

# SUBMISSION COVER SHEET

Registered Entity Identifier Code (optional) 12-428

Date: December 4, 2012

**IMPORTANT: CHECK BOX IF CONFIDENTIAL TREATMENT IS REQUESTED.**

## ORGANIZATION

New York Mercantile Exchange, Inc.

## FILING AS A:



DCM



SEF



DCO



SDR



ECM/SPDC

## TYPE OF FILING

### • Rules and Rule Amendments



Certification under § 40.6 (a) or § 41.24 (a)



“Non-Material Agricultural Rule Change” under § 40.4 (b)(5)



Notification under § 40.6 (d)



Request for Approval under § 40.4 (a) or § 40.5 (a)



Advance Notice of SIDCO Rule Change under § 40.10 (a)

### • Products



Certification under § 39.5(b), § 40.2 (a), or § 41.23 (a)



Swap Class Certification under § 40.2 (d)



Request for Approval under § 40.3 (a)



Novel Derivative Product Notification under § 40.12 (a)

## RULE NUMBERS

N/A

## DESCRIPTION

Modification to the Diverse Trading Non-Member International Commercial Firms Energy Incentive Program

December 4, 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: Modification to the Diverse Trading Non-Member International Commercial Firms Energy Incentive Program. NYMEX Submission No. 12-428**

Dear Ms. Warfield:

New York Mercantile Exchange, Inc. ("NYMEX" or the "Exchange") hereby notifies the Commodity Futures Trading Commission ("Commission") that it plans to extend the Diverse Trading Non-Member International Commercial Firms Energy Incentive Program ("Program"). The modifications to the Program will become effective on January 2, 2013.

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

NYMEX business staff responsible for the Program and the NYMEX legal department collectively reviewed the designated contract market core principles ("Core Principles") as set forth in the Commodities Exchange Act ("CEA"). During the review, NYMEX 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 does not incentivize manipulative trading or market abuse or impact the Exchange's ability to perform its trade practice and market surveillance obligations under the CEA. The Exchange's market regulation staff will nevertheless continue to monitor trading in the Program's products to prevent manipulative trading and market abuse. Additionally, NYMEX has implemented systems to track Program participants' volume to ensure proper distribution of earned incentives. The products included in this Program are listed for trading in the open and competitive market. The incentives available under the Program will apply to transactions by participants via any of NYMEX's execution and/or clearing venues, including the pit and our central limit order book. Additionally, the incentives are equal across all NYMEX execution venues. Therefore, the incentives under this Program protect any price discovery taking place in the centralized market.

Participants in the Program will be selected by NYMEX 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 will be subject to the Exchange's record retention policies which comply with the CEA.

NYMEX certifies that the Program complies with the CEA and the regulations thereunder. There were no substantive opposing views to this Program or proposed modifications.

NYMEX certifies that this submission has been concurrently posted on the Exchange's 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 Submission No. 12-428 in any related correspondence.

Sincerely,

/s/ Christopher Bowen  
Managing Director, Chief Regulatory Counsel

Attachment: Exhibit 1 – Diverse Trading Non-Member International Commercial Firms Energy Incentive Program

# **EXHIBIT 1**

## **Diverse Trading Non-Member International Commercial Firms Energy Incentive Program**

### **Program Purpose**

The purpose of this Program is to incentivize trading in NYMEX energy products across all NYMEX venues for non-member international commercial trading firms which have historically traded a diverse product set. Increasing the overall volume levels in the products listed below will enhance market liquidity. A more liquid contract benefits all participants in the market.

### **Product Scope**

All NYMEX energy products that are (i) traded on the Globex Platform, (ii) traded on the NYMEX floor via open outcry, or (iii) OTC energy products submitted to and cleared by NYMEX ("Products").

### **Eligible Participants**

NYMEX may designate up to three (3) participants in the Program. Participants must be NYMEX non-member international commercial firms. In order to be considered for the Program, an applicant must have, over a recent time period, (i) maintained significant average daily volume levels in the Products and (ii) traded a significantly diverse energy product set.

### **Program Term**

Start date is March 30, 2012. End date is ~~December 31, 2012~~ December 31, 2013.

### **Hours**

N/A

### **Incentives**

Once accepted into the Program, participants will receive predetermined reduced fee rates for all trades executed and/or cleared in the Products.

### **Monitoring and Termination of Status**

The Exchange 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.