

March 12, 2010

**BY E-MAIL**

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21st Street, N.W.  
Washington D.C. 20581

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

Dear Mr. Stawick:

**I. Introduction**

We are writing on behalf of the Clearing House Division of the Chicago Mercantile Exchange Inc. ("**CME Clearing**") and the New York Mercantile Exchange, Inc. ("**NYMEX**"), each a registered derivatives clearing organization ("**DCO**"), to request that the Commodity Futures Trading Commission ("**CFTC**") amend its April 30, 2008 Order Regarding the 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 (the "**April 2008 Order**").

The CFTC issued the April 2008 Order to NYMEX pursuant to Section 4d(a)(2) of the Commodity Exchange Act ("**CEA**"), permitting NYMEX, in its capacity as a DCO, and CFTC registered futures commission merchants ("**FCMs**"), to hold customer positions and associated funds in accounts segregated pursuant to Section 4d of the CEA and CFTC Regulation 1.20 in connection with NYMEX's clearing of specified futures contracts traded on or subject to the rules of the Dubai Mercantile Exchange Limited ("**DME**"). The April 2008 Order amended a previously issued clearing order dated May 23, 2007 (the "**May 2007 Order**", and collectively with the April 2008 Order, referred to herein as the "**Order**").<sup>1</sup> CME Clearing and NYMEX wish to amend the Order to include four new financially-settled option and swap futures contracts that will be listed for trading on or subject to the rules of DME and cleared by NYMEX through CME Clearing.

---

<sup>1</sup> Please note that CME Clearing filed a request with the Commission dated July 28, 2009 to amend one of the conditions in the Order to allow performance bond rates to cover price movements in the contracts listed on the DME and cleared on NYMEX over a one-day period instead of a two-day period.

## **II. Background**

### **A. The Current Order**

The May 2007 Order permitted NYMEX and FCMs to hold customer positions and associated funds in accounts segregated pursuant to Section 4d of the CEA and CFTC Regulation 1.20 in connection with NYMEX's clearing of certain futures contracts traded on or subject to the rules of the DME. Pursuant to the May 2007 Order, NYMEX cleared three futures contracts that were originally traded on the DME Direct electronic trading system and then on the Globex electronic trading system: a physically-settled DME Oman Crude Oil futures contract, a financially-settled Oman-Brent spread contract, and a financially-settled West Texas Intermediate ("WTI")-Oman spread contract. Subsequently, on March 31, 2008, DME notified the CFTC that it wished to de-list the financially-settled Oman-Brent spread and WTI-Oman spread contracts and replace them with three new financially-settled contracts: (1) a DME Oman Crude Oil financial futures contract; (2) a DME Brent Crude Oil financial futures contract; and (3) a DME WTI Crude Oil financial futures contract. The physically-settled Oman Crude Oil futures contract continued to be listed for trading on the DME.

### **B. Current DME Contracts**

The April 2008 Order amended the May 2007 Order and authorized NYMEX and FCMs to hold customer funds in a segregated account or accounts maintained in accordance with Section 4d of the CEA and CFTC regulations thereunder with respect to the following contracts traded on the Globex electronic trading system: (a) DME Oman Crude Oil physically-settled futures contract; (b) DME Oman Crude Oil cash-settled futures contract; (c) DME Brent Crude Oil cash-settled futures contract; and (d) DME WTI cash-settled futures contract (collectively, the "**Current DME Contracts**").

### **C. New DME Contracts**

NYMEX now wishes to amend the Order to add the following new cash-settled option and futures contracts: (i) DME Oman Crude Oil European Style Option; (ii) DME Oman Crude Oil Average Price Option (APO); (iii) DME Brent-Oman Calendar Swap futures; and (iv) DME Oman Calendar Swap futures (collectively, the "**New DME Contracts**"). The DME Contract Specifications for the New DME Contracts are attached in **Appendix I**.

### **D. Cleared – Only Contracts**

The APO, DME Brent-Oman Calendar Swap futures, and the DME Oman Calendar Swap futures contracts will not be listed for competitive trading on the Globex electronic trading system but rather will be executed through privately negotiated transactions and submitted for clearing through CME ClearPort Clearing pursuant to the DME's exchange of futures for swaps ("EFS") rules and exchange of options for options ("EOO") rules. Thus, the DME Oman Crude Oil European Style Option contract will be listed for competitive trading on the Globex

Mr. David Stawick, Secretary  
Commodity Futures Trading Commission  
March 12, 2010  
Page 3

electronic trading system and the other three New DME Contracts will be listed by DME as "cleared only" contracts.

The rationale for listing the APO, DME Brent-Oman Calendar Swap futures, and the DME Oman Calendar Swap futures contracts for clearing only is that: (1) these contracts typically are transacted in complex strategies, in particular strips, that are less conducive to listing on an electronic trading platform; (2) in NYMEX's experience with similar contracts on its DCM, when such contracts were listed for electronic trading as well as clearing, the overwhelming majority of such contracts have been cleared through ClearPort Clearing and only 1% have traded in the competitive market; and (3) the large number of strike prices of APO contracts as compared to traditional options contracts makes it difficult to list such contracts on an electronic platform.

#### **E. Enhanced NYMEX Default Resources**

In connection with this request, it should be noted that since the time that the Order was issued, NYMEX was acquired by CME Group and NYMEX's clearing default resources have been significantly augmented by CME Clearing.

