



US FUTURES
EXCHANGE

September 11, 2008

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

SEC. OF THE SECRETARIAT

2008 SEP 11 PM 4:43

RECEIVED
C.F.T.C.

RE: Certification of mini\$ DAX® Market Maker Agreements — USFE
Submission #08-05

Dear Mr. Stawick:

United States Futures Exchange, LLC (“USFE”), pursuant to Commission Regulation 40.6(a), is filing the attached as representative of the agreements which it has executed with market makers in its mini\$ DAX® futures contracts.

USFE certifies that the agreements it has executed with market makers comply with the Commodity Exchange Act and regulations thereunder.

Yours Truly,

Matthew Lisle
General Counsel

CC: Riva Adriance, CFTC



USFE mini\$ DAX[®] Market Maker Agreement

Legally Represented by

- hereinafter Market Maker ("MM") -

and

U.S. Futures Exchange, L.L.C.
141 W. Jackson Blvd, Suite 1460

Chicago, IL 60604
USA

Legally Represented by Matt Lisle (Acting General Counsel)

- hereinafter "USFE" -

- MM and USFE hereinafter together "Parties" -

agree to enter into an agreement where MM shall become a MM in at least one USFE product as designated in the Attachment(s) in accordance with the terms and conditions as follows:

Preamble:

Whereas USFE is a Designated Contract Market in accordance with Sec. 5 of the U.S. Commodity Exchange Act (hereinafter "CEA").

Whereas the Parties have entered into a membership agreement granting certain rights to and requiring certain duties of the Parties that is governed by the USFE Bylaws, the USFE Rules and any applicable law, rule or regulation, including, but not limited to the CEA and the rules and regulations of the U.S. Commodity Futures Trading Commission (hereinafter "CFTC").

Whereas USFE has listed or intends to launch trading in certain derivative products (hereinafter "Products").

Whereas the Parties intend to enter into a market making agreement (hereinafter the "MM Agreement") pursuant to USFE Rule 312 for the Products listed in Attachment 1 in accordance with the terms and conditions herein.

1. Obligations



The Parties are subject to the following obligations:

a. MM Obligations

- (1) MM will, in good faith, commit the necessary resources and capital to ensure that it will be able to provide the trading activity as contemplated by this Agreement to the USFE Trading System.¹ Such readiness will include the **connection to USFE's simulation environment** at least 14 days prior to the commencement of activities under this Agreement. MM must also exercise diligence in ensuring that it has installed a USFE-compatible version of a **trading "front-end" in time for use in USFE's simulation environment**. After connecting to the simulation environment, MM will test its models, systems, trading algorithms and strategies prior to the commencement of activities under this Agreement.
- (2) At the commencement of activities under this Agreement, MM shall provide bid and ask prices as defined in the Attachment(s):
 - i. For the minimum number of contracts;
 - ii. In compliance with the maximum spreads; and
 - iii. For the specified period of time.
- (3) MM shall:
 - i. Provide USFE with the name of a manager who has the authorization and expertise necessary to make decisions, to act as the MM coordinator, and who will be available to USFE with respect to this Agreement. In addition, MM must also provide USFE with the name and contact details of a new coordinator in case of a change;
 - ii. Ensure that a qualified trader is available for market making and such trader is directly connected to the USFE Trading System; and
 - iii. Inform USFE within one business day if the MM can no longer fulfill its obligations under this Agreement.

b. Benefits

- (1) USFE will provide to the MM the following benefits:
 - i. Exemption from all product-related trading fees and participation in **USFE's Maker/Taker Pricing** Scheme for MMs for the months in which the MM complies with its obligations. For purposes of Maker/Taker Pricing, only the MM trading activity in the exchange-designated MM

¹ The USFE Trading System means the Exchange's electronic trading system for matching futures and options contracts.



account will be measured at the end of each month.² For the term of this agreement, at a minimum, MM will receive the exclusive Maker/Taker lock-in pricing rate of \$0.05 per traded contract rebate for **executed "Maker" orders** (of course, no rebate is applicable for "Taker" orders) but MM will be entitled to the better of this exclusive lock-in rate or the regular Maker/Taker Pricing rate as set and periodically modified by the Exchange.³ For transactions executed on the **Exchange's Block Trading and Exchange for Physical (EFP) Facility** the general fee schedule for OTC business applies.

