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CME Group

A CME/Chicago Board of Trade/NYMEX Company

July 15, 2009

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 #09.117: Notification Regarding the Listing of Three Average Price "Crack" Option Contracts on CME ClearPort® and the NYMEX Trading Floor

The New York Mercantile Exchange, Inc. ("NYMEX" or "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") that it is self-certifying the listing of three new average price option contracts based on price differentials between refined products and crude oil for trading on the NYMEX trading floor and for submission for clearing on CME ClearPort. The new average price option contracts, codes and rule numbers are as follows.

Contract	Code	Chapter
Heating Oil Crack Spread Average Price Option	3W	523a
RBOB Crack Spread Average Price Option	3Y	559a
Gasoil Crack Spread Average Price Option	3U	710a

Specifically, the Exchange proposes to list options on the average differential between Reformulated Gasoline and Crude Oil, Heating Oil and Crude Oil, and Gasoil and Brent Crude Oil. The "Crack" options will be based on the existing NYMEX "Crack Spread" Swap futures. The price differentials are:

Heating Oil – Crude Oil Average Price Crack Spread Option (3W)
Reformulated Gasoline – Crude Oil Average Price Crack Option (3Y)
Gasoil – Brent Crude Oil Average Price Crack Spread Option (3U)

These options represent new hedging instruments for protecting profit margins in the oil refinery industry. Unlike the Crack Spread options which are currently listed on the Exchange, these will be listed as Average Price Options, which more effectively reflect industry hedging needs.

These option contracts will commence listing for trading on Sunday July 19, 2009 for trade date Monday, July 20, 2009. The first contract months to be listed will be the August 2009 delivery months. The Heating Oil Crack Spread Average Price Option will be listed for 36 consecutive monthly contracts through June 2012. The RBOB Crack Spread Average Price Option will list consecutive months for the balance of the current year plus 3 additional years through December 2012, and the Gasoil Crack Spread Average Price Option will list 60 consecutive monthly contracts through June 2014.

The new contracts will be listed for open outcry trading on the Exchange trading floor between 9:00 a.m. to 2:30 p.m. "(New York prevailing time)" Monday through Friday, except on Exchange Holidays and on CME ClearPort clearing platform for clearing and for submission of

EOO transactions from 6:00 p.m. Sundays through 5:15 p.m. Fridays "(New York prevailing time)", with a 45-minute halt in trading each day between 5:15 p.m. and 6:00 p.m., except on Exchange Holidays. The contract terms and conditions are included herewith in Appendix A.

Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.2 and Rule 40.6, the Exchange hereby certifies that the listing of these contracts complies with the Act, including regulations under the Act. These new rules will become effective upon the launch of the contract, which, as noted above will occur on Monday, July 20, 2009.

Should you have any questions concerning the above, please contact Bob Biolsi at (212) 299-2610 or me at (312) 338-2483.

Sincerely,

/s/ Lisa A. Dunsky
Director and Associate General Counsel

Attachment: Appendix A (contract terms and conditions)
Appendix B (supplemental Information)

APPENDIX A
Heating Oil Crack Spread Average Price Option

523a.01 Type Option
A Heating Oil Crack Spread Average Price Option contract is a financially settled average price option.

523a.02 Expiration
A Heating Oil Crack Spread Average Price Option contract shall expire on the last business day of the delivery month. The option cannot be exercised prior to expiration.

523a.03 Trading Unit

On expiration of a call option, the option will be financially settled by subtracting the strike price from the underlying settlement price of the NYMEX New York Harbor Heating Oil Crack Calendar Swap futures contract times $1,000, or zero, whichever is greater. On expiration of a put option, the option will be financially settled by subtracting the underlying settlement price of the NYMEX New York Harbor Heating Oil Crack Calendar Swap futures contract from the strike price times $1,000, or zero, whichever is greater.

523a.04 Hours of Trading

The Heating Oil Crack Spread Average Price Option contract is available for open outcry trading on the Exchange trading floor between 9:00 a.m. to 2:30 p.m. (New York Prevailing time) Monday through Friday, except on Exchange Holidays.

The Heating Oil Crack Spread Average Price Option contract is available for clearing on CME ClearPort® clearing platform 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.

523a.05 Strike Prices

Trading shall be conducted for options with strike prices in increments as set forth below.