Prior to being acquired by CME Group, NYMEX's financial safeguards package consisted of \$250 million in clearing member security deposits, \$115 million in default insurance and assessment powers of \$1.1 billion for total financial resources of \$1.465 billion. Currently, CME Clearing's financial safeguard package, which covers CME, CBOT, NYMEX, COMEX and DME includes a \$100 million contribution from CME, \$2.38 billion in clearing member security deposits, and \$6.55 billion in assessment powers, for a total of \$9.03 billion in financial resources. Also, prior to its acquisition by CME Group, NYMEX held customer performance bond of \$24.7 billion and house performance bond of \$12.5 billion. As of December 31, 2009, CME Clearing held (inclusive of CME, CBOT, NYMEX and COMEX products) \$55.8 billion in customer margin and \$24.9 billion in house margin.

In Section III below, we provide a description of the four financially-settled New DME Contracts that DME intends to list, as well as trading volume, open interest, and physical delivery statistics (as applicable) for the Current DME Contracts. Section IV contains a description of the physical and OTC markets for Oman crude oil and Brent crude oil that underlie the New DME Contracts. Section V discusses the ability of NYMEX and its clearing members to mitigate the risk of cleared-only contracts in a default scenario. Section VI specifies the relief requested.

#### **F. Applicability of the Amended Order**

The amended order would permit all FCMs to hold customer positions and associated funds in accounts segregated pursuant to Section 4d of the CEA and CFTC Regulation 1.20 in connection with NYMEX's clearing of the DME Oman Crude Oil European Style Option contract, as well as the Current DME Contracts. However, with respect to the three New DME

Mr. David Stawick, Secretary  
Commodity Futures Trading Commission  
March 12, 2010  
Page 4

Contracts that are cleared only contracts, due to the additional liquidation risk of cleared-only contracts, the amended order would apply only to FCMs that are NYMEX Clearing Members.

### **III. Description of the New DME Contracts**

The New DME Contracts will clear through NYMEX utilizing the clearing services of CME Clearing. Each of the New DME Contracts will be financially-settled in accordance with their contract terms and the arrangements in place between DME and NYMEX in relation to the clearing and settlement of DME contracts as described in NYMEX's previous Request for Relief Pursuant to Section 4d(a)(2) of the Commodity Exchange Act submitted on March 27, 2007 and March 31, 2008. As is the case with the Current DME Contracts, the New DME Contracts will be futures or options on futures contracts and will be cleared through DME Clearing Members who are NYMEX Clearing Members, and the clearing and settlement of the New DME Contracts will be subject to the NYMEX Clearing Rules. Each of the New DME Contracts will be listed for 5 years out in 60 serial calendar months. NYMEX Rules relating to the calculation and collection of margin from Clearing Members will also apply to the New DME Contracts, as between NYMEX and the Clearing Members.

#### **A. DME Oman Crude Oil European Style Option Contract.**

The DME Oman Crude Oil European Style Option Contract will provide market participants with a useful hedging instrument that will enhance their price risk management capabilities. This new option contract will be financially-settled based on the settlement price of the underlying DME Oman Crude Oil Futures Contract, and will provide market participants the capability and flexibility to hedge their price risk with a full slate of futures and options.

Generally, energy options can be characterized as either "European" or "American" style options. Technically, a European style option is limited in that it can only be exercised on the expiration day of the option, whereas, an American style option can be exercised at the close of business on any business day prior to expiration.

This new option contract is a European style option that is cash-settled on its expiration day (*i.e.*, it does not exercise into an underlying futures contract). Depending on whether this is a call option contract or a put option contract, the contract value will be calculated by subtracting the strike price from the DME Post Close Settlement Price for the underlying Contract Month of the DME Oman Crude Oil Futures Contract for call options, and *vice versa* for put options, and multiplying the resulting product by 1,000 barrels. At no time can the value of this contract be less than zero. This option contract will expire three (3) days prior to the termination date of trading of the underlying DME Oman Crude Oil Futures Contract.

#### **B. DME Oman Crude Oil Average Price Option (APO) Contract.**

The DME Oman Crude Oil Average Price Option (APO) Contract will provide the oil industry with a useful hedging tool for managing price risk in the Middle East and Asia Pacific

Mr. David Stawick, Secretary  
Commodity Futures Trading Commission  
March 12, 2010  
Page 5

energy markets. This Average Price Option is important because it more closely mirrors the commercial pricing methodology of the oil industry, which tends to price oil using a monthly average price.

With European and American Style options, the intrinsic value is fully determined on a single day: expiration day. Average Price Options on energy are different in that their intrinsic value is determined using the average price over an entire month. For example, the Oman APO Contract will settle based on the underlying DME Oman Calendar Swap Futures Contract, which utilizes the arithmetic average price of the first nearby Oman Crude Oil Futures settlement price over the calendar month. This calendar month average price is then compared to the strike price. If the calculated average is greater than the strike price, the APO call option has intrinsic value. If the average is less than the strike price, the put option will have intrinsic value.

#### **C. DME Brent-Oman Calendar Swap Futures Contract.**

The introduction of the DME Brent-Oman Calendar Swap contract will provide the commercial marketplace with an important hedging vehicle that utilizes the calendar month average spread price between Brent Crude Oil and Oman Crude Oil futures contracts. The spread price relationship between Brent and Oman crude oils is a key price determination mechanism that is used in the global marketplace, similar to the importance of the Brent-WTI spread relationship. This calendar swap will give commercial hedgers the ability to manage their price risk more effectively. Please see attached **Appendix 2** for a numerical example of how the calendar month average spread price between Brent Crude Oil and Oman Crude Oil futures contracts is calculated.

