tax Event has occurred and exists, the following Reset Price shall apply: the Floating Price, plus any Tax Decrease or less any Tax Increase, as applicable.

313.03 CONTRACT QUANTITY AND VALUE

The contract quantity shall be 42,000 gallons. Each contract shall be valued as the contract quantity (42,000) multiplied by the settlement price.

313.04 CONTRACT MONTHS

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

313.05 PRICES AND FLUCTUATIONS

Prices shall be quoted in U.S. dollars and cents per gallon. The minimum price fluctuation shall be \$0.0001 per gallon. There shall be no maximum price fluctuation.

313.06 TERMINATION OF TRADING

Trading shall cease on the last business day of the contract month.

313.07 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.

313.08 EXCHANGE FOR RELATED POSITION TRANSACTIONS

Any exchange for related position (EFRP) transactions shall be governed by the provisions of Exchange Rule 538.

313.09 DISCLAIMER

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Chapter 831
Dated to Frontline Brent BALMO Swap Futures

831.01. 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.

831.02. FLOATING PRICE

The Floating Price for each contract month is equal to the balance-of-month arithmetic average of the high and low quotations from the Platts Crude Oil Marketwire for Dated Brent minus the Brent Crude Oil (ICE) Futures first nearby contract settlement price starting from the selected start date through the end of the contract month, inclusively (using Common pricing).

The settlement price of the first nearby Brent Crude Oil (ICE) Futures contract month will be used except on the last day of trading for the expiring Brent Crude Oil (ICE) Futures contract when the settlement price of the second nearby contract month will be used.

831.03. CONTRACT QUANTITY AND VALUE

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

831.04. CONTRACT MONTHS

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

831.05. PRICES AND FLUCTUATIONS

Prices shall be quoted in U.S. dollars and cents per barrel. The minimum price fluctuation shall be \$0.001 per barrel. There shall be no maximum price fluctuation.

831.06. TERMINATION OF TRADING

Trading shall cease on the last business day of the contract month.

831.07. 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.

831.08. EXCHANGE FOR RELATED POSITION TRANSACTIONS

Any exchange for related position (EFRP) transactions shall be governed by the provisions of Exchange Rule 538.

831.09. DISCLAIMER

Platts, a division of The McGraw-Hill Companies, Inc. ("Platts"), licenses the New York Mercantile Exchange, Inc. ("NYMEX") to use various Platts' price assessments in connection with the trading of the contract.

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SUPPLEMENTAL MARKET INFORMATION

PRICE SOURCES: PLATTS, EIA, AND ICE

The price reporting services that are used for the final settlement of the new futures contracts are Platts, Department of Energy's Energy Information Administration (EIA), and the Intercontinental Exchange (ICE). Platts is utilized as the pricing source for the Dated Brent assessment, which is one leg of the Dated to Frontline Brent BALMO Swap futures contract. The NYMEX has formal agreements with Platts to utilize their pricing data, and Platts has a long-standing reputation in the industry as fair and not manipulated. The pricing methodology for Platts relies on telephone surveys and electronic data from dozens of market participants to determine market value.

Regarding the ICE, the Exchange does not have an information sharing agreement. The ICE Brent Crude Oil Futures contract is the source of the settlement prices for one leg of the Dated to Frontline Brent BALMO Swap futures contract and is regulated by the FSA. The average activity in the ICE Brent contract represents more than 250,000 contracts traded per day. Based on our discussions with market participants, we believe that there are dozens of active participants in the ICE futures market and that its prices are determined competitively. Since the CFTC has reviewed the FSA regulatory structure and determined it to be comparable to that of the CFTC, we feel justified in placing confidence in the disseminated settlement price.

