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SECRETARIAT

April 27, 2011

**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 # 11-146:  
Notification Regarding the Listing of Two (2) 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) financially settled petroleum futures contracts for trading on the NYMEX trading floor and for submission for clearing through CME ClearPort beginning at 6:00 p.m. on Sunday, May 1, 2011, for trade date Monday, May 2, 2011.

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

The specifications for the four petroleum futures contracts are provided below for your convenience.

<u>Contract Title</u>	<u>Commodity Code</u>	<u>Rule Chapter</u>	<u>First Listed Month</u>	<u>Listing Period</u>
Mini European Diesel 10 ppm (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures	MUD	737	June 2011	36 consecutive months
Mini Gasoil 0.1 (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures	MGB	745	June 2011	36 consecutive months

- **Contract Size:** 100 Metric Tons
- **Termination of Trading:** Trading shall cease on the last business day of the contract month.
- **Minimum Price Tick:** \$0.001
- **Value per Tick:** \$0.10
- **Final Settlement Price:** minimum settlement tick = \$0.001
- **Trading and Clearing Hours:**
  - CME ClearPort: Sunday – Friday 6:00 p.m. – 5:15 p.m. (5:00 p.m. – 4:15 p.m. Chicago Time/CT) with a 45-minute break each day beginning at 5:15 p.m. (4:15 p.m. CT).
  - Open Outcry: Monday – Friday 9:00 a.m. – 2:30 p.m. (8:00 a.m. – 1:30 p.m. CT).

• **Trading and Clearing Fees:**

<b>Contract</b>	<b>CME ClearPort Rates</b>		<b>NY Trading Floor Rates</b>		<b>Cash Settlement Fee</b>	
Mini European Diesel 10 ppm (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures	Member	\$0.85	Member	\$0.85	Member	\$0.85
	Non-Member	\$1.35	Non-Member	\$1.35	Non-Member	\$1.35
			Blended Floor	\$1.10		
Mini Gasoil 0.1 (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures	Member	\$0.85	Member	\$0.85	Member	\$0.85
	Non-Member	\$1.35	Non-Member	\$1.35	Non-Member	\$1.35
			Blended Floor	\$1.10		

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. There were no substantive opposing views to this proposal. This submission will be made effective on trade date May 2, 2011.

Should you have any questions concerning the above, please contact Daniel Brusstar at (212) 299-2604 or the undersigned at (212) 299-2207.

Sincerely,

/s/ Felix Khalatnikov  
Dir & Assoc General Counsel

Attachments: Contract terms and conditions  
Cash Market Overview and Analysis of Deliverable Supply

## Chapter 737

### Mini European Diesel 10 ppm (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures

- 737.01. 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.
- 737.02. FLOATING PRICE**  
The Floating Price for each contract month is equal to the arithmetic average of the mid-point between the high and low quotations from the Platts European Marketscan for Diesel 10PPM Barges FOB Rotterdam minus the first line Gasoil (ICE) Futures settlement price for each business day during the contract month (using non-common pricing), except as noted in (B) below.
- (B) The settlement prices of the 1st nearby contract month will be used except on the last day of trading for the expiring Gasoil Futures contract when the settlement prices of the 2nd nearby Gasoil contract will be used.
- 737.03. CONTRACT QUANTITY AND VALUE**  
The contract quantity shall be 100 metric tons. Each contract shall be valued as the contract quantity (100) multiplied by the settlement price.
- 737.04. CONTRACT MONTHS**  
Trading shall be conducted in contracts in such months as shall be determined by the Exchange.
- 737.05. PRICES AND FLUCTUATIONS**  
Prices shall be quoted in U.S. dollars and cents per metric ton. The minimum price fluctuation shall be \$0.001 per metric ton. There shall be no maximum price fluctuation
- 737.06. TERMINATION OF TRADING**  
Trading shall cease on the last business day of the contract month.
- 737.07. 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.
- 737.08. EXCHANGE FOR RELATED POSITION**  
Any exchange for related position (EFRP) transaction shall be governed by the provisions of Exchange Rule 538.
- 737.09. DISCLAIMER**  
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## Chapter 745

### Mini Gasoil 0.1 Barges FOB Rdam vs. ICE Gasoil Swap Futures

- 745.01. 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.
- 745.02. FLOATING PRICE**  
The Floating Price for each contract month is equal to the arithmetic average of the mid-point between the high and low quotations from the Platts European Marketscan for Gasoil 0.1% under the heading "Barges FOB Rotterdam" minus the first line Gasoil (ICE) Futures settlement price for each business day during the contract month (using non-common pricing), except as noted in (B) below.  
  
