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March 31, 2008

BY E-MAIL

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

**Re: New York Mercantile Exchange, Inc. – 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 our client, New York Mercantile Exchange, Inc. (“NYMEX”), a registered derivatives clearing organization (“DCO”), to request that the Commodity Futures Trading Commission (“CFTC”) amend its 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 “Clearing Order”). The CFTC issued the Clearing Order to NYMEX on May 23, 2007, pursuant to Section 4d(a)(2) of the Commodity Exchange Act (“CEA”), permitting NYMEX 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 futures contracts traded on or subject to the rules of the Dubai Mercantile Exchange Limited (“DME”). NYMEX wishes to amend the Clearing Order to include three new financially-settled contracts that will be listed on DME.

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II. Background

On May 23, 2007, the CFTC issued the Clearing Order permitting 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 the futures contracts traded on or subject to the rules of the DME. Pursuant to the Clearing Order, NYMEX currently clears three futures contracts that are traded on DME: a physically-settled DME Oman Crude Oil futures contract, a financially-settled Brent-Oman spread contract, and a financially-settled West Texas Intermediate ("WTI")-Oman spread contract.¹ DME now wishes to de-list the financially-settled Brent-Oman 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.² The current physically-settled Oman Crude Oil futures contract would continue to be listed for trading on the DME.

In Section II. A through C below, we provide a description of the three new financially-settled contracts that DME intends to list, and trading volume and physical delivery statistics for the currently listed DME Oman Crude Oil futures contract. Section III contains a description of the physical and OTC markets for Oman crude oil, Brent crude oil, and WTI crude oil that underlie the contracts that DME intends to list. Section IV specifies the relief requested from the CFTC.

A. The DME Brent Crude Oil and DME WTI Crude Oil Futures Contracts

DME will clear the new contracts through the NYMEX clearing division, a department at NYMEX ("**Clearing House**"). Each of these new contracts will be financially-settled in accordance with 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. As is the case with the current DME contracts, the new futures contracts will be cleared through DME Clearing Members who are NYMEX Clearing Members and are registered FCMs, and the clearing and settlement of the new contracts will be subject to the NYMEX Clearing Rules. NYMEX Rules relating to the calculation and collection of margin from Clearing Members will also apply to the new contracts, as between NYMEX and the Clearing Members. In connection with the listing of the new contracts, DME intends to de-list the existing WTI-Oman financial spread contract and the Brent-Oman financial spread contract.

¹ Attached hereto as Exhibit 1 are graphs of DME Exchange Wide Volume and Exchange Open Interest for its three futures contracts from launch through November 12, 2007.

² Attached hereto as Exhibit 2 are the contract specifications of the DME Brent Crude Oil financial contract, DME Oman Crude Oil financial contract and DME West Texas Intermediate financial contract to be set forth in Chapters 13, 14, and 15 respectively, of the DME Rulebook.

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Historically, oil refining and oil trading businesses have managed their exposure to the value differential between sweet and sour crude through Brent and Dubai OTC swaps. With the launch of the DME in June of 2007, DME provided the ability to manage such risk through two financially-settled spread contracts, the WTI-Oman financial spread contract and the Brent-Oman financial spread contract. Initially, these spread contracts traded well, with open interest building. However, these financially-settled spread contracts do not allow DME market participants to net their spread exposure directly with the underlying physically-settled DME Oman Crude Oil futures contract, and consequently, the market in these financial spread contracts has diminished and has effectively ceased.

