

## Chapter 675

### Singapore Fuel Oil 380 cst Futures

#### 675.01. SCOPE

The provisions of these rules shall apply to all contracts bought or sold on the Exchange for physical delivery of Singapore 380cst High Sulfur Fuel Oil.

#### 675.02. DEFINITIONS

(A) The terms "Seller" and "Buyer" shall mean the short Clearing Member and the long Clearing Member, respectively.

(B) The terms "Seller's Customer" and "Buyer's Customer" shall mean the seller and buyer of the physical product.

(C) The term "Notice Day" shall mean the business day after the day the Clearing House receives copies of the Notices of Intention to Deliver and Notices of Intention to Accept from the respective Clearing Members. The Notice Day shall be one business day after the last trading day of the expiring delivery month.

(D) The term "Settlement Price" shall mean the final settlement price used as the price for delivery of the product, which shall be the settlement price for the fifth-to-last Singapore business day prior to the expiring delivery month.

(E) The time references shall refer to and indicate the prevailing time in Singapore, unless otherwise specified.

(F) The term "business day" shall mean Singapore business days on which banks in Singapore are open for the normal conduct of banking business.

#### 675.03. CONTRACT QUANTITY AND VALUE

The contract quantity shall be 100 metric tonnes. Each contract shall be valued as the contract quantity (100) multiplied by the settlement price.

#### 675.04. CONTRACT MONTHS

Trading shall be conducted in contracts in such months as shall be determined by the Board of Directors.

#### 675.05. PRICES AND FLUCTUATIONS

Prices shall be quoted in U.S. dollars and cents per metric tonne. The minimum price fluctuation shall be \$0.01 per metric tonne. There shall be no maximum price fluctuation.

#### 675.06. TERMINATION OF TRADING

Trading shall cease on the fifth-to-last Singapore business day of the month prior to the contract month.

#### 675.07. DELIVERY

##### (A) Delivery Alternatives

Delivery under the contract shall be made F.O.B. at the seller's ex-shore facility in Singapore. Delivery will be in accordance with Paragraph C below, "Singapore Fuel Oil 380 cst Forward Contract." At Buyer's option, such delivery shall be made by any of the following methods:

- (1) by delivery into Buyer's Customer's barge or tanker;
- (2) by stock transfer of title to the Buyer's Customer in the same tank in the same facility, if the Seller's Customer's facility allows such transfer;
- (3) by book transfer if the Seller's Customer agrees;
- (4) by intra-facility transfer ("pump-over") between tanks in the same facility, if Seller's Customer's facility allows such transfer;
- (5) by inter-facility pumpover for transfer from tanks in one facility to tanks in another facility, if both Buyer's Customer's facility and Seller's Customer's facility allow such transfer.

**(B) Barge/Tanker Specifications**

Barges and Tankers used for delivery will operate in accordance with the current release of CP-60 Bunkering by Bunker Tankers issued by the Chemical Standards Committee on behalf of the Standards Council of Singapore. The bunker craft used for delivery shall comply with the Harbour Craft Licensing requirements and the Standards for Port Limits for Bunker Tankers administered by the Maritime and Port Authority (MPA) of Singapore. The bunkering procedures shall comply with the latest edition of the Singapore Standard Code of Practice for Bunker Tankers.

**(C) Singapore 380cst Fuel Oil Forward Contract:**

Below are the terms and conditions of the Singapore Fuel Oil 380 cst Forward Contract (also referred to as "Forward Contract"):

**(1) QUALITY:** product shall conform to the following 380cst Fuel Oil specifications:

|  | <b>METHOD</b> | <b>GUARANTEED</b> |
|--|---------------|-------------------|
| Sulfur, wt pct                         | ASTM D4294    | MAX 4.0           |
| Kinematic Viscosity At 50 Deg C, Cst   | ASTM D445     | MAX 380           |
| Specific Gravity at 15 deg C kg/l Max  | ASTM D1298    | MAX 0.991         |
| Flash point, deg c                     | ASTM D93      | MIN 66            |
| Pour Point, Deg C                      | ASTM D97      | MAX 24            |
| Ash, Wt Pct                            | ASTM D482     | MAX 0.10          |
| Conradson Carbon Residue, Wt Pct       | ASTM D189     | MAX 18            |
| Vanadium, parts per million (ppm)      | IP 377        | MAX 200           |
| Sodium, parts per million (ppm)        | IP 377        | MAX 100           |
| Aluminium plus Silicone, ppm           | IP 377        | MAX 80            |
| Water by distillation volume, vol pct. | ASTM D95      | MAX 0.50%         |
| Sediment by extraction, wt pct.        | IP 390A       | MAX 0.10%         |
| Total existent sediment                | IP 390A       | MAX 0.10%         |