This contract is intended to capture the pricing differential between the arithmetic average of the ICE Brent Crude Oil futures contract and the arithmetic average of the DME Oman Crude Oil futures contract, each for the nearby contract month. The final settlement price will be the floating price multiplied by 1,000 barrels and the contract will be cash-settled. Trading will terminate on the last business day of the contract month.

**D. DME Oman Calendar Swap Futures Contract.**

The introduction of the DME Oman Calendar Swap contract will provide the oil industry with a hedging tool for managing price risk in the Middle East and Asia Pacific energy markets. This calendar swap is important because it mirrors the commercial pricing methodology that is used by the oil industry, which typically utilizes a monthly average price.

This contract is priced as the arithmetic average of the DME Oman Crude Oil futures contract first nearby month. The final settlement price will be the floating price multiplied by 1,000 barrels and the contract will be cash-settled. Trading will terminate on the last business day of the contract month.

**IV. Background On The Underlying Crude Oil Physical Markets**

**A. The Oman Crude Oil Market**

**1. Production**

Oman crude oil is seen by many market participants as a preferred benchmark for Middle East sour crude oil for a number of reasons. Oman crude oil quality is broadly representative of other Middle East crude oils. The production levels and tradability of Oman crude oil are sufficient to support benchmark status. The market for Oman crude oil is deep, liquid, and transparent, consisting of a physical forward market, physical spotmarket and an active OTC swaps and options market. There are numerous participants in the market with no single party dominating the secondary market trading of physical cargoes or financial contracts. The average daily crude oil production in Oman is currently 800,000 barrels per day in 2009, according to data from the Petroleum Development Oman ("PDO"), which is a joint venture owned 60% by the Oman government, 34% by Shell, 4% by Total, and 2% by Partex. At present, approximately 650,000 barrels per day (or approximately 80% of total Oman crude oil production) is controlled by PDO. In addition, Occidental Petroleum and other private oil companies have extensive oil production in Oman, which account for another 150,000 barrels per day of oil production. Accordingly, there are multiple producers of Oman crude, rather than a monopoly. Further, PDO announced it had discovered three new oil fields that will help to expand crude oil production after 2011 to approximately 900,000 barrels per day. Thus, while the percentage of oil controlled by the PDO may fluctuate over time, the overall crude supply that is delivered at the DME's delivery point is quite large and is expected to increase in the next several years.

Oman is not a member of OPEC. Consequently, Oman crude oil is not subject to OPEC production, destination or end-user restrictions. The Oman government sells most of its equity share of production through term contracts, and some of these term cargoes are resold in the spot market. The remaining share of Oman crude oil production that is owned by private oil companies is typically sold in the spot market. Thus, there is robust trading activity in the Oman

crude oil spot market. The standard cargo size is 500,000 barrels, and there are typically around 40 cargoes loaded per month at Oman's port, Mina al Fahal.

## **2. Export Terminal**

Typically, oil exports run at a rate of approximately 650,000 barrels per day from the Oman port at Mina al Fahal, which is the delivery point for the DME's Oman Crude Oil futures contract. The Mina al Fahal port is a deep water port that is located approximately 100 miles outside of the entrance to the Straits of Hormuz and can accommodate variable cargo sizes and ultra large crude carriers. The terminal is able to load three vessels simultaneously, has minimal load port restrictions on vessel draft and also has best in-class loading measurement and delivery procedures. In addition, as this is a warm weather port, there are no seasonality factors that would restrict the loading activity. Oil exports from Iran, Iraq, Kuwait and Saudi Arabia pass through the strategically important Straits of Hormuz, but Omani crude oil does not. The Straits of Hormuz narrows at its northern-most end to several miles, but the southern end, which opens into the Indian Ocean, is roughly fifty miles wide. A significant U.S. naval presence is positioned on an ongoing basis adjacent to the Mina al Fahal port. The terminal is jointly owned by the Oman government and Shell, and is operated by Shell. Scheduling of deliveries is determined by the Oman Ministry of Oil and Gas.

## **3. Pricing**

Prior to June 2007, the Oman government priced its term contracts using a retroactive monthly average, called the Official Selling Price ("**OSP**"). The OSP is a "retrospective" price based on the previous month's average of spot market deals. Starting June 1, 2007, the Oman government changed its oil price formula to a forward curve method based on the settlement prices of the DME Oman futures contract. Since that time, activity in the Oman cash market has increased noticeably, with participants entering the cash market as a result of the DME Oman Crude Oil futures contract.

## **4. Cash Market**

There is a large and diverse number of cash market participants in the Oman crude oil market.<sup>2</sup> There are approximately 20 companies that are long-term customers of the Oman government, and there are an additional 15 to 20 oil companies that actively participate in the Oman cash market. The list of companies active in the Oman cash market includes large oil refiners (such as Chinese, Korean, and Japanese refiners), the super-majors (such as BP, Shell,

---

<sup>2</sup> Cash market participants in the Oman crude oil market include Shell, BP, ExxonMobil, Total, Occidental Petroleum, Vitol, Phibro Trading, Glencore, Koch Petroleum, Sempra Oil Trading, Trafigura, Arcadia, Mercuria Energy Trading, Idemitsu (Japanese), Nippon (Japanese), Itochu (Japanese), Mitsubishi (Japanese), Mitsui (Japanese), Marubeni (Japanese), Sumitomo (Japanese), Cosmo Oil Co. (Japanese), Sinochem (Chinese), UNIPIC (Chinese), SK (Korean), Hyundai (Korean), LG-Caltex (Korean), Reliance (Indian), Singapore Refining Company, and PTT (Thai).