(B) The settlement prices of the first nearby contract month will be used except on the last day of trading for the expiring Gasoil Futures contract when the settlement prices of the second nearby Gasoil contract will be used.
- 745.03. CONTRACT QUANTITY AND VALUE**  
The contract quantity shall be 100 metric tons. Each contract shall be valued as the contract quantity (100) multiplied by the settlement price.
- 745.04. CONTRACT MONTHS**  
Trading shall be conducted in contracts in such months as shall be determined by the Exchange.
- 745.05. PRICES AND FLUCTUATIONS**  
Prices shall be quoted in U.S. dollars and cents per metric ton. The minimum price fluctuation shall be \$0.001 per metric ton. There shall be no maximum price fluctuation
- 745.06. TERMINATION OF TRADING**  
Trading shall cease on the last business day of the contract month.
- 745.07. 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.
- 745.08. EXCHANGE FOR RELATED POSITION**  
Any exchange for related position (EFRP) transaction shall be governed by the provisions of Exchange Rule 538.
- 745.09. DISCLAIMER**  
NEITHER NEW YORK MERCANTILE EXCHANGE, INC. ("NYMEX,") ITS AFFILIATES NOR PLATTS, A DIVISION OF THE MCGRAW-HILL COMPANIES, INC. ("PLATTS") GUARANTEES THE ACCURACY AND/OR COMPLETENESS OF THE INDEX FROM THE PLATTS EUROPEAN MARKETSCAN OR ANY OF THE DATA INCLUDED THEREIN. NYMEX, ITS AFFILIATES AND PLATTS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE RESULTS TO BE OBTAINED BY ANY PERSON OR ENTITY FROM USE OF THE INDEX FROM THE PLATTS EUROPEAN MARKETSCAN, TRADING BASED ON THE INDEX FROM THE PLATTS EUROPEAN MARKETSCAN, OR ANY DATA INCLUDED THEREIN IN CONNECTION WITH THE TRADING OF THE CONTRACT, OR, FOR ANY OTHER USE. NYMEX, ITS AFFILIATES AND PLATTS 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 INDEX FROM THE PLATTS EUROPEAN MARKETSCAN, OR ANY DATA INCLUDED THEREIN. WITHOUT LIMITING ANY OF THE FOREGOING, IN NO EVENT SHALL NYMEX, ITS AFFILIATES OR PLATTS 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 DAMAGE.

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## **CASH MARKET OVERVIEW**

The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") is self-certifying the listing of the following two (2) financially settled middle fuel oil futures contracts for trading on the NYMEX trading floor and for clearing through CME ClearPort.

1. Mini European Diesel 10 ppm (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures
2. Mini Gasoil 0.1 (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures

These two new mini spread futures contracts are based on existing NYMEX futures contracts. The two "mini" futures contracts are one-tenth the size of existing underlying contracts. The Mini European Diesel 10 ppm (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures contract is based on the European Diesel 10 ppm (Platts) Barges FOB Rdam vs. Gasoil Futures Swap Futures contract, and the Mini Gasoil 0.1 (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures contract is based on the Gasoil 0.1 (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures contract. One leg of the two "mini" contracts is based on the European Gasoil (ICE) Swap Futures contract.

### **PRICE SOURCES**

Platts, a division of The McGraw-Hill Companies, Inc. ("Platts") is the price reporting service used for the final settlement of one leg for each of two new petroleum futures contracts. Platts is one of the major pricing services used in the over-the-counter (OTC) market for the pricing of swap contracts, and the methodology utilized by Platts is well-known in the oil industry. Their pricing methodology<sup>1</sup> is derived from telephone surveys and electronic data collected from multiple market participants to determine market value. Platts has a long-standing reputation in the industry for price benchmarks that are fair and not manipulated. NYMEX is a party to license agreements with Platts to utilize their pricing data.