THIS CLAUSE CONSTITUTES THE WHOLE OF THE SELLER'S OBLIGATIONS WITH RESPECT TO THE QUALITY OF THE PRODUCT TO BE SUPPLIED. SELLER NEITHER EXPRESSES NOR IMPLIES ANY CONDITION OR WARRANTY OF MERCHANTABILITY, FITNESS, OR SUITABILITY OF THE OIL FOR ANY PARTICULAR PURPOSE OR OTHERWISE, OTHER THAN THAT THE OIL CONFORMS TO ANY TOLERANCE STATED HEREIN.

**(2) QUANTITY:**

DELIVERY TENDER MATCHED BY THE CLEARINGHOUSE PLUS/MINUS 5 PCT OPERATIONAL TOLERANCE.

**(3) LOAD PORT:**

NYMEX LISTED MARINE TERMINAL IN SINGAPORE UNDER SELLER'S OPTION.

**(4) PRICE :**

THE DELIVERY PRICE WILL BE THE FINAL SETTLEMENT PRICE ON THE FIFTH-TO-LAST SINGAPORE BUSINESS DAY OF THE MONTH PRIOR TO THE DELIVERY MONTH, AS

DEFINED IN RULE 675.02.

**(5) DELIVERY:**

AT BUYER'S OPTION, DELIVERY SHALL BE MADE BY ANY OF THE METHODS LISTED IN RULE 675.07.

LOADINGS ARE SUBJECT TO BERTH AVAILABILITY. BUYER'S NOMINATIONS SHALL BE DISTRIBUTED IN A COMMERCIALY REASONABLE MANNER WITHIN THE SUPPLY PERIOD. NOMINATED QUANTITY SHALL BE MINIMUM 1,000 MT. BUYER'S CUSTOMER'S NOMINATED BARGE SHALL BE SUBJECT TO SELLER'S CUSTOMER'S TERMINAL ACCEPTANCE WHICH SHALL NOT BE UNREASONABLY WITHHELD.

**(5.1) ADDITIONAL DELIVERY COSTS:**

NYMEX SHORTS WHO ENTER DELIVERY WITH CUMULATIVE POSITIONS LESS THAN 10 CONTRACTS AND ARE MATCHED FOR DELIVERY WITH A CORRESPONDING LONG WHO ENTERED DELIVERY WITH CUMULATIVE POSITIONS OF AT LEAST 10 CONTRACTS ARE RESPONSIBLE FOR THE FOLLOWING ADDITIONAL DELIVERY COSTS INCURRED BECAUSE THE DELIVERY IS FOR LESS THAN 1000 MT:

1. BERTH SHIFTING COSTS.
2. PORT COSTS.
3. VESSEL DEMURRAGE AND WAITING TIME.

NYMEX LONGS WHO ENTER DELIVERY WITH CUMULATIVE EXPIRING CONTRACT POSITIONS LESS THAN 10 CONTRACTS AND ARE MATCHED FOR DELIVERY WITH A CORRESPONDING SHORT WHO ENTERED DELIVERY WITH CUMULATIVE POSITIONS OF AT LEAST 10 CONTRACTS ARE RESPONSIBLE FOR THE FOLLOWING ADDITIONAL DELIVERY COSTS INCURRED BECAUSE THE DELIVERY IS FOR LESS THAN 1000 MT:

4. BERTH SHIFTING COSTS.
5. PORT COSTS.
6. VESSEL DEMURRAGE AND WAITING TIME.

**(6) DEMURRAGE:**

IN ACCORDANCE WITH RULE 675.10.(D) BELOW.