Mr. David Stawick, Secretary  
Commodity Futures Trading Commission  
March 12, 2010  
Page 8

ExxonMobil, and Total), and oil traders (such as Occidental Petroleum, Vitol, Morgan Stanley, Goldman Sachs, Glencore, Phibro, Arcadia, Trafigura, and Sempra).

## 5. OTC Financial Market

Further, there is a liquid derivatives or "paper" swap market that is used for hedging Oman and Middle East crude oil price exposure.<sup>3</sup> The primary OTC hedging vehicles used to manage price risk for Oman and Middle East crude oil are various types of Dubai and Oman crude oil swaps.

There is an active OTC swaps market in the Middle East-Asia Pacific region, which consists mainly of the Oman calendar swap and the Dubai calendar swap. In addition, there is a liquid OTC market in Brent-Oman and Brent-Dubai spread swaps, which are priced as a spread differential to the ICE Brent Crude oil. The liquidity in the OTC swaps market based on Dubai and Oman crude oil is robust, with an estimated average daily trading volume of 10 to 12 million barrels per day<sup>4</sup>. There are several OTC brokerage firms that are active in the OTC markets, including PVM, Tullet Prebon, TFS, Ginga Petroleum, and GFI Group. As discussed above, the OTC cash and swap market participation is deep and diverse, and includes both cash market and OTC financial market players. Many of the same companies that are trading Brent and WTI are also active in the Oman and Dubai markets.

In addition, a number of reporting services, such as Bloomberg, publish a forward curve of prices for the Oman and Dubai swaps markets. A number of OTC brokers generate their own forward curves and then make them available to their customers and to other interested parties. At present, the practice is to provide OTC forward curves that extend out for three years. Because Dubai crude oil is generally accepted as a substitute for Oman crude oil, the prices for

---

<sup>3</sup> In addition to the cash market participants noted above, significant OTC swap market participants in Oman crude oil include Goldman Sachs, Morgan Stanley, Deutsche Bank, Emirates National Oil Co. (ENOC), ConocoPhillips, Barclays Bank, and JP Morgan Chase Bank.

<sup>4</sup> There are no published sources for data on the Oman crude oil physical and swap volumes that are traded in the OTC market. Most of the OTC trading volume is executed bilaterally and such trade information is confidential and is not reported to third parties. The OTC trading volume estimates of 10-12 million barrels per day is derived from our conversations with OTC brokers, and from cleared volumes that are submitted through the CME ClearPort platform. Currently, NYMEX lists the Dubai calendar swap and the Brent-Dubai calendar swap. In 2009, the average daily volume of NYMEX-cleared transactions for the Dubai calendar swap and the Brent-Dubai calendar swap was 4,500 contracts (equivalent to 4.5 million barrels per day). We have aggregated total commodity forward and swap activity reported by the BIS and compared it to the notional value of exchange traded futures and found that futures represent approximately 40% of the OTC market in the aggregate. Extrapolating that relationship between OTC and futures markets to Oman crude oil, we estimate that the 4,500 contract daily futures volume (4.5 million barrels notional) represents 30%-40% of the entire OTC market volume, and thus the trading volume in the OTC market for these products is estimated to be 10 to 12 million barrels per day.

Mr. David Stawick, Secretary  
Commodity Futures Trading Commission  
March 12, 2010  
Page 9

these two products are tightly linked and thus the prices for Dubai swaps activity is understood to be highly relevant for Oman swaps as well.

## **B. The Brent Crude Oil Market**

### **1. Production**

The Brent market is comprised of four North Sea crude oil grades: Brent, Forties, Oseberg, and Ekofisk ("**BFOE**" or "**Brent**"). The standard cargo size in the BFOE market is 600,000 barrels. According to Consilience Energy Advisory Group, an oil industry consulting firm based in London, the BFOE accounts for daily crude oil production of over 1.5 million barrels per day. These four North Sea grades are segregated blends delivered at different locations in the North Sea, and each can be substituted by the seller in the 21-Day BFOE cash market.

### **2. Cash Market**

The underlying Brent crude oil cash market is actively traded by dozens of commercial companies. The four crude oil grades are aggregated to form the BFOE or Brent cash market. The Brent spot market is known as Dated Brent, which refers to delivery of any of the BFOE grades within 7 to 21 days forward. The Dated Brent spot market assessment is used to price many grades of physical crude oil in the North Sea, Russia, and West Africa. There are hundreds of commercial and non-commercial participants actively trading in the Brent crude oil market, both in the underlying cash market and futures markets. There is an established futures market, under the regulation of the U.K. Financial Services Authority, in Brent Crude Oil at ICE Futures Europe. The average daily trading volume through November 2007 for the ICE Futures Europe Brent Crude Oil futures is approximately 240,000 contracts traded per day (each contract is 1000 barrels in size). Further, the NYMEX Brent Crude Oil Last Day Futures Contract is currently trading on the CME Globex® platform under CFTC regulatory authority, and this contract utilizes the ICE Futures Europe Brent settlement price.

