



Christopher Bowen  
Managing Director and Chief Regulatory Counsel  
Legal Department

June 1, 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: Modifications to the NYMEX and COMEX Energy and Metals Products Non-Member Incentive Program  
NYMEX/COMEX Submission No. 12-159**

Dear Mr. Stawick:

New York Mercantile Exchange, Inc. ("NYMEX") and the Commodity Exchange, Inc ("COMEX") (NYMEX and COMEX collectively the "Exchanges") hereby notify the Commodity Futures Trading Commission ("Commission") of modifications to the NYMEX and COMEX Energy and Metals Products Non-Member Incentive Program ("Program"). The proposed modifications to the Program will become effective on July 1, 2012.

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

The Exchanges' business staff responsible for the Program and the Exchanges' legal department collectively reviewed the designated contract market core principles ("Core Principles") as set forth in the Commodities Exchange Act ("CEA"). During the review, Exchanges' 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 and the Exchanges' market regulation staff will continue to monitor all market participants that trade the Program's products to prevent manipulative trading and market abuse. Additionally, the Exchanges have implemented systems to ensure proper distribution of earned incentives. The reduced fee incentives in the proposed Program do not impact the Exchanges' order execution. Participants in the Program will be selected by NYMEX/COMEX 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. The Program is subject to these rules. The Program is subject to the Exchanges' record retention policies which comply with the CEA.

NYMEX and COMEX certify that the Program complies with the CEA and the regulations thereunder. There were no substantive opposing views to this Program.

The Exchanges certify that this submission has been concurrently posted on the Exchanges' website at <http://www.cmegroup.com/market-regulation/rule-filings.html>

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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. 12-159 in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director, Chief Regulatory Counsel

Enclosure: Exhibit 1 - NYMEX and COMEX Energy and Metals Products Non-Member Incentive Program

# EXHIBIT 1

## **NYMEX and COMEX Energy and Metals Products Non-Member Incentive Program**

### **Program Purpose**

The purpose of this Program is to attract new participants into the NYMEX and COMEX energy and metals markets traded on the CME Globex Platform. The resulting increase in central limit order book liquidity for energy and metals products on the CME Globex Platform benefits all participant segments in the market.

### **Product Scope**

All NYMEX and COMEX energy and metals contracts traded on the CME Globex Platform ("Products").

### **Eligible Participants**

There is no limit to the number of participants under the Program. Participants must be NYMEX and COMEX non-members. NYMEX/COMEX staff vets all potential participants through a competitive application process and takes into account multiple factors when determining if an applicant may participate, including, historical performance and current activity in the Products.

### **Program Term**

Start date is November 17, 2011. End date is ~~June 30, 2012~~December 31, 2012.

### **Hours**

N/A

### **Discounted Fee Incentives**

Once accepted into the Program, participants will receive reduced fee rates for all trades executed in the Products on the CME Globex Platform.

### **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 it concludes from review that a Program participant no longer meets the eligibility requirements of the Program.