**(7) PAYMENT:**

PAYMENT WILL BE IN ACCORDANCE WITH RULE 675.09(E) BELOW.

**(8) QUALITY AND QUANTITY DETERMINATION:**

SUCH DETERMINATION SHALL BE INITIATED BY SELLER'S SUPPLIER AND PERFORMED BY AN INDEPENDENT SURVEYOR AT LOAD PORT IN ACCORDANCE WITH RULE 675.12. SUCH DETERMINATION SHALL BE FINAL AND BINDING TO BOTH SELLER AND BUYER.

**(9) SAMPLING PROCEDURE:**

THE SAMPLING PROCEDURE SHALL BE PERFORMED IN ACCORDANCE WITH THE INSPECTION RULE 675.12. BELOW. SELLER SHALL SELECT FROM ONE OF THE THREE INDEPENDENT SURVEYORS LISTED BY BUYER IN THE NOTICE OF INTENTION TO ACCEPT. THE INDEPENDENT SURVEYOR SHALL TAKE CONTINUOUS DRIP SAMPLE ON BARGE RECEIVING MANIFOLD. THIS SAMPLE IS TO BE DIVIDED INTO 3 SEALED SAMPLES, ONE TO BARGE, ONE TO THE SELLER AND ONE FOR THE INSPECTOR TO RETAIN. IN THE EVENT OF A QUALITY DISPUTE, THE SEALED SAMPLE RETAINED BY SELLER SHALL BE ANALYSED BY THE SAME INDEPENDENT INSPECTOR WHOSE FINDING SHALL BE FINAL AND BINDING ON BOTH PARTIES.

**(10) TITLE AND RISK:**

FOR BARGE OR TANKER DELIVERY, ALL RISK OF LOSS OR DAMAGE TO THE PRODUCTS SHALL BE PASSED FROM THE SELLER TO THE BUYER AS PRODUCT PASSES VESSEL

PERMANENT MANIFOLD FLANGE CONNECTION AT LOAD PORT. FOR DELIVERY EX-TANK VIA INTRA-FACILITY PUMPOVER, ALL RISK OF LOSS OR DAMAGE TO THE PRODUCTS SHALL BE PASSED FROM THE SELLER TO THE BUYER AS PRODUCT LEAVES THE DISCHARGING TANK. FOR DELIVERY EX-TANK VIA INTER-FACILITY PUMPOVER, ALL RISK OF LOSS OR DAMAGE TO THE PRODUCTS SHALL BE PASSED FROM THE SELLER TO THE BUYER AS PRODUCT LEAVES FACILITY CONNECTION.

THE TITLE AND PROPERTY IN THE PRODUCTS, INCLUDING FULL LEGAL AND BENEFICIAL OWNERSHIP, SHALL NOT PASS TO THE BUYER UNTIL ALL DEBTS OWED TO THE SELLER BY THE BUYER, INCLUDING ANY BALANCES EXISTING, ARE FULLY PAID AND SETTLED.

**(11) TAXES:**

GOODS AND SERVICES TAX, IF AND WHERE APPLICABLE, SHALL BE FOR ACCOUNT OF BUYER.

**(12) LAW AND ARBITRATION:**

THE GOVERNING LAW OF THIS CONTRACT IS THE LAW OF THE STATE OF NEW YORK. ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT, INCLUDING ANY QUESTION REGARDING ITS EXISTENCE, VALIDTY OR TERMINATION, SHALL BE REFERRED TO AND FINALLY RESOLVED BY ARBITRATION IN ACCORDANCE WITH RULE 675.16. BELOW. HOWEVER, IF BUYER AND SELLER MUTUALLY AGREE IN WRITING, THEY MAY CHOOSE ARBITRATION FOR SUCH DISPUTES UNDER SINGAPORE LAW IN ACCORDANCE WITH THE ARBITRATION RULES OF THE SINGAPORE INTERNATIONAL ARBITRATION CENTRE (SIAC RULES) AS PROVIDED UNDER RULE 675.16.

**(13) FORCE MAJEURE:**

DETERMINATION OF LATE-PERFORMANCE, NON-PERFORMANCE AND FORCE MAJEURE ARE IN ACCORDANCE WITH RULE 675.16.