### **3. OTC Brent Financial Market**

Further, BFOE has an active OTC physical and paper market. The liquidity in the OTC Brent swaps market is robust, with an estimated average daily trading volume of 10 to 20 million barrels per day. There are several OTC brokerage firms that are active in the Brent swaps markets, including PVM, Tullet Prebon, TFS, ICAP, Man Financial, Ginga Petroleum, and GFI Group. As discussed above, the OTC market participation is deep and diverse, and includes both cash market and OTC market players. The Brent cash market and OTC market participants number 50 to 70 commercial companies. A list of some, but not all participants, is as follows:

<u>Refiners</u>	<u>Traders/End Users</u>	<u>Brokers</u>	<u>Financial (Swaps)</u>
ConocoPhillips	Hess Energy Trading	GFI Starsupply	
Valero	Vitol	PVM	Deutsche Bank
Shell	Glencore	Man Financial	Barclays
ExxonMobil	Total	ICAP	BankAmerica
BP	Northville	Aspen Oil	
Total	Cargill		
Koch Petroleum	Morgan Stanley	TFS	Repsol
	Goldman SachsCEPSA	RWE Trading	Tullet
Prebon			
Netherlands Refining	Mabanaft		
OMV	Phibro		
Lukoil (Russia)	Arcadia		
Statoil (Norway)	Mercuria		
MOL Hungary	Sempra		

#### V. Risk Mitigation of a Default Involving Cleared-Only Contracts

In the event of an insolvency of a clearing member or a customer of a clearing member involving a cleared-only contract, NYMEX and CME Clearing are confident that CME Clearing or the applicable clearing member will be able to mitigate liquidation risk.

The OTC energy markets are generally accessible to NYMEX clearing members. In fact, many of the larger clearing members are already major players on the OTC derivatives market. As noted above there is a 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. A clearing member wishing to hedge cleared-only contracts with OTC products would need to seek active price quotes and trading counter-parties. As such it would need to be familiar with the brokerage and banking communities. It would also likely need to enter into an ISDA Master Agreement with its trading counter-party. The resulting hedged OTC/cleared-only position could be held in the firm's house account until expiry or a buyer could be sought to take over the position.<sup>5</sup>

<sup>5</sup>The following is an example of how a clearing member could "delta hedge" an options position. "Delta hedging is a well-established process where option value is hedged by a fractional number of offsetting futures contracts. The proposed option contracts are financially settled so therefore the hedge involves offsetting profits and losses, not actual delivery obligations. For example, suppose the option is the proposed European Call option with a \$70 strike price. Suppose further that the underlying futures are currently also trading at \$70. A standard calculation (for example using the Black – Scholes option pricing model) would yield an option delta of 0.5. To the options markets, this means that the option change in value would be one-half that of the futures. On a practical level, the trader would have 1 offsetting futures for every 2 options. The positions would be hedged in terms of their value.

Mr. David Stawick, Secretary  
Commodity Futures Trading Commission  
March 12, 2010  
Page 11

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 clearing member would look to unwind the cleared-only position. The cleared-only contracts are standardized and voice brokers can normally be relied on to provide access to counter-parties. An offsetting off-exchange trade can be arranged and brought into clearing via CME ClearPort. A full-blown ISDA Master Agreement and Credit Support Annex is not typically required for OTC transactions that are intended to be submitted for clearing through CME ClearPort, and thus there should be no significant access or operational barriers to a clearing member offsetting a defaulting customer's position.

Additionally, in the event of an insolvency involving the cleared-only options contracts, NYMEX and CME Clearing are confident that CME Clearing or the applicable clearing member will be able to mitigate liquidation risk by taking positions in the underlying futures market, particularly the DME Oman Calendar Swap market, as well as in the related financial and physical futures contracts. It will also be possible to mitigate risk by taking positions in WTI Asian, American and European options.<sup>6</sup> One of the DME's goals is to develop liquidity in the options contracts by offering clearing; any such development will boost the liquidity of the other Oman contracts as well (which will reinforce the ability to manage risk associated with holding the cleared-only options contracts).

In addition to the risk based financial and compliance audits that are conducted in accordance with the futures industry's Joint Audit Plan, CME Clearing and NYMEX also - conduct bi-annual risk reviews of their clearing members. During the conduct of such reviews CME Clearing and NYMEX will include a discussion topic surrounding the firm's customer default due diligence with an emphasis on operational readiness. Moreover, CME Clearing 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, NYMEX and CME Clearing are not aware of any significant potential operational restrictions or obstacles on access to the OTC market affecting clearing members that would adversely affect the ability of clearing members to manage the risk of a client default.

---

Undoubtedly, the price of the futures market would change over time. As it does, so would the option delta. For example, if the market rises to \$80, as an example, the delta would also rise, perhaps to 0.7. As a result, the hedge would change from 1 futures contract for every 2 options to 7 futures for every 10 options. Another example might be if the market falls to \$60. The corresponding delta might be 0.3, or 3 futures for every 10 options. The important point is that at expiration, the delta will be binary: either out-of- the money or in-the-money. Either each option will be hedged with one future, or it will not be hedged if worthless on expiration day.

<sup>6</sup> The issue of liquidation of risk associated with options contracts arises with respect to the seller of the options, and not the buyer, as the buyer's full risk is the initial premium, which is typically paid in full up-front.

