



Christopher Bowen  
Managing Director and Chief Regulatory Counsel  
Legal Department

November 21, 2012

**VIA E-MAIL**

Ms. Sauntia Warfield  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**RE: Modifications to Energy & Metals ETH & Back Month Globex Volume Incentive Program for High Volume Contributors.  
NYMEX/COMEX Submission No. 12-389**

Dear Ms. Warfield:

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 certain modifications to the Energy & Metals ETH & Back Month Globex Volume Incentive Program for High Volume Contributors ("Program"). The proposed modifications become effective on January 2, 2013.

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 trading in the Program's products to prevent manipulative trading and market abuse. Additionally, the Exchanges have implemented systems to track Program participants' obligations to ensure proper distribution of earned incentives. The tiered 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. 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 Program is subject to the Exchanges' record retention policies which comply with the CEA.

NYMEX and COMEX certify that the Program and proposed modifications comply 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>

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. 12-389 in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director, Chief Regulatory Counsel

Attachments

# EXHIBIT 1

## Energy & Metals ETH & Back Month Globex Volume Incentive Program for High Volume Contributors

### Program Purpose.

The purpose of this Program is to encourage significantly high volume market participants to increase their Globex volume enhancing market liquidity for the products listed below. A more liquid contract benefits all participants in the market.

### Product Scope

Light Sweet Crude Oil futures, Natural Gas Futures, Heating Oil Futures, RBOB Gasoline futures, Gold futures, Silver futures, Copper futures, Platinum futures and Palladium futures contracts that are traded on the CME Globex Platform ("Products").

### Eligible Participants

NYMEX may designate up to three (3) participants in the Program. Participants may be NYMEX or COMEX members or non-members. In order to be considered for the Program, an applicant must (i) have, over a recent time period, achieved a combined average daily volume in the Products exceeding 175,000 contract sides, and (ii) not currently be participating in another incentive program that includes the Products in order to be considered for participation in the Program. Additionally, NYMEX may Notwithstanding the foregoing, NYMEX may, from time to time, add or subtract from the factors listed above as it deems necessary.

### Program Term

Start date is November 18, 2011. End date is ~~December 31, 2012~~December 31, 2013.

### Hours

N/A

### Progressive Tiered Volume Incentives

Once accepted into the Program, participants will be eligible to participate in tiered volume incentives whereby participants may be charged reduced fee rates Light Sweet Crude Oil futures, Natural Gas Futures, Heating Oil Futures, and RBOB Gasoline futures, Gold futures, Silver futures, Copper futures, Platinum futures and Palladium futures contracts that a participant trades on the CME Globex Platform during regular trading hours, extended trading hours, and/or for contracts in the Products that are greater than or equal to the fourth month. The progressive tiered volume levels are predetermined by NYMEX and COMEX and are based on a participant's combined daily volume of contracts in the above-referenced 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.