ICE: The Exchange does not have an information sharing agreement with the IntercontinentalExchange ("ICE"). The ICE Gasoil Oil futures contract is the source of the settlement price for one leg of the two new contracts listed above. The ICE Gasoil futures contract is regulated by the U.K. Financial Services Authority ("FSA"). The ICE Gasoil futures contract has average volume of 200,000 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 their prices are determined

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<sup>1</sup> <http://www.platts.com/IM.Platts.Content/methodologyreferences/methodologyspecs/europeanoilproductspecs.pdf>.

competitively. Since the CFTC has reviewed the FSA regulatory structure and determined it to be comparable to that of the CFTC, the Exchange is assured in placing confidence in the disseminated settlement price for the ICE Gasoil Futures contract.

The cash market overview contains a description of the European gasoil market.

## **EUROPEAN GASOIL MARKET**

Gasoil is incorporated into the "middle distillate" fuel segment which encompasses gasoil (also known as heating oil), Ultra-low sulfur diesel (ULSD) and jet fuel. Gasoil is used mainly for space heating and electric power generation, and ULSD is used as a diesel fuel for the transportation sector. The main trading hub for the European gasoil market is the Amsterdam-Rotterdam-Antwerp (ARA) region, where extensive storage capacity and refining infrastructure exists. The ARA market is a vibrant import and supply center for petroleum products, and encompasses the geographic area of The Netherlands, Germany, and France. The U.S. Department of Energy's Energy Information Agency ("EIA") compiles demand and supply data on the European market from the International Energy Agency under the *International Energy Annual* publication, as detailed below.

### **Consumption, Production, Imports and Exports**

The EIA provides key data on consumption, refinery production, imports, and exports for the "middle distillate fuel oil" segment, which includes gasoil, ULSD, and jet fuel. According to the EIA data in Table 1, below, the total average annual consumption of middle distillate fuel for 2007 through 2009 was approximately 2,294,000 barrels per day, while average annual refinery production was 2,161,000 barrels per day for the same period. Total average imports for 2007, 2008 and 2009 were at 841,000 barrels per day, which was higher than total average exports of 758,000 barrels per day for the same period.

**Table 1. Selected Statistics for Middle Distillate Fuel Oil: Europe**  
(Thousand Barrels per Day)

Item and Region	2007	2008	2009	Average 2007-2009
<b>Consumption, Middle Distillate Fuel Oil<sup>2</sup></b>				
France	981	991	972	981
Germany	997	1,134	1,059	1,117
Netherlands	193	193	197	196
<b>Total Consumption</b>	<b>2,171</b>	<b>2,318</b>	<b>2,229</b>	<b>2,294</b>
<b>Production, Middle Distillate Fuel Oil<sup>3</sup></b>				
France	711	754	677	714
Germany	1,037	1,026	980	1,041
Netherlands	397	421	421	406
<b>Total Production</b>	<b>2,146</b>	<b>2,200</b>	<b>2,077</b>	<b>2,161</b>
<b>Imports, Middle Distillate Fuel Oil<sup>4</sup></b>				
France	273	292	381	315
Germany	190	317	296	268
Netherlands	191	251	334	259
<b>Total Imports</b>	<b>654</b>	<b>861</b>	<b>1,010</b>	<b>841</b>
<b>Exports, Middle Distillate Fuel Oil<sup>5</sup></b>				
France	69	69	52	63
Germany	251	203	182	212
Netherlands	421	465	562	483
<b>Total Exports</b>	<b>741</b>	<b>737</b>	<b>796</b>	<b>758</b>

<sup>2</sup> EIA Consumption Data,  
<http://tonto.eia.doe.gov/cfapps/ipdbproject/iedindex3.cfm?tid=5&pid=65&aid=2&cid=r3.&syid=2007&eyid=2009&unit=TBPD>

<sup>3</sup> EIA Production Data,  
<http://tonto.eia.doe.gov/cfapps/ipdbproject/iedindex3.cfm?tid=5&pid=65&aid=1&cid=r3.&syid=2007&eyid=2009&unit=TBPD>

<sup>4</sup> EIA Import Data,  
<http://tonto.eia.doe.gov/cfapps/ipdbproject/iedindex3.cfm?tid=5&pid=65&aid=3&cid=r3.&syid=2007&eyid=2009&unit=TBPD>

<sup>5</sup> EIA Export Data,  
<http://tonto.eia.doe.gov/cfapps/ipdbproject/iedindex3.cfm?tid=5&pid=65&aid=4&cid=r3.&syid=2007&eyid=2009&unit=TBPD>

## Prices

Table 2 below, reflects the monthly average final settlement prices provided by ICE in U.S. dollars and cents per metric ton from January 2008 through March 2011 for the ICE Gasoil Futures contract. Over the three-year period of January 2008 through March 2011, ICE Gasoil Futures prices varied from a high of \$1,230.917 in June 2008 to a low of \$399.663 in February 2009. According to the most recent data provided by ICE, gasoil prices were at \$970.076 during the month of March 2011.