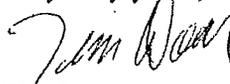
Mr. David Stawick, Secretary  
Commodity Futures Trading Commission  
March 12, 2010  
Page 12

## VI. Relief Requested

Based on the foregoing demonstration of the liquidity of the physical and OTC markets underlying the New DME Contracts, the ability of clearing members to manage the customer default risks of cleared only contracts and NYMEX's continued compliance with the terms and conditions of the Order that will apply to the New DME Contracts (including the large trader position reporting requirements set forth in condition (7) of the April 2008 Order), NYMEX and CME Clearing request that the CFTC amend the Order to permit: (i) NYMEX and all FCMs to carry, in U.S. customer segregated accounts, customer positions arising out of, and funds related to the DME Oman Crude Oil European Style Option contract, as well as the Current DME Contracts traded on or subject to the rules of the DME; and (ii) NYMEX and FCMs that are NYMEX Clearing Members to carry, in U.S. customer segregated accounts, customer positions arising out of, and funds related New DME Contracts that are cleared only contracts. NYMEX represents that it remains in compliance with the terms and conditions of the Order.

Thank you for your prompt consideration of this request. If you have any questions please contact the undersigned at 312-930-3162.

Very truly yours,



Tim Doar

Managing Director  
Risk Management

## Enclosures

cc: Chairman Gary Gensler  
Commissioner Michael Dunn  
Commissioner Jill E. Sommers  
Commissioner Bart Chilton  
Commissioner Scott O'Malia  
Ananda K. Radhakrishnan, Director, Division of Clearing and  
Intermediary Oversight, CFTC  
John Lawton, DCIO  
Robert Wasserman, DCIO

Christopher K. Bowen, NYMEX  
Tom Lasala, NYMEX  
Kim Taylor, CME  
Dale Michaels, CME  
Michael Philipp, Winston & Strawn, LLP

## APPENDIX I

The following are new option and swap products for listing on DME:

1. Oman Crude Oil European Style Option Contract
2. Oman Crude Oil Average Price Option (APO) Contract
3. Brent-Oman Calendar Swap Contract
4. Oman Calendar Swap Contract

Below are the proposed contract terms and conditions for the new products.

### **Chapter 18 - Oman Crude Oil European Style Option Contract**

#### **18.01 Scope**

This Chapter applies to a DME Oman Crude Oil European Style Option (the "Contract"), which is a European Style option cash-settled upon expiration.

#### **18.02 Definitions**

In this Chapter the following definitions shall apply.

- (1) **DME Oman Crude Oil Futures Contract** means the Futures Contract the terms of which are set out in Chapter 10; and
- (2) **First Nearby Month** means the nearest month for which trading is being transacted, or the spot month; and
- (3) **Other capitalized terms** not defined herein shall have the meaning given to them in the DME Rulebook.

#### **18.03 Trading Unit**

On expiration of a call option, the contract value for each Contract will be the product of the strike price being subtracted from the Post Close Settlement Price for the underlying Contract Month of the DME Oman Crude Oil Futures Contract on the expiration date and the result thereof being multiplied by 1,000 barrels, provided that if such product is less than zero, the contract value for each Contract will be zero. On expiration of a put option, the contract value for each Contract will be the product of the Post Close Settlement Price of the underlying Contract Month of the DME Oman Crude Oil Futures Contract on the expiration date being subtracted from the strike price and the result thereof being multiplied by 1,000 barrels, provided that if such product is less than zero, the contract value for each Contract will be zero.

#### **18.04 Prices**

Prices shall be quoted in dollars and cents per barrel. The minimum price increment shall be \$.01 (one cent) per barrel. A trade may occur to close out a deep out of the money option ("Cabinet Trade") at the price of \$.001 per barrel or \$1.00 a Contract, however, if it results in the liquidation of positions of both parties to the trade.

#### **18.05 Strike Prices**

Trading shall be conducted for options with strike prices in increments as set forth below:

(A) On the first Trading Day in an option contract month, trading shall be at the following strike prices: (i) the previous day's Post-Close Settlement Price for DME Oman Crude Oil Futures contracts in the corresponding delivery month rounded off to the nearest fifty-cent increment strike price unless such price is precisely midway between two fifty-cent increment strike prices, in which case it shall be rounded off to the lower fifty-cent increment strike price and; (ii) the twenty fifty-cent increment strike prices which are twenty increments higher than the strike price described in (i) of this Rule 18.05(A) and; (iii) the twenty fifty-cent increment strike prices which are twenty increments lower than the strike price described in (i) of this Rule 18.05(A) and; (iv) an additional ten strike prices for both call and put options will be listed at \$2.50 increments above the highest fifty-cent increment as described in (ii) of this Rule 18.05(A), beginning with the first available such strike that is evenly divisible by \$2.50 and; (v) an additional ten strike prices for both call and put options will be listed at \$2.50 increments below the lowest fifty-cent increment as described in (iii) of this Rule 18.05(A), beginning with the first available such strike that is evenly divisible by \$2.50.

(B) Thereafter, on any Trading Day prior to the expiration of the option: (i) new consecutive fifty-cent increment striking prices for both puts and calls will be added such that at all times there will be at least twenty fifty-cent increment strike prices above and below the at-the-money strike price available for trading in all options Contract Months; and (ii) new \$2.50 increment strike prices will be added such that at all times there shall be ten \$2.50 increment strike prices above and below the nearest fifty cent increment strike price, beginning with the first available strike prices that are evenly divisible by \$2.50. The at-the-money strike price will be the previous Trading Day's DME Post-Close Settlement Price for DME Oman Crude Oil Futures Contracts rounded in accordance with the procedures set forth in subsection (A)(i) of this Rule 18.05.

