

UNITED STATES OF AMERICA
Before The
COMMODITY FUTURES TRADING COMMISSION

Determination that New York Mercantile Exchange, Inc.
Floor Brokers and Floor Traders are, Subject to Certain
Terms and Conditions, Eligible Contract Participants

ORDER

Upon due consideration, and pursuant to its authority under Section 1a(18)(C) of the Commodity Exchange Act (“Act”), the Commission hereby determines that a NYMEX member who is registered with the Commission as a floor broker or a floor trader, when trading for his or her own account, shall be deemed to be an eligible contract participant and may enter into Exchange-specified OTC contracts, agreements or transactions in an exempt commodity under the following conditions:

1. The contracts, agreements or transactions must be executed pursuant to the July 14, 2011 Order for Swap Regulation and any amendments thereto, and must be within the scope of Section 2(h)(1) of the Act as in effect prior to July 16, 2011.
2. The floor broker or floor trader must have obtained a financial guarantee for the contracts, agreements or transactions from a NYMEX clearing member that:
 - a. is registered with the Commission as an FCM; and,
 - b. clears the OTC contracts, agreements or transactions thus guaranteed.
3. Permissible contracts, agreements or transactions must be limited to trading in a commodity that either:
 - a. is listed only for clearing at the Chicago Mercantile Exchange, Inc. (“CME”),

- b. is listed for trading at NYMEX and clearing at CME and NYMEX's rules provide for exchanges of futures for swaps in that contract, or
 - c. is listed only for clearing at CME and NYMEX's rules provide for exchanges of options for options in that contract,
- and each OTC contract, agreement or transaction executed pursuant to the order must be cleared by CME.
4. The floor broker or floor trader may not enter into OTC contracts, agreements or transactions with another floor broker or floor trader as the counterparty for contracts that are listed for trading on the Exchange.
 5. NYMEX must have appropriate compliance systems in place to monitor the OTC contracts, agreements or transactions of its floor brokers and floor traders.
 6. Clearing members that guarantee and clear OTC contracts, agreements or transactions pursuant to this order must have and maintain at all times minimum working capital of at least \$20 million. A clearing member must compute its working capital in accordance with exchange rules and generally accepted accounting principles consistently applied.

This order is based upon the representations made and supporting material provided to the Commission by NYMEX. Any material changes or omissions in the facts and circumstances pursuant to which this order is granted might require the Commission to reconsider its finding that the provisions set forth herein are appropriate. Further, if experience demonstrates that the continued effectiveness of this order would be contrary to the public interest, the Commission may condition, modify, suspend, terminate or otherwise restrict the provisions of this order, as appropriate, on its own motion.

Issued in Washington, DC on August 3, 2012 by the Commission.

David A. Stawick

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Secretary of the Commission