The U.S. Department of Energy's Energy Information Agency (EIA) publishes a weekly U.S. retail price for retail gasoline. Every Monday, the EIA surveys retail prices for all three grades of gasoline via telephone from a sample of approximately 900 retail gasoline outlets. The prices are published by 5:00 P.M. Monday, except on government holidays, when the data are released on Tuesday (but still represent Monday's price). The reported price includes all taxes and is the pump price paid by a consumer as of 8:00 A.M. Monday. This price represents the self-serve price except in areas having only full-serve. The price data are used to calculate weighted average price estimates at the city, state, regional and national levels using sales and delivery volume data from other EIA surveys and population estimates from the Bureau of Census. The EIA price data are available publicly at no charge. The EIA weekly gasoline retail price is published on the following EIA website:

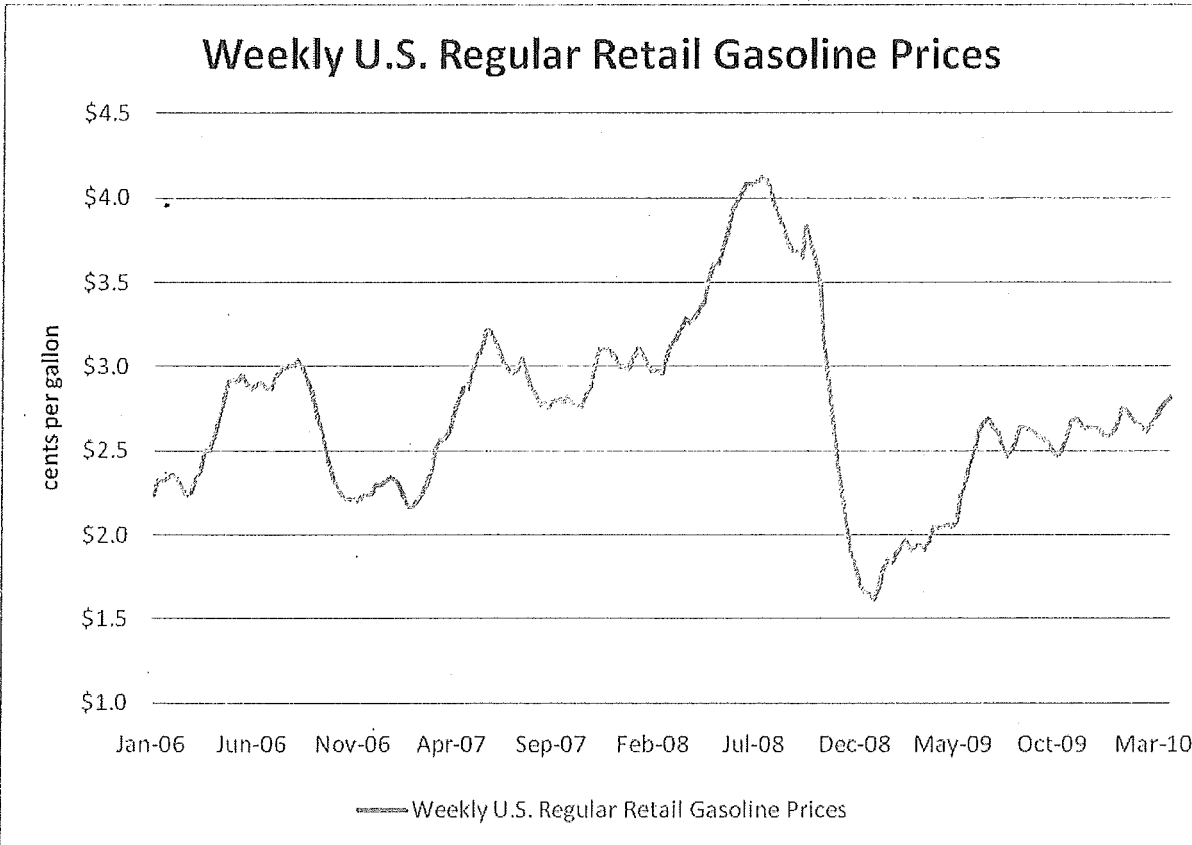
http://www.eia.doe.gov/oil_gas/petroleum/data_publications/wrqp/mogas_home_page.html

GASOLINE MARKET

The EIA Flat Tax U.S. Retail Gasoline Swap contract is cash-settled based on the monthly average of EIA's weekly U.S. retail gasoline price. The U.S. gasoline market represents a large physical market, with U.S. refinery capacity to produce 9.0 million to 9.5 million barrels per day of gasoline. The market participation is diverse and includes many of the same commercial entities that are active in the Gulf Coast and New York Harbor markets.

