CME Group

March 13, 2017

VIA EXPRESS MAIL AND E-MAIL
Mr. Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Request to Amend CME/DME Clearing Order Granted Pursuant to Section 4d (a)(2) of the Commodity Exchange Act

Submission #17-100

Dear Mr. Kirkpatrick:

I. Introduction

The Chicago Mercantile Exchange Inc. ("**CME**") requests that the Commodity Futures Trading Commission ("**CFTC**") amend the order it granted on August 3, 2012 regarding "Treatment of Funds Held in Connection with the Clearing by the Chicago Mercantile Exchange Inc. of Contracts Traded on the Dubai Mercantile Exchange Limited" (the "**Order**").[1] The CME is a registered derivatives clearing organization ("**DCO**") under the Commodity Exchange Act ("**CEA**"). As a DCO, CME clears transactions in futures and options on futures (collectively, "**futures**") listed on several exchanges, including the New York Mercantile Exchange, Inc. ("**NYMEX**"), which is registered under the CEA as a designated contract market ("**DCM**"), and Dubai Mercantile Exchange Limited ("**DME**"), which is a foreign board of trade ("**FBOT**") under the CEA.

The Order permits CME and CFTC-registered futures commission merchants ("**FCMs**") to hold customer positions in certain futures listed on DME, along with associated funds, in accounts that are subject to the segregation requirements that apply under Section 4d of the CEA and CFTC Regulation 1.20 with respect to clearing of customer trades in futures listed on a DCM ("**Section 4d Accounts**"). CME is seeking to amend the Order to expand the scope of DME contracts covered, so that market participants may benefit more broadly from the efficiencies of having their DME and NYMEX positions carried in the same account and from the segregation protections afforded under CEA Section 4d and CFTC Regulation 1.20 and related CFTC regulations for their positions in DME futures.

II. Request to Amend the Order

The Order authorizes CME and FCMs to hold customer positions, and related customer funds, in the following DME contracts, in Section 4d Accounts: (i) DME Oman Crude Oil physically-settled futures contract; (ii) DME Oman Crude Oil cash-settled futures contract; and (iii) DME Oman Crude Oil European Style Option contract (collectively, the "**Current DME Futures Contracts**").[2] The Current DME Futures Contracts are traded on the Globex electronic trading system.

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[1] The Order replaced an order dated September 16, 2011 that the CFTC issued to NYMEX Clearing (the "**September 2011 Order**"). The CFTC took that action when it vacated NYMEX's DCO registration in connection with NYMEX's transition to CME to clear NYMEX futures. The September 2011 Order was the last of several successive orders that NYMEX received allowing positions in specified DME contracts to be carried in Section 4d Accounts.

[2] The Order also covered the DME Brent Crude Oil cash-settled and WTI cast-settled futures contracts, but those contracts have been delisted.

CME wishes to amend the Order to expand the scope of DME contracts that may be carried in Section 4d Accounts by CME and by FCMs, to cover any futures that DME from time to time lists as DME products in the energy sector. We refer to such contracts, as the list may change from time to time, as the "**DME Futures Contracts**."

As with the Current DME Futures Contracts, DME Futures Contracts will be cleared through DME Clearing Members that are Clearing Members of CME authorized to clear trades in NYMEX-listed futures ("**NYMEX Clearing Members**"). CME will clear and settle customer trades in DME Futures Contracts in accordance with its Clearing House Rules applicable to NYMEX futures.

III. Information Under CFTC Regulation 39.15(b)(2)(i)

In support of this request, CME provides information below in each of the categories identified in CFTC Regulation 39.15(b)(2)(i). Although that regulation does not specifically apply to commingling of positions (and associated funds) in FBOT-listed futures with positions (and associated funds) in DCM-listed futures in Section 4d Accounts, we believe the categories of information set out in the regulation are relevant. Supplemental information is also provided in various exhibits.