Nevertheless, the need for suitable WTI and Brent vs. Oman spread transactions is still in demand as evidenced by feedback from DME market participants. DME seeks to meet this need through the introduction of the new financially-settled Oman Crude Oil futures, Brent Crude Oil futures and WTI Crude Oil financial futures contracts on DME. The DME Oman Crude Oil financial futures contract is a cash-settled version of its physically-settled Oman Crude Oil contract. The DME Brent and WTI Crude Oil financial futures contracts are financially-settled outright contracts that will replace the current spread contracts, thus enabling spread trades among Brent, WTI and Oman crude to be effected on the DME platform. The capabilities of the DME Direct match engine will enable DME Members and other users, and their customers, to trade spreads more effectively than the existing spread contracts. The new financially-settled Brent, WTI and Oman Crude Oil financial futures contracts will enhance the implied spread functionality on the DME Direct platform by allowing the new financially-settled futures contracts to be executed as an inter-commodity spread against both the physically-settled Oman Crude Oil futures contract and the other financially-settled contracts. Further, the DME Direct match engine will continuously adjust the prices of the Brent, WTI and Oman Crude Oil financial futures contracts to reflect trading activity in the inter-commodity spreads and outright, so that ultimately, the DME Direct platform will provide more accurate and efficient pricing of the new and existing futures contracts.

With the addition of the financially-settled outright contracts for two proven and accepted sweet crude benchmarks, the two DME financially-settled spread contracts can be withdrawn from the market with no adverse impact. No residual open interest currently exists in either DME spread contract.

B. The DME Oman Crude Oil Financial Contract

The introduction of the DME Oman Crude Oil financial futures contract, side by side with the current physically-settled contract, would provide for the needs of the financial community to participate in and gain exposure to the sour crude oil exchange-traded market. This will permit non-commercial market participants to avoid direct exposure to physical delivery, which many of these firms are prohibited from undertaking. This contract will also facilitate the need of market participants to trade intra-commodity spreads, as above, but without the physical aspect of the underlying Oman Crude Oil futures contract.

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C. DME Oman Crude Oil Physically-Settled Futures Contract

The DME Oman Crude Oil futures contract began trading on June 1, 2007. It is a physically-settled contract for delivery of 1,000 barrels of crude oil F.O.B. at the Mina Al Fahal port in Oman. The contract is denominated in U.S. dollars. Since June 1, 2007, the DME Oman Crude Oil futures contract has gained acceptance among commercial participants as a sour crude oil benchmark for the Middle East and Far East markets. The average daily trading volume and end of month open interest for the Oman Crude Oil futures contract are as follows:³

<u>Month</u>	<u>Avg. Daily Volume</u>	<u>Open Interest</u>
June	1884	6467
July	609	5786
August	156	4012
September	1865	6185
October	1734	8558
November	2027	11044

Through November 2007, not more than 37 percent of the total monthly volume traded for each contract month has gone to physical delivery.⁴ Overall, deliveries of DME Oman Crude Oil futures contracts have occurred on a routine basis without incident since the DME launch. Below is a chart of the total monthly volume traded for each contract month, monthly number of contracts that went to physical delivery and percentage of delivery (expressed as a percentage of monthly volume), since the beginning of trading on June 1, 2007 through November 2007:

	OQ2007Q	OQ2007U	OQ2007V	OQ2007X	OQ2007Z
June 2007	30,640	7,130	1,172	479	150
July 2007		7,439	2,675	2,072	600
August 2007			2,519	834	240
September 2007				12,494	8,160
October 2007					13,584
November 2007					
Total	30,640	14,569	6,366	15,879	22,734
Contracts to Delivery	4,000	2,567	2,356	3,997	4,283
% to Delivery	13.1%	17.6%	37.0%	25.2%	18.8%
% Not to Delivery	86.9%	82.4%	63.0%	74.8%	81.2%

³ Attached hereto as Exhibit 3 is a chart of the Daily Volume and Daily Open Interests for the Oman Crude Oil futures contract through November 19, 2007.

⁴ Attached hereto as Exhibit 4 is Appendix A to Chapter 10 of the DME Rules (Physical Delivery Procedures) and as Exhibit 5 a summary of the settlement and delivery mechanism.