Each grade of gasoline is categorized according to its octane rating. The three main grades consist of regular, midgrade, and premium. Regular gasoline has an octane rating of greater than or equal to 85 and less than 88. Midgrade gasoline, greater than or equal to 88 and less than or equal to 90 and premium gasoline, greater than 90. Each of these grades' octane requirements may vary in altitude and also in various regions in the United States. In addition, there are two main formulations for gasoline: reformulated gasoline and conventional gasoline.

The estimated trading volume of gasoline in the U.S. cash market is approximately 6 million to 8 million barrels per day. The typical transaction size is 25,000 barrels, with hundreds of separate transactions occurring per day. The volume of spot transactions is more than half of all cash transactions, and the balance of trades are longer-term contracts. There is active trading in forward cash deals on the Colonial Pipeline (which links Houston with the New York Harbor market) and in the New York Harbor cash market. The bid/ask spreads are typically in increments of one-quarter cent, although this can tighten to



Source: EIA

Gasoline Market Participants

The market participation in the gasoline market is diverse and includes many of the same commercial entities that are active in the New York Harbor cash market. The gasoline cash and OTC market's consist of at least 20 to 30 commercial companies, including the following:

<u>Refiners</u>	<u>Traders/End Users</u>	<u>Brokers</u>	<u>Financial (Swaps)</u>
ConocoPhillips	Hess Energy Trading	GFI Starsupply	Citibank
Valero	Vitol	PVM	Deutsche Bank
Shell	Glencore	Man Financial	Barclays
ExxonMobil	Arcadia	ICAP	Bank of America
BP	Northville	Echo Energy	
Total	Cargill		
Marathon	Morgan Stanley		
Chevron	Goldman Sachs		
	Koch		