A. DME Products to be Carried in the Section 4d Accounts

The request covers all DME Futures Contracts, as listed from time to time by DME. Initially, DME Futures Contracts will include the Current DME Futures Contracts identified above along with the following additional 20 cash-settled contracts ("**New DME Futures Contracts**"):

1. Brent (Singapore Marker) vs. DME Oman Crude Oil Futures
2. Brent vs. Dubai (Platts) Crude Oil BALMO Futures
3. Brent vs. Dubai (Platts) Crude Oil Futures
4. DME Oman vs. Dubai (Platts) Crude Oil Futures
5. Dubai Crude Oil (Platts) Average Price Option
6. Dubai Crude Oil (Platts) BALMO Futures
7. Dubai Crude Oil (Platts) Futures
8. DME Oman Crude Oil BALMO Futures
9. DME Oman Crude Oil Calendar Futures
10. Singapore Gasoil (Platts) vs. DME Oman Crude Oil Futures
11. Singapore Jet Kerosene (Platts) vs. DME Oman Crude Oil Futures
12. Singapore Mogas 92 Unleaded (Platts) vs. DME Oman Crude Oil Futures
13. DME Oman Crude Oil Average Price Option
14. Middle East Fuel Oil 180 cst (Platts) Futures
15. Middle East Fuel Oil 380 cst (Platts) Futures
16. Singapore vs. Middle East Fuel Oil 180 cst Spread (Platts) Futures
17. Singapore vs. Middle East Fuel Oil 380 cst Spread (Platts) Futures
18. Singapore Fuel Oil 180 Cst (Platts) Futures
19. Singapore Fuel Oil 380 Cst (Platts) Futures
20. Singapore Fuel Oil 180 Cst vs. 380 Cst (Platts) Futures

Exhibit A attached hereto provides a brief description of each New DME Futures Contract and a description of the relevant underlying physical markets. DME contract specifications for the New DME Futures Contracts are available on the DME website, Rules and Regulations.

DME has agreed to post its contract specifications for any other DME Futures Contracts it lists in the future on its website.

B. Risk Characteristics

CME has extensive experience managing the risks associated with clearing a broad array of futures, including both cash-settled and physical delivery energy futures. DME Futures Contracts present risk characteristics similar to those of the NYMEX energy contracts.

C. Trade Execution

Trading in NYMEX futures occurs on or subject to the rules of NYMEX. NYMEX futures are generally available for trading on Globex.

Trading in DME Futures Contracts occurs (and for new contracts listed in the future, will occur) on or subject to the rules of DME. As noted, the Current DME Futures Contracts are traded on Globex. The Current DME Futures Contracts may also be privately negotiated as components of an exchange of futures for related position transaction ("EFRP") as well as permitted block transactions subject to DME rules.

Similarly, the New DME Futures Contracts will also be traded on Globex and may be executed as part of privately negotiated EFRP or block transactions in accordance with DME rules.

D. Liquidity

Please find attached as Exhibit B, monthly volume figures for both the NYMEX and DME markets for 2015 and 2016.

For discussion of related liquidity considerations with respect to DME Futures Contracts please see the discussion in Section K below.

E. Availability of Reliable Prices

Prices for DME and NYMEX futures (and for other futures that CME clears) are set based upon trading activity on the relevant exchange in accordance with the settlement procedures employed by that exchange. Where appropriate, due to market illiquidity, CME may obtain prices from market participants or other sources, or use prices from related products for which there is a more active trading market.

For more discussion on the CME's settlement procedures, see http://www.cmegroup.com/market-data/files/cme-group-settlement-procedures.pdf

F. Financial, Operational and Managerial Standards for Clearing Members

As explained above, to clear DME Futures Contracts, a person must be both a DME and NYMEX Clearing Member. In addition, to clear DME trades for customers, the Clearing Member must be an FCM, as well as a member of the National Futures Association ("**NFA**"). FCMs are subject to CFTC and NFA rules, including minimum capital requirements.

CME imposes stringent membership qualification requirements on NYMEX Clearing Members, with heightened requirements on NYMEX Clearing Members that are FCMs, to assure that all NYMEX Clearing Members have satisfactory financial, operational, technical and risk management capabilities.

CME provides a full summary of the participation requirements – including operational, financial, reporting, and risk – on its website.[3] By developing and enforcing these requirements, CME can confirm the ability of its members to meet expected future obligations, thus better ensuring the security of the Clearing House

[3] http://www.cmegroup.com/company/membership/files/Summary-of-CME ClearingG-Clearing-Membership-Requirements.pdf

and its existing members. The requirements are designed to support a baseline of capabilities within the clearing member base without being excessively onerous, so as to prevent open access to the Clearing House. These comprehensive clearing member participation requirements ensure that sufficient resources are available to cover future obligations and achieve a balance between capital necessity and participant access.