(A) On the first business day of trading in an option contract month, trading shall be at the following strike prices; (i) the previous day's settlement price for the underlying NYMEX New York Harbor Heating Oil Crack Calendar Swap futures contract rounded off to the nearest twenty-five cent increment, unless such settlement price is precisely midway between two twenty-five cent increments in which case it shall be rounded off to the lower twenty-five-cent increment and (ii) the ten strike prices which are ten twenty-five cent increments higher than the strike price described in section (i) of this Rule 523a.05(A), and (iii) the ten strike prices which are ten twenty-five cent increments lower than the strike price described in section (i) of this Rule 523a.05(A).

(B) Thereafter, on any business day prior to the expiration of the option, new strike prices for both puts and calls will be added, such that at all times there will be at least ten twenty-five cent increment strike prices above and below the at-the-money strike price available for trading in all options contract months. The at-the-money strike price will be determined in accordance with the procedures set forth in Subsection (A) of this Rule 523a.05.

(C) Notwithstanding the provisions of subsections (A) and (B) of this Rule, if the Exchange determines that trading in Heating Oil Crack Spread Average Price Option contract will be facilitated thereby, the Exchange may, by resolution, change the increments between strike prices, the number of strike prices which shall be traded on the first day in any new option contract month, the number of new strike prices which will be introduced on each business day or the period preceding the expiration of a Heating Oil Crack Spread Average Price Option contract in which no new strike prices may be introduced.

523a.06 Trading Months

Trading in Heating Oil Crack Spread Average Price Option contract shall be conducted in the months determined by the Exchange. Trading shall commence on the day fixed by resolution of the Exchange.

523a.07 Prices

Prices shall be quoted in dollars and cents per barrel. A cabinet trade may occur at the price of $.001 per barrel or $1.00, however, if it results in the liquidation of positions of both parties to the trade.

523a.08 Absence of Price Fluctuation Limitations
Trading in Heating Oil Crack Spread Average Price Option shall not be subject to price fluctuation limitations.

RBOB Crack Spread Average Price Option

559a.01 Type Option

An RBOB Crack Spread Average Price Option contract is a financially settled average price option.

559a.02 Expiration

An RBOB Crack Spread Average Price Option contract shall expire on the last business day of the delivery month. The option cannot be exercised prior to expiration.

559a.03 Trading Unit

On expiration of a call option, the option will be financially settled by subtracting the strike price from the underlying settlement price of the RBOB Crack Spread Swap futures contract times $1,000, or zero, whichever is greater. On expiration of a put option, the option will be financially settled by subtracting the underlying settlement price of the RBOB Crack Spread Swap futures contract from the strike price times $1,000, or zero, whichever is greater.

559a.04 Hours of Trading

The RBOB Crack Spread Average Price Option contract is available for open outcry trading on the Exchange trading floor between 9:00 a.m. to 2:30 p.m. (New York Prevailing time) Monday through Friday, except on Exchange Holidays.

The RBOB Crack Spread Average Price Option contract is available for clearing on CME ClearPort® clearing platform 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.

559a.05 Strike Prices

Trading shall be conducted for options with strike prices in increments as set forth below.

(A) On the first business day of trading in an option contract month, trading shall be at the following strike prices; (i) the previous day's settlement price for the underlying RBOB Crack Spread Swap futures contract rounded off to the nearest twenty-five cent increment, unless such settlement price is precisely midway between two twenty-five cent increments in which case it shall be rounded off to the lower twenty-five-cent increment and (ii) the ten strike prices which are ten twenty-five cent increments higher than the strike price described in section (i) of this Rule 559a.05(A), and (iii) the ten strike prices which are ten twenty-five cent increments lower than the strike price described in section (i) of this Rule 559a.05(A).

(B) Thereafter, on any business day prior to the expiration of the option, new strike prices for both puts and calls will be added, such that at all times there will be at least ten twenty-five cent increment strike prices above and below the at-the-money strike price available for trading in all options contract months. The at-the-money strike price will be determined in accordance with the procedures set forth in Subsection (A) of this Rule 559a.05.

(C) Notwithstanding the provisions of subsections (A) and (B) of this Rule, if the Exchange determines that trading in RBOB Crack Spread Average Price Option contract will be facilitated thereby, the Exchange may, by resolution, change the increments between strike prices, the number of strike prices which shall be traded on the first day in any new option contract month, the number of new strike prices which will be introduced on each business day or the period preceding the expiration of an RBOB Crack Spread Average Price Option contract in which no new strike prices may be introduced.

559a.06 Trading Months

Trading in RBOB Crack Spread Average Price Option contract shall be conducted in the months determined by the Exchange. Trading shall commence on the day fixed by resolution of the Exchange.

559a.07 Prices

Prices shall be quoted in dollars and cents per barrel. A cabinet trade may occur at the price of $.001 per barrel or $1.00, however, if it results in the liquidation of positions of both parties to the trade.