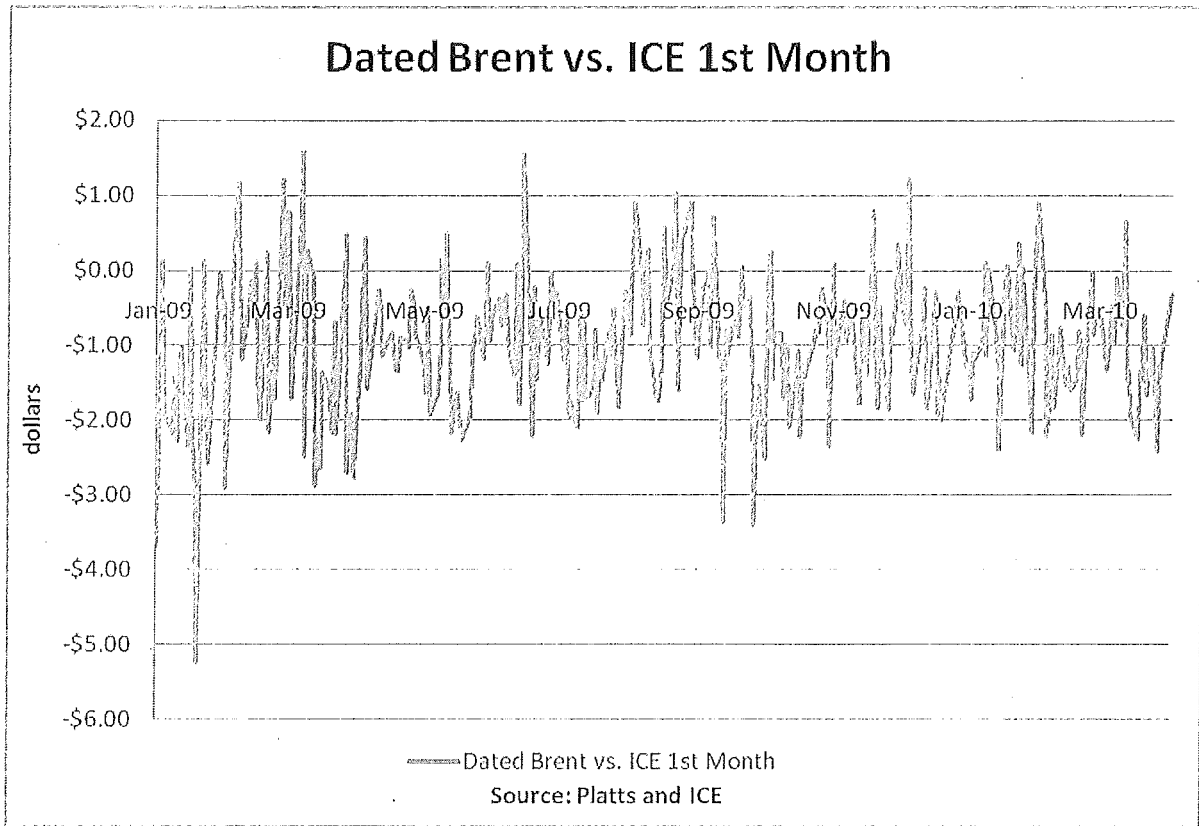
BRENT CRUDE OIL MARKET

The Brent crude oil market represents a robust and liquid trading hub in Europe. Brent, which consists of a blend of four light, sweet crude oil grades from the North Sea: Brent; Forties; Oseberg; and Ekofisk (collectively known as "BFOE"), serves as an international benchmark grade. According to data collected by consulting firm Consilience Energy Advisory Group, the total production of BFOE, commonly called "Brent", is approximately 1.5 million barrels per day. The Brent cash market typically trades in cargo size units of 600,000 barrels. Pursuant to conversations with market participants, ten to fifteen cargo-size transactions are traded on a daily basis. Furthermore, Platts has confirmed that twenty to thirty active participants contribute daily to its price indices, which supports our belief that the Platts prices are

determined competitively and without instances of abuse. These factors, among other things, contribute to a highly liquid BFOE cash market involving diverse commercial companies.

In the OTC swaps market, Brent is considered a highly liquid benchmark derivative instrument because of its daily trading volume of approximately 7 million to 10 million barrels. The typical OTC transaction size consists of 100,000 barrels, with 75 to 100 transactions traded daily in the OTC swaps market. The bid/ask spreads are typically in increments of 10 cents per barrel, which reflects robust liquidity in the OTC market. In addition, the Brent Futures market is highly liquid. The average daily trading volume in ICE's Brent Futures contract in 2008 is more than 250,000 contracts, with open interest of over 550,000 contracts.

Typically, in the OTC market, balance-of-month (BALMO) swaps are used by market participants for pricing transactions in periods that are less than a full calendar month. BALMO swap contracts are cash-settled, and are settled similar to a calendar month swap using a specified index price, such as Platts or Argus price assessments, starting from the day of execution until the last day of the contract month. The user has the flexibility to select the start date (or first day) of the BALMO averaging period, and the last day of the period is the last business day of the contract month. In the OTC oil market, the BALMO swap is a useful hedging tool that allows the market participants and hedgers to customize the averaging period of the transaction to allow for partial-month average prices. The BALMO swap is similar in structure to a calendar month swap, except for the averaging period of the transaction. The BALMO swap contracts allow the user to customize the timing of a transaction to allow for partial-month average prices.



Brent Crude Oil Market Participants

The market participation in the Brent market is diverse and includes many of the same commercial entities that are active in the New York Harbor cash market. The Brent cash and OTC market's consist of at least 30 to 40 commercial companies, including the following:

<u>Refiners</u>	<u>Traders/End Users</u>	<u>Brokers</u>	<u>Financial (Swaps)</u>
ConocoPhillips	Hess Energy Trading	GFI Starsupply	Citibank
Valero	Vitol	PVM	Deutsche Bank
Shell	Glencore	Man Financial	Barclays
ExxonMobil	Arcadia	ICAP	Bank of America
BP	Northville	Aspen Oil	
Total	Cargill	Prebon	
OMV	Morgan Stanley	TFS	
Repsol	Goldman Sachs	Amerex	
Chevron	Koch		
Marathon	Mabanaft		
Sunoco	Phibro		
AGIP	Arcadia		
	Mercuria		
	Semptra		
	Trafigura		
	RWE Trading		

SPECULATIVE POSITION LIMITS

The Exchange has set the spot month limit for the EIA Flat Tax U.S. Retail Gasoline Swap Future at 3,000 contracts, equivalent to three million barrels, which is less than 2% of the monthly deliverable supply of gasoline in the U.S. gasoline market.

The Exchange has set the spot month limit for the Dated to Frontline Brent BALMO Swap Futures at 1,000 contracts, equivalent to approximately one million barrels, which is less than 3% of the monthly deliverable supply of Brent crude oil in the European market. In addition, this BALMO contract will be aggregated with the underlying Dated to Frontline Brent Futures contract.