G. Systems and Procedures to Oversee Clearing Members' Risk Management

CME has comprehensive risk management systems and procedures for overseeing the risk management performed by NYMEX Clearing Members, including where relevant their managing of the risks of clearing both DME and NYMEX futures. CME's ongoing review includes (among other things):

- Conducting periodic reviews of a NYMEX Clearing Member's operational processes and risk management policies;
- Monitoring a NYMEX Clearing Member's risk profile based on analysis of various factors, which may include (i) financial levels and trends (e.g., capital, customer funds); (ii) business lines (e.g., types of customers); (iii) account base (e.g., firm begins proprietary trading); (iv) significant changes in capital, operations, management, systems; and (v) results of previous examinations;
- Conducting credit reviews and reevaluation of a NYMEX Clearing Member's internal credit rating at least annually;
- Monitoring market data daily on each NYMEX Clearing Member, including share price, CDS spreads and external credit ratings, where available, across all NYMEX Clearing Members; and
- Monitoring a NYMEX Clearing Member's (i) disciplinary history (e.g., a firm with previous poor controls); (ii) customer complaints (e.g., a firm with a history of questionable trading patterns); (iii) evaluations of internal controls, through questionnaires or risk reviews (e.g., a firm noted for failure to monitor trading risks adequately); (iv) business reputational issues; (v) significant changes that have occurred at the firm in terms of business lines, staff levels, systems, etc.; (vi) internal controls to evaluate where weaknesses may; and (vii) prior reports, management recommendations, etc., for previous weaknesses.

As part of CME's Risk Management Framework, CME monitors NYMEX Clearing Members throughout the day by measuring risk through the firm's exposures and profit/loss, using intra-day market observations. Such daily monitoring includes the following components:

- Monitoring price moves of products in relation to current margin levels;
- Examining real-time profit/loss for each firm to detect large losses or large short options positions;
- Examining trading activity on the books of all NYMEX Clearing Members, looking for large increases in positions, transfers and/or give-up activity that could trigger a significant margin call; and
- Monitoring for extreme abnormalities in a firm's trading behavior and individual trade characteristics to identify potential erroneous trade entries (*e.g.*, "fat finger" trades).

CME assigns to each NYMEX Clearing Member tolerance levels, along with a materiality threshold and credit limit, for intra-day and aggregate trading activity, based on the firm's capital, credit risk, trading history, and risk management capabilities and policies. Exceptions to a firm's tolerance levels are escalated to CME senior management to determine appropriate measures to be taken.

H. CME Financial Resources

CME maintains resources to cover defaults through financial safeguard packages that comply with Commission Regulation 39.11.

CME maintains three independent financial safeguards waterfalls for the different major asset classes for which it provides clearing services that include Base, IRS, and CDS. The first layer of each financial safeguards waterfall utilized to offset the losses and costs associated with the default of a clearing member includes, the defaulting clearing member's margin and Guaranty Fund contributions, and any other assets available to the Clearing House for the relevant financial safeguards waterfall in which the default occurred. If the losses exceed the defaulted Clearing Member's funds, the next layer of the financial safeguards waterfall

would be triggered, which is the CME Contribution to the relevant financial safeguards waterfall. DME Futures Contracts are covered under the financial safeguards waterfall for Base contracts, including the Base Guaranty Fund.

The CME Contribution, described in CME Group Exchange Rules 802, 8G802, and 8H802 for Base, IRS, and CDS financial safeguards waterfalls, respectively, is an amount pledged by CME to absorb losses beyond the resources of the defaulted clearing member. As a matter of practice, CME Clearing generally calibrates the CME Contribution to each financial safeguards waterfall to be equivalent to the average size of each clearing member's calculated Guaranty Fund requirements for per waterfall. As of December 31, 2016, the CME Contribution for the Base financial safeguards waterfall was $100mm.

If the losses from a clearing member default exceed the previous layers of the applicable financial safeguards waterfall, the Clearing House would access the next layer of the financial safeguards waterfall, the Clearing Member Guaranty Fund. CME has defined policies with regard to the calculation and administration of the Guaranty Fund for all product types based on a few common principles. These principles dictate that each Guaranty Fund should be properly sized and assessed on a regular basis using stringent criteria. Further, clearing members' contributions to each Guaranty Fund, and by extension the related obligations under CME Clearing's Assessment Powers, are determined using fair and risk-based measures.

