

**UNITED STATES OF AMERICA**

**Before the**

**COMMODITY FUTURES TRADING COMMISSION**

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**Treatment of Funds Held in Connection with the  
Clearing by the New York Mercantile Exchange, Inc.  
of Contracts Traded on the Dubai Mercantile  
Exchange Limited**

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**ORDER**

On May 23, 2007, the Commodity Futures Trading Commission (“Commission”) issued an order (“Original Order”) regarding the treatment of funds held in connection with the clearing by the New York Mercantile Exchange, Inc. (“NYMEX”), a registered derivatives clearing organization (“DCO”), of contracts traded on the Dubai Mercantile Exchange Limited (“DME”), a foreign board of trade located in the Dubai International Financial Centre (“DIFC”) in the United Arab Emirates. The Commission issued the Original Order to NYMEX, pursuant to Section 4d(a)(2) of the Commodity Exchange Act (“CEA”), permitting NYMEX and Commission-registered futures commission merchants (“FCMs”) to hold customer positions and associated funds held in connection with NYMEX’s clearing of specific futures contracts traded on or subject to the rules of the DME in accounts segregated pursuant to Section 4d of the CEA and CFTC Regulation 1.20.

The Original Order involved three contracts traded on DME, specifically a physically-settled DME Oman Crude Oil futures contract, a cash-settled Brent-Oman spread contract, and a cash-settled West Texas Intermediate (“WTI”)-Oman spread contract. NYMEX has submitted a request that the Commission issue an Order permitting NYMEX and registered FCMs to hold

customer funds in accounts segregated pursuant to Section 4d of the CEA and Commission Regulation 1.20, in connection with three new cash-settled contracts that will be listed on DME, namely the DME Oman Crude Oil cash-settled contract, the DME Brent Crude Oil cash-settled contract, and the DME WTI cash-settled contract (“New Futures Contracts”).

The Commission has reviewed the request and the record in this matter (“Submission”), and finds that NYMEX has demonstrated that it can comply with the requirements under the CEA and the Commission’s regulations thereunder applicable to it. Moreover, the Commission has determined that the commingling of positions and associated funds relating to the New Futures Contracts will give rise to substantial benefits to NYMEX, FCMs, market participants, and the public and will not undermine the Act’s objectives of protecting both customer funds and the integrity of the U.S. clearing system. Therefore, the Original Order is superseded and:

IT IS ORDERED, pursuant to Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2), that, subject to the terms and conditions below, NYMEX and registered FCMs that are acting pursuant to this Order may hold money, securities, and other property (collectively, “customer funds”) used to margin, guarantee, or secure trades or positions in certain commodity futures contracts executed on the DME and cleared on NYMEX (hereinafter “DME transactions”) with other customer funds used to margin, guarantee, or secure trades or positions in commodity futures or commodity option contracts executed on a contract market designated pursuant to Section 5 of the CEA (“DCM”), in a segregated account or accounts maintained in accordance with Section 4d of the CEA (including any orders issued pursuant to Section 4d(a)(2) of the Act) and the regulations thereunder, and all such customer funds shall be accounted for and treated and dealt with as belonging to the customers of the participating FCM consistently with Section 4d of the CEA and the regulations thereunder.

IT IS FURTHER ORDERED, that:

(1) This Order shall apply only to the following contracts traded on the DME: the physically-settled Oman Crude Oil futures contract, the cash-settled Oman Crude Oil futures contract, the DME Brent Crude Oil cash-settled contract, and the DME WTI cash-settled contract (“DME Contracts”).

(2) The DME Contracts shall not be fungible with any contract cleared by NYMEX or any successor clearing house. To this end, NYMEX shall not apply a spread credit between a contract or contracts traded on NYMEX, and a contract or contracts traded on DME but cleared on NYMEX, equal to 100% of the sum of the respective performance bond requirements for the contracts.

(3) NYMEX shall hold all funds deposited with it by clearing members to margin, guarantee, or secure DME Contracts traded on the DME in depository or safekeeping accounts located in the United States. Each FCM acting pursuant to this Order shall hold all funds deposited with such FCM to margin, guarantee, or secure DME Contracts in accordance with the requirements of Section 4d of the CEA and the Commission’s regulations.

