

**FORM FBOT—EXHIBIT E-3**

**Request:** Demonstrate that the contracts are required to be cleared.

**Response:**

Since its inception almost twenty years ago, NGX has provided a transparent trading platform to the North American energy market for both cleared and uncleared energy contracts. Since 2002, NGX has offered its trading platform for cleared and uncleared contracts as an exempt commercial market under Part 36 of the Commission's Rules. Thus, NGX has offered to the market the transparency and systemic risk protections of a centralized trading and clearing facility far before enactment of the Dodd-Frank Wall Street and Consumer Protection Act.

Commission Rule 48.7(c)(ii) requires that contracts offered through direct market access "must be cleared." NGX requires that all futures contracts traded through direct market access through its FBOT platform be cleared. NGX also provides a trading facility for forward contracts. Market participants entering into these contracts take delivery of the contracts that they enter.<sup>1</sup> These contracts are not within the scope of the FBOT Application. It should be noted that NGX permits forward contracts to be cleared by its DCO under an Exchange of Futures for Related Product rule.

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<sup>1</sup> See, "Further Definition of ``Swap," ``Security-Based Swap," and ``Security-Based Swap Agreement"; Mixed Swaps; Security-Based Swap Agreement Recordkeeping," 77 Fed. Reg. 48207, 48228 (Oct. 12, 2012).