**Table 2. Selected Statistics for Middle Distillate Fuel Oil: Prices**

<b>ICE Gasoil Futures</b>				
<b>Month</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
<b>Jan</b>	808.057	453.929	626.413	802.369
<b>Feb</b>	853.262	399.663	602.325	872.813
<b>Mar</b>	957.438	406.795	660.511	970.076
<b>Apr</b>	1028.455	436.500	712.000	
<b>May</b>	1192.568	475.143	652.214	
<b>Jun</b>	1230.917	562.489	652.795	
<b>Jul</b>	1225.250	530.674	639.511	
<b>Aug</b>	1036.310	595.119	652.068	
<b>Sep</b>	940.852	556.989	668.477	
<b>Oct</b>	729.283	606.136	714.667	
<b>Nov</b>	582.675	621.940	726.784	
<b>Dec</b>	446.477	608.250	766.946	

## Market Activity

In the over-the-counter ("OTC") market, European gasoil swaps typically trade both as outright contracts and as a spread to the ICE Gasoil settlement price. The ICE Gasoil Futures contract, which is the benchmark for pricing European distillate fuels, is physically delivered in the Amsterdam, Rotterdam, Antwerp (ARA) region in Northern Europe, and is the source of the settlement prices for the various ICE Gasoil swap futures contracts.

In the European OTC market, there is robust liquidity in the gasoil market, where the gasoil is priced in units of dollars per metric ton. According to industry sources, the estimated trading volume of Euro-denominated gasoil in the ARA cash market is growing, and is approximately equivalent to 200,000 to 250,000 barrels per day. The typical transaction size is approximately 25,000 barrels. The volume of spot transactions is typically more than half of all cash transactions. There is also increased trading in



forward cash deals and in the OTC swaps market. The bid/ask spreads are typically in increments of 50 dollar and cents per metric ton (or around 0.10 cents per gallon equivalent), which reflects adequate liquidity in the cash market.

Further, there is an active OTC swaps market with dozens of market participants that utilize Gasoil swaps to hedge their fuel price risk. The market participants (listed below) typically are active in both the cash market and the OTC swaps market.

**Market Participants**

The market participation in the European gasoil market is diverse. The European cash market and OTC market participants include 25 to 30 commercial companies. A partial listing is as follows:

<b><u>Refiners</u></b>	<b><u>Traders/End Users</u></b>	<b><u>Brokers</u></b>	<b><u>Financial (Swaps)</u></b>
Shell	Hess Energy Trading	GFI Starsupply	Citibank
AGIP (Italy)	Vitol	PVM	Deutsche Bank
ConocoPhillips	Glencore	Man Financial	Barclays
ExxonMobil	Arcadia	ICAP	JPMorgan Chase
BP	Northville	Aspen Oil	
Total	Cargill		
OMV Refining	Morgan Stanley		
Repsol	Goldman Sachs		
CEPSA	RWE Trading		
Netherlands Refining	Mabanaft		
Statoil	Trafigura		
PetroPlus Refining	Phibro		
	Mercuria		

## ANALYSIS OF DELIVERABLE SUPPLY

The spot month position limits for the two new petroleum contracts will be aggregated with and into the existing position limits for their respective underlying futures contracts.

Please note that, at this time, the Exchange is not including stocks data in its analysis of deliverable supply. Stocks data tend to vary and, at least upon launch of products, we would rather not condition recommended position limits based on stock data. Further, the Exchange has determined not to adjust the deliverable supply estimate based on the spot availability because spot market liquidity is not restrictive and tends to vary depending on the market fundamentals of demand and supply. The typical term agreement in the cash market allows flexibility for re-trading of the contracted quantity in the spot market, so the term agreements do not restrict the potential deliverable supply. Also, the spot trading is not restricted in that it could increase if the market demand increases. Therefore, we believe that it is not necessary to adjust the deliverable supply estimate on the basis of spot trading activity as it does not restrict the deliverable supply, and spot trading volume can expand to allow for more supply to flow if needed in the spot market.