(4) Performance Bond Requirements:

(a) NYMEX shall apply the SPAN margining system and set clearing member performance bond requirements for the physically-settled Oman Crude Oil futures contract and the cash-settled Oman Crude Oil futures contract cleared by NYMEX pursuant to this Order in an amount no less than that consistent with a 99% confidence level that such performance bond rates would cover price movements in the contract over a two-day period.

(b) NYMEX shall apply the SPAN margining system and set clearing member performance bond requirements for the DME Brent Crude Oil cash-settled contract in an amount no less than that required for the NYMEX Brent Crude Oil contract.

(c) NYMEX shall apply the SPAN margining system and set clearing member performance bond requirements for the DME WTI cash-settled contract in an amount no less than that required for the NYMEX WTI contract.

(d) Pursuant to the agreement between NYMEX and DME, NYMEX shall set performance bond requirements with respect to the DME Contracts such that the NYMEX/DME member customer initial margin requirement will be at least 110% of the clearing member margin requirement, and the NYMEX/DME non-member customer initial margin requirement will be at least 135% of the clearing member margin requirement.

(5) NYMEX shall submit a report to the Commission setting forth an analysis of the adequacy of the performance bond requirements provided in paragraph 4 above:

(a) within 120 days of the commencement of clearing pursuant to this Order concerning the first 90 days of clearing pursuant to this Order; and

(b) within 210 days of the commencement of clearing pursuant to this Order concerning the first 180 days of clearing pursuant to this Order.

(6) NYMEX shall at all times fulfill all representations made in its Submission, including all attachments and supporting materials thereto.

(7) Large Trader (Position) Reporting:

(a) NYMEX shall provide to the Commission the information described in Part 16 of the Commission's regulations in the manner described in Parts 15 and 16 of the Commission's regulations with respect to all DME transactions.

(b) Each FCM acting pursuant to this Order shall provide to the Commission the information described in Part 17 of the Commission's regulations in the manner described in Parts 15 and 17 of the Commission's regulations with respect to all DME transactions in which it participates.

(c) If the Commission promulgates a regulation under the CEA addressing obligations under Parts 15, 16, and/or 17 of the Commission's regulations, then such regulation will supersede the obligations referred to in ¶¶ (a)-(b) above.

(d) Upon request by the Commission, NYMEX and/or DME shall obtain from specified traders and provide to the Commission the information set forth in Part 18 of the Commission's regulations.

(8) NYMEX shall promptly inform the Commission of any material change in applicable DIFC law or regulations relevant to its operation as a DCO clearing for DME including, but not limited to: (a) any material change to DIFC requirements for Authorised Market Institutions; (b) any material change to DIFC law, including any material change to DIFC insolvency law (or official legal interpretation thereof) that could have an impact on the operation of NYMEX clearing default rules; and (c) any other change in applicable law or regulations affecting the conclusions contained in the Submission. NYMEX also shall promptly inform the Commission of any change in DME's status as an Authorised Market Institution and any change in DME's rules that affects its cooperation with the Commission or with NYMEX.

(9) NYMEX shall keep all records relating to the clearing of DME contracts in the U.S.

(10) DME shall maintain a binding agreement appointing an agent in the U.S. for purposes of communications, including acceptance on behalf of DME of any summons, complaints, orders, subpoenas, requests for information, notice, or any other written document or correspondence issued by or on behalf of the Commission, the U.S. Department of Justice, or any U.S. clearing member, and DME shall promptly inform the Commission of any change in such agent or agreement with such agent.

This Order is issued pursuant to Section 4d(a)(2) of the CEA based upon the representations made and supporting material provided to the Commission by NYMEX in its Submission. Any material changes or omissions in the facts or circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the relief set forth herein is appropriate. Further, in its discretion, the Commission may condition, modify, suspend, terminate, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion.

Issued in Washington, D.C., this 30 day of April, 2008.

By the Commission

A handwritten signature in blue ink that reads "David A. Stawick". The signature is written in a cursive, flowing style.

David A. Stawick  
Secretary of the Commission