(C) Notwithstanding the provisions of subsections (A) through (C) of this Rule, if the Board determines that trading in Contracts will be facilitated thereby, the Board may by resolution change the increments between strike prices, the number of strike prices which shall be traded on the first Trading Day in any new option Contract Month, the number of new strike prices which will be introduced on each Trading Day or the period preceding the expiration of a Contract in which no new strike prices may be introduced..

#### **18.06 Expiration**

A DME Oman Crude Oil European Style Option Contract shall expire at the Post Close session three Trading Days prior to the termination date of the underlying DME Oman Crude Oil Futures Contract.

#### **18.07 Contract Months**

Contract Months will be determined by the Board.

#### **18.08 Trading Hours**

The Exchange shall determine the trading hours from time to time.

#### **18.09 Governing law**

This Contract shall be governed by and construed in accordance with English law.

## **Chapter 17 - Oman Crude Oil Average Price Option (APO) Contract**

### **17.01 Scope**

This Chapter applies to an Oman Crude Oil Average Price Option (the "Contract"), which is an Average Price option cash-settled upon expiration.

### **17.02 Definitions**

In this Chapter the following definition shall apply.

- (1) **DME Oman Crude Oil Futures Contract** means the Futures Contract the terms of which are set out in Chapter 10; and
- (2) **First Nearby Month** means the nearest month for which trading is being transacted, or the spot month; and
- (3) **Other capitalized terms** not defined herein shall have the meaning given to them in the DME Rulebook.

### **17.03 Trading Unit**

A DME Oman Crude Oil Average Price Option is a cash settled option. On expiration of a call option, the contract value for each Contract will be the product of the strike price being subtracted from the underlying Oman Calendar Swap Contract and the result thereof being multiplied by 1,000 barrels, provided that if such product is less than zero, the contract value for each Contract will be zero. On expiration of a put option, the value will be the product of the underlying Oman Calendar Swap Contract being subtracted from the strike price and the result thereof being multiplied by 1,000 barrels, provided that if such product is less than zero, the contract value for each Contract will be zero.

### **17.04 Prices**

Prices shall be quoted in dollars and cents per barrel. The minimum price increment shall be \$.01 (one cent) per barrel. A trade may occur to close out a deep out of the money option ("Cabinet Trade") at the price of \$.001 per barrel or \$1.00 a Contract, however, if it results in the liquidation of positions of both parties to the trade.

### **17.05 Strike Prices**

Trading shall be conducted for options with strike prices in increments as set forth below.

(A) On the first Trading Day in an option Contract Month, trading shall be at the following strike prices: (i) the previous Trading Day's Settlement Price for DME Oman Crude Oil Futures Contracts in the corresponding Contract Month rounded up or down to the nearest five-cent increment strike price unless such price is precisely midway between two five-cent increment strike prices in which case it shall be rounded down to the lower five-cent increment strike price and; (ii) the twenty five-cent increment strike prices which are twenty increments higher than the strike price described in (i) of this Rule 17.05(A) and; (iii) the twenty five-cent increment strike prices which are twenty increments lower than the strike price described in (i) of this Rule 17.05(A) and; (iv) an additional ten strike prices for both call and put options will be listed at 25-cent increments above the highest five-cent increment as described in (ii) of this Rule 17.05(A), beginning with the first available such strike that is evenly divisible by 25-cents and; (v) an

additional ten strike prices for both call and put options will be listed at 25-cent increments below the lowest five-cent increment as described in (iii) of this Rule 17.05(A), beginning with the first available strike price that is evenly divisible by 25-cents.

B) Thereafter, on any Trading Day prior to the expiration of the option (i) new consecutive five-cent increment striking prices for both puts and calls will be added such that at all times there will be at least twenty five-cent increment strike prices above and below the at-the-money strike price available for trading in all options Contract Months; and (ii) new 25-cent increment strike prices will be added such that at all times there shall be ten 25-cent strike prices above and below the nearest five-cent increment strike price. The at-the-money strike price will be the previous Trading Day's Settlement Price for DME Oman Crude Oil Futures Contract rounded in accordance with the procedures set forth in subsection (A)(i) of this Rule 17.05.

(C) Notwithstanding the provisions of subsections (A) through (C) of this Rule, if the Board determines that trading in Contracts will be facilitated thereby, the Board may by resolution change the increments between strike prices, the number of strike prices which shall be traded on the first Trading Day in any new option Contract Month, the number of new strike prices which will be introduced on each Trading Day or the period preceding the expiration of a Contract in which no new strike prices may be introduced.

**17.06 Expiration**

Trading shall cease on the last Trading Day of the Contract Month.

**17.07 Contract Months**

Contract Months will be determined by the Board.

**17.08 Trading Hours**

The Exchange shall determine the trading hours from time to time.

**17.09 Governing law**

This Contract shall be governed by and construed in accordance with English law.

## **Chapter 16 - Brent-Oman Calendar Swap Contract**

### **16.01 Scope**

This Chapter applies to the DME Brent-Oman Calendar Swap Contract (the "Contract") bought and sold on the Exchange for cash settlement based on the Floating Price.