559a.08 Absence of Price Fluctuation Limitations

Trading in RBOB Crack Spread Average Price Option shall not be subject to price fluctuation limitations.

Gasoil Crack Spread Average Price Option

710a.01 Type Option

A Gasoil Crack Spread Average Price Option contract is a financially settled average price option.

710a.02 Expiration

A Gasoil Crack Spread Average Price Option contract shall expire on the last business day of the delivery month. The option cannot be exercised prior to expiration.

710a.03 Trading Unit

On expiration of a call option, the option will be financially settled by subtracting the strike price from the underlying settlement price of the European Gasoil Crack Spread Swap futures contract times $1,000, or zero, whichever is greater. On expiration of a put option, the option will be financially settled by subtracting the underlying settlement price of the European Gasoil Crack Spread Swap futures contract from the strike price times $1,000, or zero, whichever is greater.

710a.04 Hours of Trading

The Gasoil Crack Spread Average Price Option contract is available for open outcry trading on the Exchange trading floor between 9:00 a.m. to 2:30 p.m. (New York Prevailing time) Monday through Friday, except on Exchange Holidays.

The Gasoil Crack Spread Average Price Option contract is available for clearing on CME ClearPort® clearing platform 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.

710a.05 Strike Prices

Trading shall be conducted for options with strike prices in increments as set forth below.

(A) On the first business day of trading in an option contract month, trading shall be at the following strike prices: (i) the previous day's settlement price for the underlying European Gasoil Crack Spread Swap futures contract rounded off to the nearest twenty-five cent increment, unless such settlement price is precisely midway between two twenty-five cent increments in which case it shall be rounded off to the lower twenty-five-cent increment and (ii) the ten strike prices which are ten twenty-five cent increments higher than the strike price described in section (i) of this Rule 710a.05(A), and (iii) the ten strike prices which are ten twenty-five cent increments lower than the strike price described in section (i) of this Rule 710a.05(A).

(B) Thereafter, on any business day prior to the expiration of the option, new strike prices for both puts and calls will be added, such that at all times there will be at least ten twenty-five cent increment strike prices above and below the at-the-money strike price available for trading in all options contract months. The at-the-money strike price will be determined in accordance with the procedures set forth in Subsection (A) of this Rule 710a.05.

(C) Notwithstanding the provisions of subsections (A) and (B) of this Rule, if the Exchange determines that trading in financially settled Gasoil Crack Spread Average Price Option contract will be facilitated thereby, the Exchange may, by resolution, change the increments between strike prices, the number of strike prices which shall be traded on the first day in any new option contract month, the number of new strike prices which will be introduced on each business day or the period preceding the expiration of a Gasoil Crack Spread Average Price Option contract in which no new strike prices may be introduced.

710a.06 Trading Months

Trading in Gasoil Crack Spread Average Price Option contract shall be conducted in the months determined by the Exchange. Trading shall commence on the day fixed by resolution of the Exchange.

710a.07 Prices

Prices shall be quoted in dollars and cents per barrel. A cabinet trade may occur at the price of $.001 per barrel or $1.00, however, if it results in the liquidation of positions of both parties to the trade.

710a.08 Absence of Price Fluctuation Limitations

Trading in Gasoil Crack Spread Average Price Option shall not be subject to price fluctuation limitations.

APPENDIX B – SUPPLEMENTAL MARKET INFORMATION

WTI Crude Oil Market

The West Texas Intermediate ("WTI") crude oil market, also called "domestic sweet", is traded at the hub in Cushing, Oklahoma which consists of storage facilities and major pipelines for distribution of crude oil from West Texas to refineries in the Midcontinent. The production of domestic sweet WTI is mainly centered in West Texas. According to estimates from Purvin & Gertz, an independent energy industry consultancy, and other industry sources, daily deliverable supply of domestic sweet WTI is comprised of approximately 500,000 barrels. The demand for WTI crude oil is supplied by refineries located in Texas, Oklahoma, and the Midcontinent.

The estimated trading volume of WTI crude oil in the Cushing cash market is approximately 4.0 million to 5.0 million barrels per day. The typical transaction size is 30,000 barrels, with hundreds of separate transactions conducted daily. In addition, all domestic crude oil grades, such as LLS, Mars and WTS, are traded and priced at a differential to WTI, and consequently, every physical crude oil transaction in the U.S. crude oil market involves a buy/sell transaction with WTI as one leg in the cash transaction. Typically, the crude oil cash market uses WTI as a unit of currency to establish a differential between WTI and other domestic grades. 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 at the Cushing trading hub.