**(14) OTHER TERMS AND CONDITIONS:**

OTHER TERMS AND CONDITIONS NOT SPECIFIED ABOVE SHALL BE AS PER LATEST INCOTERMS AND CONDITIONS 2000 FOR EX-WHARF SALES, PLUS LATEST AMENDMENTS.

**675.08A. PRODUCT PLACEMENT**

Product in Tank

The Seller' Customer shall have a quantity and quality of product in tank at one or more eligible delivery facilities in accordance with the inspection requirements under Rule 675.12 prior to the first day of the consecutive five-day period for initiation of delivery identified by the Buyer's Customer in the Initial Delivery Instructions. The obligation to have product in tank, as prescribed in this section (2), shall constitute a "material act with respect to a delivery obligation" as referenced in Rule 675.16(A)(1).

**675.09. DELIVERY PROCEDURE**

(A) RESPONSIBILITIES OF CLEARING MEMBERS HAVING OPEN LONG POSITIONS  
(BUYERS)

(1) NOTICE OF INTENTION TO ACCEPT

By 3:00 p.m. on the fourth-to-last Singapore business day of the month prior to the delivery month, a Buyer having an open long position shall file with the Exchange a properly completed and signed Notice of Intention to Accept. The Notice of Intention to Accept, in the form prescribed by the Exchange, shall include: the name of the Buyer's Customer, the number of contracts to be accepted, the names of three inspection companies and any additional information required by the Exchange. The buyer may, at its option, request a preferred delivery site; such request shall not be

binding upon the seller.

## (2) INITIAL DELIVERY INSTRUCTIONS

As soon as possible after receipt from the Exchange of a Notice of Intention to Deliver, but not later than 5:00 p.m. on a business day not later than the last business day of the month prior to the delivery month, the Buyer shall deliver to the Seller identified in such Notice of Intention to Deliver, with a copy to the Exchange, properly completed and signed Initial Delivery Instructions, in the form prescribed by the Exchange, which shall include the following information:

- (a) Name of Seller,
- (b) Tender Number,
- (c) Name and Location of Delivery Facility specified in the Notice of Intention to Deliver,
- (d) Number of Contracts,
- (e) Method of Delivery,
- (f) A consecutive five day period for initiation of delivery,
- (g) Name of the designated inspection company, if so required; and,
- (h) Such additional information as may be required by the Exchange.

## (3) VERIFICATION OF DELIVERY METHOD AND INSPECTION COMPANY

Prior to giving to Seller the Initial Delivery Instructions, the Buyer's Customer shall verify with and confirm in writing to the Seller's Customer that the method of delivery specified conforms to the normal capabilities of the Seller's Customer's delivery facility with respect to the manner of delivery and the quantity to be delivered and that the inspection company specified has been accepted by the Seller's Customer. Such verification shall be confirmed in the Initial Delivery Instructions. If the Buyer's Customer and Seller's Customer fail to agree on one of the three inspection companies included in the Notice of Intention to Accept, the matter shall be referred to the Petroleum Delivery Committee as provided in Rule 675.16(C)(6). Initial Delivery Instructions may not be amended after they have been given to the Seller.

## (4) DELIVERY INSTRUCTIONS

The Buyer may tender, at the office of the Seller, Delivery Instructions on any Singapore business day prior to 12:00 Noon. Delivery Instructions given after 12:00 Noon on any Singapore business day shall be deemed to have been given on the following business day. A Buyer may not tender Delivery Instructions on the day on which Initial Delivery Instructions are tendered to the Seller under Rule 675.09(A)(2). The Buyer's Delivery Instructions for a delivery which is to occur during the consecutive five day period the final day of which is the day prior to the last business day of the month shall not designate such final day of the period for the initiation of the delivery. The Buyer must give Delivery Instructions to the Seller not later than two calendar days prior to the time of the proposed delivery, or such earlier business day as is necessary to assure that the day on which Delivery Instructions are given is followed by a period that includes at least one business day and two subsequent calendar days ending on the day prior to the last business day of the delivery month. A copy of the Delivery Instructions must be given to the Exchange. Except as provided in Rule 675.09(A)(6) below, Delivery Instructions must conform to the Initial Delivery Instructions tendered by the Buyer to the Seller.