III. 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 spot market and an active financially settled OTC swap 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 was approximately 740,000 barrels per day in 2006, according to data from the *International Petroleum Monthly*, which is published by the U.S. Department of Energy's Energy Information Administration.⁵ At present, approximately 550,000 to 600,000 barrels per day (or approximately 85% of total Oman crude oil production) is controlled by 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. 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 production after 2011 to approximately 900,000 barrels per day of oil controlled by the PDO. 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 35 cargoes loaded per month at Oman's port, Mina al Fahal.

2. Export Terminal

Typically, oil exports run at a rate of approximately 600,000 barrels per day from the Oman port at Mina al Fahal, which will be 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

⁵ Attached hereto as Exhibit 6 is a copy of EIA O.1 Monthly 2006.

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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.⁶ 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, ExxonMobil, and Total), and oil traders (such as Occidental Petroleum, Vitol, Glencore, Phibro, Arcadia, Trafigura, and Sempra).

⁶ Cash market participants in the Oman crude oil market include: Shell, BP, ExxonMobil, Total, Occidental Petroleum, Vitol, Phibro Trading, Glencore, 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), UNIPPEC (Chinese), SK (Korean), Hyundai (Korean), LG-Caltex (Korean), Reliance (Indian), Bharat Petroleum (Indian), Indian Oil Company, Singapore Refining Company, and PTT (Thai).

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5. OTC Financial Market

Further, there is a liquid derivatives or “paper” swaps market that is used for hedging Oman crude oil price exposure.⁷ The primary OTC hedging vehicles used to manage price risk for Oman crude oil are various types of Dubai and Oman crude oil swaps. The two most actively traded OTC instruments in the Middle East-Asia Pacific market are the Dubai calendar month swap and the Brent-Dubai spread “swap” futures contracts. These two swaps futures contracts are also currently listed by NYMEX on NYMEX ClearPort® Trading for trading as well as on NYMEX ClearPort® Clearing. The total NYMEX open interest in these two swaps futures contracts is currently almost 30,000 contracts and steadily growing (equivalent to 30 million barrels of oil) with exposure 3 years forward. Through the end of November 2007, the NYMEX ClearPort® Clearing system has recorded average daily volume of Dubai-related swaps futures contracts of 500,000 barrels per day which represents only a small percentage of actual deals done for those companies seeking the credit protection of the Clearing House. Typically, cleared oil swaps futures contracts transactions on NYMEX represent only 5% to 10% of the total volume transacted in the applicable OTC oil market.

The liquidity in the OTC swaps market for Dubai and Oman crude oil swaps is robust, with an estimated average daily trading volume of 5 to 10 million barrels per day. There are several OTC brokerage firms that are active in the Dubai swaps markets, including PVM, Amerex, Spectron, Tullet Prebon, 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. Many of the same companies that are trading Brent and WTI are also active in the Dubai market.

Currently, most of the OTC swaps in Oman crude oil are priced as a spread differential to Brent crude oil. Pricing information regarding spot physical cargoes and OTC swap transactions in Oman crude oil is available from pricing services such as Platts, Argus and ICIS-LOR. Platts is generally regarded, at this time, as the principal source of data relating to the physical forward market. On a daily basis, Platts publishes assessments of the Oman and Dubai markets. Platts typically publishes assessments for three forward months in these 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 dealers, such as PVM, 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,

⁷ 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, JP Morgan Chase Bank, Merrill Lynch, Societe Generale Bank, RWE Trading Company, and Lehman Brothers.

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the prices for 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 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, Amerex, Spectron, Tullet Prebon, 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:

Refiners

ConocoPhillips
Valero

Traders/End Users

Hess Energy Trading
Vitol

Brokers

GFI Starsupply
PVM

Financial (Swaps)

Citibank
Deutsche Bank

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<u>Refiners</u>	<u>Traders/End Users</u>	<u>Brokers</u>	<u>Financial (Swaps)</u>
Shell	Glencore	Man Financial	Barclays
ExxonMobil	Total	ICAP	BankAmerica
BP	Northville	Aspen Oil	AIG
Total	Cargill	GFI Spectron	Merrill Lynch
Koch Petroleum	Morgan Stanley	TFS	Lehman Brothers
Repsol	Goldman Sachs	Amerex	
CEPSA	RWE Trading	Tullet Prebon	
Netherlands Refining	Mabanaft		
OMV	Phibro		
Lukoil (Russia)	Arcadia		
Statoil (Norway)	Mercuria		
MOL Hungary	Sempra		