In compliance with CFTC Regulation 39.33(a), CME maintains financial resources to cover the loss associated with the default of the two clearing members with the largest stress shortfalls in each Guaranty Fund. Thus, each Guaranty Fund is sized to cover the loss caused by the simultaneous default of these two clearing members within each financial safeguards waterfall – commonly referred to as the "cover two" standard. In addition to meeting the cover two standard, CME may establish a buffer for any Guaranty Fund based on recent changes in the Guaranty Fund calculation or volatility in the market. The buffer is designed to ensure that the Guaranty Fund continually meets the cover two standard between official calculations and prevents unnecessary fluctuations of clearing member obligations.

The final layer of the financial safeguards waterfalls are CME Clearing's Assessment Powers. Assessment Powers are intended to protect the marketplace and its participants by maintaining operations during extreme market stress caused by multiple clearing member defaults, beyond those covered by the Guaranty Fund. Assessments Powers would only be accessed in the event that the margin and Guaranty Fund of the defaulting Member(s), as well as the CME Contribution and all non-defaulting clearing member Guaranty Fund contributions are exhausted, in relation to the financial safeguards waterfall to which the defaulted clearing member contributed.

I. Margin Methodology

CME will use its existing SPAN margin methodology for DME Futures Contracts and NYMEX energy futures to determine appropriate margin offsets between related positions in such contracts.

The policy governing margin calculations across CME is based on the principle that sufficient collateral should be held at all times to cover potential market and liquidity risks, among others for which CME may be exposed, based on clearing member positions. Each major asset class has a defined necessary coverage rate as measured by the percentage of time during which margin is greater than profit and loss movements for a specific holding period. Each major asset class has a defined margin period of risk, determined by internal analysis of the general market structure, including the visibility and accessibility of liquidity of its market, among other factors. Margins are designed to cover price movements over the length of time the Clearing House expects necessary to default manage a portfolio in the event of a clearing member default. For exchange-traded products, the margin period of risk is at least one business day

For exchange-traded products, margins are determined using CME Clearing's proprietary system, SPAN™. SPAN is a time tested and proven methodology for margining exchange-traded products. SPAN is used to calculate maintenance margins set to meet a 99% coverage standard that captures possible price moves over a minimum of one trading day.

In addition, factors such as liquidity, market concentration, current and anticipated market conditions, and other relevant information are used in establishing appropriate margin levels. These maintenance margin

levels are defined for each individual product and are updated on a regular basis or as deemed necessary. CME monitors price volatility for all products on a daily basis and reviews maintenance margin levels for all products at least once monthly or more frequently if market conditions warrant. Further, CME employs a concentration margin program for its exchange-traded products.

For information on CME initial margin levels, see http://www.cmegroup.com/clearing/cme-clearing-overview/performance-bonds.html

CME's margin methodology conforms to the applicable requirements under the CFTC's Part 39 Regulations.

J. CME Default Management Abilities with Respect to Commingled Positions

CME is confident in its abilities to manage a potential default with respect to positions in DME Futures Contracts that are carried in Section 4d Accounts. Any default involving such positions will be covered by CME financial resources, as explained in above. Such positions will also be subject to CME's default management procedures applicable to NYMEX Clearing Members that are FCMs.

K. Procedures for Clearing Member and Customer Defaults Involving Commingled Positions

CME has defined default management procedures related to each financial safeguards waterfall to provide guidance to the Clearing House staff in the event of a clearing member default. CME's default management practices are designed to ensure the continuity of CME's clearing services and particularly, the maintenance of the services provided to surviving clearing members, while making certain that market integrity is preserved and market disruption is minimized. Separate documentation in regards to CME Clearing's default management practices is maintained for the Base, IRS, and CDS financial safeguards waterfalls, respectively the Default Management Procedures, IRS Default Management Guidelines, and CDS Default Management Guidelines.

Through CME's default management practices, CME seeks to minimize losses associated with the defaulted clearing member and protect the customers of the defaulted clearing member, preferably by porting the defaulted clearing member's customers to solvent clearing members as soon as practicable, with maximum contract and collateral continuity. CME ceases variation margin netting at the clearing member level and settles directly with the defaulted clearing member's customers, before porting customers' positions to solvent clearing members. This practice provides additional protection to the defaulted clearing member's customers and also improves the likelihood of porting customers to solvent clearing members. CME, additionally, improves the probability of successful porting of customer positions by maintaining a firm understanding of customer accounts and the portfolios of solvent clearing members so that the Clearing House can easily identify stable clearing members with similar or complimentary customer profiles who may be well positioned to absorb solvent customers in the event a clearing member defaults.

