

**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**

The New York Mercantile Exchange, Inc. (“NYMEX”), a registered derivatives clearing organization (“DCO”), has submitted a request that the Commodity Futures Trading Commission (“Commission”) issue an Order permitting NYMEX and registered futures commission merchants (“FCMs”) to hold customer funds in accounts segregated pursuant to Section 4d of the Commodity Exchange Act (“Act”) and Commission Regulation 1.20, in connection with NYMEX’s clearing of certain futures 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 has reviewed the request and the record in this matter (“Submission”), and finds that NYMEX has demonstrated that it can continue to comply with the requirements under the Act and the Commission’s regulations thereunder applicable to it. Moreover, the Commission has determined that the commingling of positions and associated funds relating to certain DME 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,

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 with other customer funds used to margin, guarantee, or secure trades or positions in commodity futures or commodity options contracts executed on a contract market designated pursuant to Section 5 of the Act (“DCM”), in a segregated account or accounts maintained in accordance with Section 4d of the Act (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 consistent with Section 4d of the Act and the regulations thereunder.

IT IS FURTHER ORDERED, that:

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

(2) Such contracts shall not be fungible with any contract offered by any DCM.

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

(4) NYMEX shall apply the SPAN margining system and set clearing member performance bond requirements for each DME contract cleared by NYMEX pursuant to this Order in an amount consistent with a 99% confidence level that such performance bond rates would cover price movements in the contract over a two-day period. In addition, pursuant to the agreement between NYMEX and DME, NYMEX shall set performance bond requirements with respect to 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 within 210 days of the commencement of clearing pursuant to this Order setting forth an analysis of the adequacy of the performance bond requirements provided in paragraph 4 above during the first 180 days of clearing pursuant to this Order ("Report"). The relief provided for in this Order shall automatically terminate in the event that NYMEX does not submit the aforementioned Report within 210 days of the commencement 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; and

(c) If the Commission promulgates a regulation under the Act 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 DME's 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 Act 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 23<sup>rd</sup> day of May, 2007.

By the Commission

A handwritten signature in cursive script that reads "Eileen Donovan".

Eileen Donovan  
Acting Secretary of the Commission