With regard to the two new Mini-Diesel and Gasoil spread swap futures contracts, the Exchange has set the spot position limits based on the refinery production for gasoil in the ARA region, which is the main production center for the European market. The two new spread contracts will have the same spot month position limits as, and aggregate into, the Exchange's existing European Gasoil 0.1% and ULSD 10PPM swap futures contracts. These two new spread contracts are priced as differentials to the ICE Gasoil Futures Contract settlement price. For the leg of the spread that is based on the European Gasoil 0.1 (Platts) swap futures contract, the Exchange has set the position limits at 150 contracts with contract size of 1,000 metric tons, which is equivalent to 1.1 million barrels. Based on the refinery production data provided by the EIA (Table 1 above), the total middle distillate (which includes the gasoil category) supply in the European market was approximately 2.1 million barrels per day, which is equivalent to almost 300,000 metric tons per day, or 8.5 million metric tons per month (contract size for the underlying contract is 10 x 100 or 1,000 metric tons). This is equivalent to 8,500 contract equivalents for the underlying contract size of 1,000 metric tons. Thus, the existing spot month position limits of 150 contract units for

the underlying European Gasoil 0.1 Contract (of 1,000 metric ton contract size) is approximately 2% of the 8,500 contract equivalents of monthly supply.

Further, for the leg of the spread that is based on the European Diesel 10PPM (Platts) swap futures contracts, the Exchange has set the position limits at 500 contracts with contract size of 1,000 metric tons, which is equivalent to 3.7 million barrels. Based on the refinery production data provided by the EIA (Table 1 above), the total middle distillate supply (which includes diesel fuel) in the European market was approximately 2.1 million barrels per day, which is equivalent to almost 300,000 metric tons per day, or 8.5 million metric tons per month (contract size for the underlying contract is 10 x 100 or 1,000 metric tons). This is equivalent to 8,500 contract equivalents for the underlying contract size of 1,000 metric tons. Thus, the existing spot month position limits of 500 contract units for the underlying contract (of 1,000 metric ton contract size) is approximately 6% of the 8,500 contract equivalents of monthly supply.

In addition, these two new spread contracts are priced as differentials to the ICE Gasoil Futures Contract settlement price. For the leg of the spread that is based on the ICE Gasoil swap futures contract, the Exchange will aggregate into the existing spot position limit of 1,000 contract units which represents the spot month position limits for the underlying European ICE Gasoil Swap Futures contract. Based on the refinery production data provided by the EIA (Table 1 above), the total middle distillate (which includes the gasoil pool) supply in the European market was approximately 2.1 million barrels per day, which is equivalent to almost 300,000 metric tons per day, or 8.5 million metric tons per month (contract size for the underlying contract is 1,000 metric tons). This is equivalent to 8,500 contract equivalents for the underlying contract size of 1,000 metric tons. Thus, the existing spot month position limits of 1,000 contract units for the underlying European ICE Gasoil Swap Futures contract is approximately 12% of the 8,500 contract equivalents of monthly supply.

Please see below amendments to the Position Limit, Position Accountability and Reportable Level Table located in the Interpretations and Special Notices section of Chapter 5 of the NYMEX Rulebook in relation to the listing of the contracts. This table will be self-certified under separate cover.

<u>Contract Name</u>	<u>Rule Chapter</u>	<u>Commodity Code</u>	<u>Diminishing Balances Contracts</u>	<u>All Month Accountability Level</u>	<u>Any One Month Accountability Level</u>	<u>Expiration Month Limit</u>	<u>Reporting Level</u>	<u>Aggregate Into (1)</u>	<u>Aggregate Into (2)</u>
				<u>Rule 560</u>	<u>Rule 560</u>	<u>Rule 559</u>	<u>Rule 561</u>		
<i>Coal</i>									
<i>Europe</i>									
<i>Northwest Europe</i>									
<u>Mini European Diesel 10 ppm (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures</u>	<u>737</u>	<u>MUD</u>	<u>*</u>	<u>5,000/7,000</u>	<u>5,000/7,000</u>	<u>500/1,000</u>	<u>25</u>	<u>GT</u>	<u>GX</u>
<u>Mini Gasoil 0.1 (Platts) Barges FOB Rdam vs. ICE Gasoil Swap Futures</u>	<u>745</u>	<u>MGB</u>	<u>*</u>	<u>1,000/7,000</u>	<u>500/ 5,000</u>	<u>150/1,000</u>	<u>25</u>	<u>VL</u>	<u>GX</u>