The Brent market is comprised of four crude oil grades that are aggregated to form the BFOE or Brent cash market. The Brent spot market is known as Dated Brent, which refers to delivery of any of the BFOE grades within 7 to 21 days forward. The Dated Brent spot market assessment is used to price many grades of physical crude oil in the North Sea, Russia, and West Africa. There are hundreds of commercial and non-commercial participants actively trading in the Brent crude oil market, both in the underlying cash market and futures markets.

Both the Crude Oil benchmark (WTI) and Brent crude oil cash market are actively traded by dozens of commercial companies. The benchmark West Texas is a major source of refining capacity for the United States because of its high quality content.

Further, both NYMEX Crude Oil and BFOE have an active OTC physical and paper market. The liquidity in the OTC swaps market is robust, with an estimated average daily trading volume of 20 to 30 million barrels per day for NYMEX Crude Oil and 10 to 20 million barrels per day for Brent . There are several OTC brokerage firms that are active in both the NYMEX Crude Oil and Brent swaps markets, including PVM, Amerex, Spectron, Tullet Prebon, Ginga Petroleum, and GFI Group. As discussed above, the OTC market participation is deep and diverse, and includes both cash market and OTC market participants.

Market Participants

The West Texas Intermediate and Brent cash market and OTC market participants include 50 to 70 commercial companies. A list of some, but not all participants, is as follows:

Refiners	**Traders/End Users**	**Brokers**	**Financial (Swaps)**
ConocoPhillips	Hess Energy Trading	GFI Starsupply	Citibank
Valero	Vitol	PVM	Deutsche Bank
Shell	Glencore	Man Financial	Barclays
ExxonMobil	Total	ICAP	BankAmerica
BP	Northville	Aspen Oil	JP Morgan
Total	Cargill	GFI Spectron	
Koch Petroleum	Morgan Stanley	TFS	
Repsol	Goldman Sachs	Amerex	
CEPSA	RWE Trading	Tullet Prebon	
Netherlands Refining	Mabanaft	United	
OMV	Phibro		
Lukoil (Russia)	Arcadia		
Statoil (Norway)	Mercuria		
MOL Hungary	Sempra		

The Exchange believes the underlying futures contracts are highly liquid and would be extremely difficult to manipulate the financial settlement process.

New York Harbor Market

The New York Harbor gasoline and distillate fuel markets are highly diverse and actively traded by refiners, traders, importers, and smaller distributors. Below is a list of the market participants, including the New York Harbor fuel distributors that are active in the cash market. The Department of Energy's *Energy Information Administration* (EIA) is the main source for data related to the underlying cash markets.

The New York Harbor gasoline market is an active trading and import hub for gasoline, with gasoline imports of over 500,000 barrels per day. The metropolitan New York-New Jersey-Connecticut area consumes over 500,000 barrels per day of Reformulated Gasoline using a 10% blend of ethanol (RBOB refers to the Reformulated Gasoline Blend stock prior to the addition of 10% ethanol). In addition, gasoline imports are transshipped through New York Harbor to other points in the Northeast, including Upstate New York and Connecticut. The estimated daily trading volume of gasoline in the New York Harbor cash market is approximately 750,000 barrels per day.

The EIA data on stocks for gasoline and heating oil are available by Padd and for the Central Atlantic region (where the New York Harbor is located) at the link below:
http://tonto.eia.doe.gov/dnav/pet/pet_stoc_wstk_dcu_r1y_w.htm

The EIA demand data for gasoline and No. 2 Fuel Oil (heating oil) on a state-by-state basis can be viewed at the link below:
http://tonto.eia.doe.gov/dnav/pet/pet_cons_prim_dcu_SNY_m.htm

The weekly EIA imports data are available by Padd at the link below:
http://tonto.eia.doe.gov/dnav/pet/pet_move_wkly_dc_R10-Z00_mbblpd_w.htm

The distillates market is composed of the heating oil, diesel fuel, and jet fuel. The demand for heating oil in the New York metropolitan area is approximately 200,000 to 250,000 barrels per day. The heating oil consists of the higher sulfur quality for off-road use, mainly heating usage. The sources of distillate supply include local refineries, imports, and the Colonial Pipeline from Houston. The trading volume in the New York Harbor heating oil cash market is around 500,000 to 750,000 barrels per day. The typical transaction size in the distillate cash market is 25,000 barrels. Most of the cash deals are spot transactions. The typical bid/ask spread is one-quarter cent (i.e., 25 points or $0.0025). There are extensive data available on stocks and imports from the API and the EIA.