- ii. A monthly stipend payment of up to \$15,000 until 09/30/2009 **depending on MM's compliance with the MM criteria** as defined in the Attachment(s). This stipend agreement may be extended at the discretion of the exchange.
 - iii. Waived fee for one exchange connection (2 dedicated lines) to the USFE Host.
 - iv. **MM can choose to use USFE's Co-Location Service⁴** (minimum proximity to **USFE's Host**).
 - v. **Access to the Exchange's "quote" functionality⁵**.
 - vi. Heartbeat functionality⁶ and Options Market Maker Protection⁷.
- (2) USFE may assume that it can specify the name and/or logo of the MM in connection with any advertising or information related to the MM program, unless the MM requests that the Exchange keep its participation confidential by checking the following box:

² If MM does not comply with the requirements or fails to trade in the Exchange-designated MM accounts (M1 or M2), then Maker/Taker Pricing for proprietary trades will apply.

³ "Maker" quotes are characterized by the fact that they are resting limit quotes at the time that a "Taker" intends to accept such quote. Thus, a "Maker" quote will precede the entry of a "Taker" quote. A "Taker" quote is one that is immediately executed.

⁴ For purposes of this Agreement, the Host is the server that hosts the Trading System. The MM may use the Co-Location connection to execute transactions in Products in which the MM is not making markets ("Non-MM Products"), but the Exchange reserves the right to prohibit use of the Host connection for executing transactions in Non-MM Products if, in its discretion, the Exchange determines that the MM is acting in an overly-aggressive or predatory manner in any Non-MM Product market.

⁵ MM has access to a special order type "quote" (Q) which allows the simultaneous entry of a buy and a sell order with one single transaction (instead of two separate limit orders). Quote changes or deletions only require one additional transaction (instead of four, respectively two). USFE strongly recommends the usage of this functionality.

⁶ Trading functionality that constantly monitors the connection from the MM MISS to the Trading Host and deletes all standing quotes for futures and options if this connection fails (on a subgroup level).

⁷ Protects options MMs, who are required to post bids or offers across multiple strikes, from having too many bids/offers being filled within a predefined period of time based on three individual parameters (volume, delta, vega). All parameters of this function (incl. the time interval) are set by the MM.



By checking this box, the MM requests that its participation in the MM program be kept confidential by the Exchange and may only be used with the prior written approval of the MM. Note that upon request the Exchange has the duty as a designated contract market to divulge the identities of the MMs to the CFTC or the National Futures Association.

2. Acceptance

Acceptance of this offer is solely at the discretion of USFE, which may assign its rights and obligations under the resulting agreement to any successor to its exchange business, including any successor by merger or other business combination.

3. Term

The Agreement will terminate one (1) year after the execution of this Agreement and may be renewed for one (1) year period at the consent of both parties within thirty (30) days of the end of the term. At its discretion, the Exchange may terminate this Agreement earlier, if:

- a. The MM fails to comply with its obligations under this Agreement in any two months throughout the term of this Agreement. The Exchange measures the MM performance on a monthly basis, reports are available on request.
- b. The terms or conditions of the Products materially change;
- c. The law or regulations with respect to the Products materially change;
- d. By operation of law or regulation, including any regulatory action by the U.S. Commodity Futures Trading Commission, that impacts the Offer, rendering it no longer valid. In such an event, USFE will notify the MM of such regulatory action or determination. Nothing will prohibit the Parties from re-negotiating another agreement in connection with market making.
- e. The MM serves USFE with written notice of its cancellation of this agreement, which cancellation shall take effect either at a date specified by the MM or **within 30 days of USFE's receipt of such written notice, whichever period is longer.**



4. Contact

a. MM

For the MM, the manager who has the authorization and expertise necessary to make decisions and acts as coordinator with respect to the Agreement is:

Name:

Work phone:

The Acceptance and other notices with regard to the Agreement can be sent to:

b. USFE

For USFE the managers who have the authorization and expertise necessary to make decisions and act as coordinators with respect to the Agreement are:

John Spiegel

Matt Lisle

The notices with regard to the Agreement can be sent to USFE via fax to:
+1 (312) 356-3901.

5. Miscellaneous

a. Governing Law

This Offer shall be governed by the laws of the State of Illinois (without regard to its choice of law principles), the CEA and CFTC regulations, and any applicable USFE Rules.

b. Disputes

Any disputes or disagreements arising under or related to this Offer that the Parties cannot mutually resolve shall be resolved through binding arbitration as administered by, and under the rules of, the National Futures Association (NFA). If for any reason the NFA is unable to accept this dispute or disagreement for arbitration, then it shall be heard by a panel of three arbitrators. Each party shall select one arbitrator and the two party-selected arbitrators shall select a third neutral arbitrator. The neutral arbitrator shall serve as chair of the arbitration panel. While it is the intent of the parties that the arbitration be conducted without the necessity of administration by the