CME has established practices and procedures in place that allow the Clearing House to operationally manage a clearing member default and simultaneously maintain services provided to non-defaulted clearing members. Further, CME's default management practices are designed to ensure that appropriate operational and legal arrangements are in place for the close-out or auction of the defaulted clearing member's portfolio, and that any collateral lodged with CME by the defaulted clearing member can be liquidated in an efficient and timely manner. The focus of the Clearing House in a clearing member default event is to maintain their ability to manage the defaulted clearing member's positions and collateral as quickly and efficiently as possible, as well as transfer solvent customers' positions and collateral of the defaulted clearing member, where possible, to a solvent clearing member.

CME and FCMs will be subject CFTC regulations adopted under CEA Section 4d, including Regulations 1.20 through 1.30, with respect to holding customer positions, and associated funds, in DME Futures Contracts in Section 4d Accounts. In the event of a "commodity broker" liquidation proceeding of an FCM Clearing Member under subchapter IV of chapter 7 of the U.S. Bankruptcy Code, such customer positions and associated funds held by the defaulted FCM Clearing Member would be subject to the CFTC's Part 190 Regulations as part of the "futures" segregated customer account class.

In the event of an insolvency of a NYMEX Clearing Member or a customer of a NYMEX Clearing Member involving a DME Futures Contract, CME is confident that CME or the applicable NYMEX Clearing Member will

be able to mitigate liquidation risk, by taking positions in the underlying futures market as well as in the related financial and physical futures contracts.

Also relevant, for any DME Futures Contract for which trading on Globex may be illiquid, it is relevant that the OTC energy markets are generally accessible to NYMEX Clearing Members. In fact, many of the larger NYMEX Clearing Members are already significant participants on the OTC derivatives market, with access to the brokerage network supporting the OTC markets that can facilitate the matching of trading counter-parties. The banking and investment bank industry, which includes a number of active NYMEX Clearing Members and their affiliates, provide quotations and make markets in OTC energy products. A NYMEX Clearing Member wishing to hedge a position in a DME Future Contract thus could seek active price quotes and trading counter-parties on those markets

However, it should be noted that in the case of a customer default it is more likely that, rather than attempting to hedge the position, the affected NYMEX Clearing Member would look to unwind the DME position. DME Futures Contracts could be traded bilaterally via voice brokers, which can normally be relied on to provide access to counter-parties, and brought into clearing via CME ClearPort.

In addition to the risk based financial and compliance audits that are conducted in accordance with the futures industry's Joint Audit Plan, CME and NYMEX also conduct biennial risk reviews of NYMEX Clearing Members. During the conduct of such reviews CME and NYMEX will include a discussion topic surrounding the firm's customer default due diligence with an emphasis on operational readiness. Moreover, CME and NYMEX employ thorough risk management and surveillance activities over all of its cleared markets and are vigilant regarding prudent margin setting practices and concentration issues.

Thus, CME is not aware of any significant potential operational restrictions or obstacles on access to the OTC market affecting NYMEX Clearing Members that would adversely affect their ability to manage the risk of a client default.

L. Arrangements for Obtaining Position Data for Futures and Foreign Futures in Futures Customer Accounts

CME actively monitors the positions of all NYMEX Clearing Members throughout the trading day, including a NYMEX Clearing Member's concentration of positions. CME will obtain position data at the beneficial owner level for customer positions cleared by FCMs that are NYMEX Clearing Members to the extent required by applicable law or otherwise as necessary to perform its clearing functions.

IV. Conclusion

We believe the information provided above and in the supporting exhibits supports this request. Accordingly, CME respectfully asks the CFTC to amend the Order to expand the DME contracts covered, so that CME and FCMs may carry customer positions arising out of, and funds related to, any DME Futures Contracts, in Section 4d Accounts.

Thank you for your prompt consideration of this request. Thank you for your prompt consideration of this request. Should you have any questions concerning the above, please contact the undersigned at (212) 299-2200 or Kathryn Trkla of Foley & Lardner at 312-832-5179.

Sincerely,

Christopher Bowen
Managing Director and Chief Regulatory Counsel