

FORM FBOT—EXHIBIT E-5

Request: Identify any contracts that have any other relationship with a contract listed for trading on a registered entity, i.e., both the foreign board of trade's and the registered entity's contract settle to the price of the same third party-constructed index.

Response:

The Commission defines “linked contract” in Rule 48.2(d) as “a futures, option or swap contract that is made available for trading by direct access by a registered foreign board of trade that settles against any price (including the daily or final settlement price) of one or more contracts listed for trading on a registered entity as defined in section 1a(40) of the Act.” NGX contracts may incorporate NYMEX Henry Hub and WTI prices. However, none of the NGX contracts are “linked contracts” as that term is defined by Commission Rule 48.2(d). These contracts settle to prices for the delivery of natural gas and crude oil at Canadian hubs at a variable differential to NYMEX prices as determined by the market, and as observed and calculated by NGX. As explained in Exhibit E-4, these contracts are not linked contracts because they do not settle against the price of a contract listed on a registered entity. As the Commission noted in its position limits rulemaking, variable differential contracts are not subject to Commission-set position limits.¹ In that rulemaking, the Commission clarified that position limits apply to only if a swap contract “utilizes as its sole floating reference price the prices generated directly or indirectly from the price” of covered futures contracts.²

¹ See 76 *Fed. Reg.* 71626, 71631 note 50 (November 18, 2011).

² *Id.*