### **16.02 Definitions**

In this Chapter the following definitions shall apply:

- (1) **DME Oman Crude Oil Futures Contract** means the Futures Contract the terms of which are set out in Chapter 10; and
- (2) **First Nearby Month** means the most recent month for which trading is being transacted, or the spot month; and
- (3) **Other capitalized terms** not defined herein shall have the meaning given to them in the DME Rulebook.

### **16.03 Floating Price**

(A) The Floating Price for each Contract Month is the arithmetic average of the ICE Brent Crude Oil Futures first nearby contract settlement price minus the arithmetic average of the DME Oman Crude Oil Futures first nearby contract settlement price calculated as of 16:30 (Singapore time) for each business day during the Contract Month (using non-common pricing), except as noted in (B) below.

(B) The settlement price of the first nearby Contract Month will be used except on the last day of trading for the expiring ICE Brent Crude Oil Futures contract when the settlement price of the second nearby ICE Brent Futures contract will be used.

### **16.04 Contract Size and Value**

The Contract size shall be 1,000 U.S. Barrels. Each Contract shall be valued as the Contract size (1,000) multiplied by the Final Settlement Price (as defined below).

### **16.05 Contract Months**

Trading shall be conducted in Contracts in such months as determined by the Board.

### **16.06 Prices and Fluctuations**

Prices shall be quoted in U.S. dollars and cents per barrel. The minimum price fluctuation shall be \$0.001 per barrel. There shall be no maximum price fluctuation.

### **16.07 Termination of Trading**

Trading shall cease on the last Trading Day of the Contract Month.

### **16.08 Final Settlement**

Delivery under the Contract shall be by cash settlement. The Final Settlement Price shall be the Floating Price on the last Trading Day of the Contract Month.

**16.09 Governing Law**

This Contract shall be governed by and construed in accordance with English law.

## **Chapter 15 - Oman Calendar Swap Contract**

### **15.01 Scope**

This Chapter applies to the DME Oman Calendar Swap Contract (the "Contract") bought and sold on the Exchange for cash settlement based on the Floating Price.

### **15.02 Definitions**

In this Chapter the following definition shall apply.

- (1) **DME Oman Crude Oil Futures Contract** means the Futures Contract the terms of which are set out in Chapter 10; and
- (2) **First Nearby Month** means the nearest month for which trading is being transacted, or the spot month; and
- (3) **Other capitalized terms** not defined herein shall have the meaning given to them in the DME Rulebook.

### **15.03 Floating Price**

The Floating Price for each Contract Month is equal to the arithmetic average of the DME Oman Crude Oil Futures Contract Settlement Prices for the Contract Month that is the First Nearby Month calculated as of 16:30 (Singapore time) for each Trading Day that such Settlement Price is determined whilst that Contract Month is the First Nearby Month.

### **15.04 Contract Size and Value**

The Contract size shall be 1,000 U.S. Barrels. Each Contract shall be valued as the Contract size (1,000) multiplied by the Final Settlement Price (as defined below).

### **15.05 Contract Months**

Trading shall be conducted in contracts in such months as determined by the Board.

### **15.06 Prices and Fluctuations**

Prices shall be quoted in U.S. dollars and cents per barrel. The minimum price fluctuation shall be \$0.001 per barrel. There shall be no maximum price fluctuation.

### **15.07 Termination of Trading**

Trading shall cease on the last Trading Day of the Contract Month.

### **15.08 Final Settlement**

Delivery under the Contract shall be by cash settlement. The Final Settlement Price shall be the Floating Price calculated as of 16:30 (Singapore time) on the last Trading Day of the Contract Month.

### **15.09 Governing law**

This Contract shall be governed by and construed in accordance with English law.

APPENDIX 2

Settlement of proposed Bent-Oman Calendar Spread Swap Futures

Date	Brent	Oman	Spread
10/1/2009	69.19	69.72	-0.53
10/2/2009	68.07	68.67	-0.6
10/5/2009	68.04	68.4	-0.36
10/6/2009	68.56	68.6	-0.04
10/7/2009	67.2	67.6	-0.4
10/8/2009	69.77	69.5	0.27
10/9/2009	70	69.92	0.08
10/12/2009	71.36	71.07	0.29
10/13/2009	72.4	72.12	0.28
10/14/2009	73.1	72.75	0.35
10/15/2009	76.23	75.1	1.13
10/16/2009	76.99	76	0.99
10/19/2009	77.77	76.7	1.07
10/20/2009	77.24	76.15	1.09
10/21/2009	79.69	78.25	1.44
10/22/2009	79.51	78.88	0.63
10/23/2009	78.92	78.35	0.57
10/26/2009	77.26	77.22	0.04
10/27/2009	77.92	77.94	-0.02
10/28/2009	75.86	76	-0.14
10/29/2009	78.04	78.03	0.01
10/30/2009	75.2	77.2	<b>Bent-Oman Calendar Spread Swap</b> -2
Average	74.01	73.83	<b>0.19</b> 0.188636

Settlement

Financial, based on the the arithmetic average of the Brent Crude Oil (ICE) Futures first nearby contract settlement price minus the Oman Crude Oil Futures first nearby contract for each business day during the contract month (using Non-common pricing), except as noted below.

The settlement price of the first nearby contract month will be used except on the last day of trading for the expiring Brent Crude Oil Futures contract when the settlement price of the second nearby Brent Futures contract will be used.