C. The WTI Crude Oil Market

1. Production

The U.S. domestic crude oil market relies on the NYMEX Light Sweet Crude Oil Contract as the pricing benchmark, also known as WTI crude oil. The NYMEX Contract features physical delivery of domestic U.S. light sweet crude oil in Cushing, Oklahoma, and further allows delivery of five foreign light sweet crude oil streams. The production of WTI crude oil is currently around 400,000 barrels per day. In addition, there have been increasing flows of foreign light sweet crude oil grades into Cushing. The foreign light sweet grades have accounted for an additional supply of 100,000 to 150,000 barrels per day. Therefore, the total supply of WTI and similar foreign light sweet grades is around 500,000 to 550,000 barrels per day. The estimated monthly deliverable supply of WTI and light sweet crude oil grades is around 15 to 16 million barrels. Further, the inventory data for crude oil at Cushing is transparent, and has fluctuated between 13 and 28 million barrels.⁸

2. Cash Market

The NYMEX Crude Oil contract and the underlying cash market are highly liquid and transparent. The NYMEX Contract has averaged nearly 500,000 contracts traded per day in 2007, with open interest of nearly 1.5 million contracts.

3. OTC Financial Market

Further, WTI crude oil has an active OTC physical and paper market. The liquidity in the OTC WTI cash and swaps market is quite robust, with an estimated average daily trading volume

⁸ The EIA data on crude oil stocks are available at http://tonto.eia.doe.gov/dnav/pet/pet_stoc_wstk_dcu_nus_w.htm

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of 10 to 15 million barrels per day. There are several OTC brokerage firms that are active in the WTI markets, including PVM, Amerex, Tullet Prebon, United, and GFI Group. The OTC and cash market participation is deep and diverse, and includes both cash market and OTC market players. A list of some, but not all participants, is as follows:

<u>Refiners</u>	<u>Traders/Importers</u>	<u>Brokers</u>	<u>Financial (Swaps)</u>
ConocoPhillips	Statoil	United	Citibank
Valero	Vitol	GFI Group	Deutsche Bank
Shell	Glencore	ICAP	Barclays
ExxonMobil	Plains	PVM	BankAmerica
BP	Koch	Man Financial	AIG
Sunoco	Cargill	ARC Oil	JP Morgan
Amerada Hess	Morgan Stanley	Oil Brokers Inc.	Lehman
Marathon	Goldman Sachs (J. Aron)	Amerex	Merrill Lynch
Murphy Oil	Trafigura	Tullet Prebon	
Chevron	Hess Energy Trading		
Total	Conagra		
Tesoro	Northville		

IV. Relief Requested

Based on the foregoing demonstration of the liquidity of the physical and OTC markets underlying the new contracts DME proposes to list, and NYMEX's continued compliance with the terms and conditions of the Clearing Order that will apply to the new contracts, NYMEX requests that the CFTC amend its Clearing Order to permit the Clearing House and FCMs to carry, in U.S. customer segregated accounts, customer positions arising out of, and funds related to, the additional contracts, specified herein, traded on or subject to the rules of the DME. Finally, NYMEX remains in compliance with the terms and conditions of the Clearing Order, and there have been no material changes in the facts or circumstances pursuant to which the Clearing Order was granted.

Thank you for your prompt consideration of this request. If you have any questions please contact the undersigned at (312) 558-5905.

Very truly yours,



Michael M. Philipp

Enclosures

cc: Acting Chairman Walter Lukken, CFTC

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Commissioner Michael Dunn, CFTC
Commissioner Jill E. Sommers, CFTC
Commissioner Bart Chilton, CFTC
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