New York Harbor Market Participants

The New York Harbor cash market and OTC market participants are diverse and number around 25 to 30 commercial companies. A partial listing is as follows:

Refiners	Traders/Importers	Brokers	Financial (Swaps)
ConocoPhillips	Statoil	GFI	Citibank
Chevron	George E. Warren	Starsupply	Deutsche Bank
Valero	Vitol	ICAP	First National
Shell	Glencore	Echo Energy	Barclays
ExxonMobil	Northville	PVM	BankAmerica
BP	Koch	United	BNP Paribas
Sunoco	Cargill	MOAB	
Amerada Hess	Morgan Stanley	ARC Oil	
Citgo	Goldman Sachs (J. Aron)	Allied Fuels	
	Irving Oil	Oil Brokers Inc.	
	Lukoil Getty		
	Hess Energy Trading		

Gasoil Market

The European petroleum products market in Amsterdam-Rotterdam-Antwerp (ARA) in The Netherlands represents the largest hub in Europe, with extensive storage capacity and refining capacity. The ARA market is a vibrant import hub for distillate fuel, with around 500,000 to 600,000 barrels per day of distillate fuel supplied by refineries in The Netherlands, Germany, and France. The ARA market is the main supply center for European distillate fuels, which include heating oil (or gasoil), jet fuel and diesel fuel. Distillate demand in the ARA metropolitan area, which includes Netherlands and Northern Germany, is more than 500,000 barrels per day. The EIA compiles consumption data from the International Energy Agency on the European market in their *International Energy Annual* publication at the link below in Table 3.5:

http://www.eia.doe.gov/iea/pet.html

The link above also provides import data for the ARA market in Table 3.3, which shows distillate imports for the Netherlands at around 200,000 barrels per day.

The ICE Gasoil Futures contract, which is the benchmark for pricing European distillate fuels, is based on delivery of gasoil in the ARA market. The ICE Gasoil Futures contract is physically delivered and is the source of the settlement prices. The 2007 average trading volume of the ICE Gasoil Futures contract is more than 125,000 contracts per day, with current open interest of over 350,000 contracts. Typically, on the penultimate trading day (second to last day of trading), which is the termination day when the final settlement price is determined for the Gasoil Bullet Swap futures contract, the front month trading volume is robust, with more than 25,000 contracts traded. Further, since the CFTC has reviewed the FSA regulatory structure and determined it to be comparable to that of the CFTC, we believe to be justified in placing confidence in the disseminated ICE settlement price.

The European gasoil market is priced in units of dollars per metric ton. The conversion factor is 7.45 barrels per metric ton. The estimated trading volume of gasoil (converted to barrel equivalents) in the ARA cash market is approximately 500,000 to 700,000 barrels per day. The typical transaction size is around 35,000 to 40,000 barrels. The volume of spot transactions represents more than half of all cash transactions, and the balance of trades are longer-term contracts. There is active trading in forward cash deals and in the OTC swaps market. The bid/ask spreads are typically in increments of 50 cents per metric ton (or around 0.10 cents per gallon equivalent).

European Market Participants

The market participation in European gasoil is diverse and includes many of the same commercial entities that are active in the New York Harbor market. The European cash market and OTC market participants number 30 to 40 commercial companies. A partial listing is as follows:

Refiners	Traders/End Users	Brokers	Financial (Swaps)
ConocoPhillips	Hess Energy Trading	GFI Starsupply	Citibank
Valero	Vitol	PVM	Deutsche Bank
Shell	Glencore	Man Financial	Barclays
ExxonMobil	Total	ICAP	BankAmerica
BP	Northville	Aspen Oil	AIG
Total	Cargill	GFI Spectron	Merrill Lynch
Koch Petroleum	Morgan Stanley	TFS	
Repsol	Goldman Sachs	Amerex	
CEPSA	Koch	Prebon	
Netherlands Refining	Mabanaft		
OMV	Phibro		
	Arcadia		
	Mercuria		
	Sempra		
	Trafigura		

Forward Market

An active over-the-counter market exists in both the underlying Swaps and Options. Surveys indicate that this market is more than double the size of the Exchange volume listed below. Moreover, these are synthetic products that can be replicated by taking on spread positions in the associated outright swaps on Crude Oil, Brent Crude Oil, Heating Oil, Gasoil, and Reformulated Gasoline. These outright swaps and their associated futures remain highly liquid and very actively traded. As a result it would be extremely unlikely that the final settlements could be influenced by a narrow group of trading interests.

European Gasoil Crack Spread Options	421 contracts/day
Heating Oil Calendar Crack Spread Options	459 contracts/day
RBOB Calendar Crack Spread Options	846 contracts/day