American Arbitration Association, the arbitrators shall use the Commercial Arbitration Rules of the American Arbitration Association to the extent applicable. The arbitration shall be conducted in Chicago, Illinois. Each party shall pay the costs of the arbitrator selected by it/them and the costs of the third arbitrator shall be split evenly between the parties. The decision and any award of the arbitrators shall be final and binding upon the parties. Judgment upon the arbitration award may be entered and enforced in any court having jurisdiction thereof. The parties agree that any arbitration conducted hereunder shall be governed by the Federal Arbitration Act, Title 9 United States Code §§ 1-16, as now existing or hereinafter amended.

c. General

This Agreement is the entire and complete Agreement with respect to the subject matter hereof and supersedes any prior or contemporaneous agreements or understandings between the Parties, whether written or oral, with respect to the subject matter hereof and may not be modified in any way unless:

- (1) By means of written addendum, signed and dated by duly authorized representatives of both Parties; or
- (2) USFE, in its sole discretion, decides that an amendment to the Agreement would be necessary to improve the Product(s) or to comply with its regulatory obligations, e.g. a decision, rule or regulation of the CFTC. Amendments made in accordance with this provision by USFE shall only become valid and binding if made in accordance with reasonable commercial practice and such amendments apply equally to all MMs. Such amendments only become effective upon reasonable notice to all MMs and if the MM does not opt against the amended Agreement with notice in writing. In the latter case, the notice of the MM will be seen as cancellation of the Agreement to the end of the next calendar month.

If any portion of this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in effect and the Parties shall immediately begin negotiations to replace any invalid or unenforceable portions that are essential parts of this Agreement. If either Party fails to enforce any right or remedy hereunder, such failure shall not be deemed a waiver of such right or remedy.

d. Confidentiality of Trade Secrets and Intellectual Property

Both parties agree that during the negotiation, and throughout the period, of the Agreement certain materials and information in connection with the subject matter of this Agreement, including derivative contract specifications and details of trading incentives, will be exchanged between the parties. Such materials and information may contain the trade secrets and/or confidential commercial or financial information of the party providing such material or information. To the extent that such material or information is of the nature of a trade secret and/or confidential commercial or financial information of one of the parties, the party receiving such material or information shall:

- i. Treat the material or information as being strictly private and confidential, and shall take precautions to maintain its status as such;



- ii. Not disclose, or otherwise make available to any third party any of the material or information.



SHOULD BE FILLED OUT BY DESIGNATED REPRESENTATIVES OF THE PARTIES:

MM:

Name:

Position:

Phone:

Fax:

E-mail:

(Signature)

Date

USFE:

Name: Matt Lisle

Position: Acting General Counsel

Phone: +1 (312) 356-3869

Fax: +1 (312) 356-3901

E-mail: mlisle@usfe.com

(Signature)

Date

Attachment 1 Quotation Obligations for MM

MM Requirements for Maker/Taker MM Pricing and Stipend Payments:

MM must quote binding bid and ask prices in the checked Products for a specified minimum number of contracts within maximum spreads during a specified period of time as follows:

	Product	Rolling Month or Expires	# of Strikes (Options Only)	Time Period	Stipend Payout with Settlement	First Best Bid/Offer****			Second Best Bid/Offer****		
						Max Bid/Ask Spread	Minimum Contract Size	Percentage of Time Period	Max Bid/Ask Spread	Minimum Contract Size	Percentage of Time Period
<input type="checkbox"/>	mini\$ DAX®	1***	N/A	Euro	\$7,500	3 ticks	6	80%	5 ticks	10	80%
<input type="checkbox"/>	mini\$ DAX®	1***	N/A	US	\$7,500	3 ticks	4	80%	5 ticks	8	80%

* (US = 8:00 am to 4:00 pm; Euro = 1:00 am to 9:00 am; Asia = 5:25 pm to 1:30 am; or All = 5:25 pm to 4:00 pm) (All times are Chicago time)

** MM must also trade a minimum of 3% of average daily volume as measured monthly (and having traded in at least 15 trading days of the month).

*** During the roll period prior to quarterly expirations MM will quote in both front month and first back month. This period starts 4 days before the expiration day and ends with expiration of the front month contract as specified in USFE's rule book.

**** First, Second best Bid/Ask refers to the depth of the order book that a market maker is required to maintain. The First best Bid/Ask is the initial, and narrowest, Bid/Ask spread required, but once that is lifted, a market maker must continue to maintain a market but with less severe pricing requirements for greater volume.

***** Percentage of time periods for first and second best bid/offer are measured independently.