## (5) FORM OF DELIVERY INSTRUCTIONS

The Delivery Instructions must be properly completed and signed, in such form as prescribed by the Exchange, and shall contain the following information:

- (a) Name of Seller;
- (b) Tender Number;

- (c) Name and Location of Delivery Facility specified in the Notice of Intention to Deliver;
- (d) Number of Contracts;
- (e) Method of Delivery (which must conform to the normal capabilities of the facility named in the Notice of Intention to Deliver with respect to the manner and time of delivery and the quantity to be delivered);
- (f) Name of proposed Barge or Tanker, and the approximate size of the barge, if any;
- (g) For interfacility transfers, name of receiving facility;
- (h) Date and Approximate Time for Initiating Delivery,
- (i) Name of inspection company, if so required; and
- (j) Such additional information as may be required by the Exchange.

(6) AMENDMENT OF INITIAL DELIVERY INSTRUCTIONS OR OF DELIVERY INSTRUCTIONS  
Neither Initial Delivery Instructions nor Delivery Instructions may be amended after they have been given. However, upon mutual consent of Buyer and Seller and upon written notice to the Exchange, the Parties may change the delivery facility named by the Seller, the method of delivery named by the Buyer, the five day period for the initiation of a delivery named by the Buyer, or the specific delivery date and time named by the Buyer.

#### (7) NOTICE OF CLEARANCE; NOTICE OF NON-CLEARANCE

(a) If the Buyer receives from the Seller a Notice of Clearance advising that the Seller will deliver pursuant to the Delivery Instructions, the Buyer shall require its customer to post with it the full purchase price of all products to be purchased under all contracts covered by such Notice not later than two days prior to the scheduled initiation of delivery.

(b) If the Buyer receives from the Seller a Notice of Non-Clearance advising that the Seller is unable to deliver in accordance with the Delivery Instructions, the Buyer shall give Revised Delivery Instructions to the Seller, not later than 12:00 Noon on the third Singapore business day following receipt of such Notice, or such earlier business day as is necessary to assure that the day on which Revised Delivery Instructions are given is followed by at least two subsequent calendar days ending on the day prior the last business day of the delivery month. A copy of Revised Delivery Instructions shall be given to the Exchange. The Revised Delivery Instructions shall comply in all respects with the provisions of sub-paragraph (5) above and shall thereafter comply with the provisions of this sub-paragraph as if such Revised Delivery Instructions were the original Delivery Instructions; provided, however, that such Revised Delivery Instructions may designate for delivery the final day of the consecutive five day period immediately prior to the last business day of the month. Such Revised Delivery Instructions shall specify a delivery date and time not less than 24 hours before or after the delivery time specified in the original Delivery Instructions (whether or not such date and time is within the five-day period specified in the Initial Delivery Instructions), provided such date and time is prior to the last business day of the delivery month and at least two calendar days subsequent to the date on which such Revised Delivery Instructions are given to the Seller. Revised Delivery Instructions given after 12:00 Noon on any day shall be deemed to have been given on the following business day. Except as provided in Rule 675.09(A)(6), Revised Delivery Instructions may not be amended after they have been given to the Seller.

#### (8) ACCEPTANCE OF PRODUCT

The Buyer may not begin to accept the product earlier than the day after the third Singapore business day of the delivery month or later than the last day prior to the last business day of the delivery month. The Buyer may complete receipt of product no later than the last business day of the delivery month.

#### (B) RESPONSIBILITIES OF CLEARING MEMBERS HAVING OPEN SHORT POSITIONS (SELLERS)

(1) NOTICE OF INTENTION TO DELIVER

By 3:00 p.m. on the fourth-to-last Singapore business day of the month prior to the delivery month, a Seller having an open short position shall file with the Exchange a properly completed and signed Notice of Intention to Deliver. The Notice of Intention to Deliver shall be in such form as prescribed by the Exchange and shall include the name of the Seller's Customer, the name and location of the Seller's Customer's delivery facility, the number of contracts and such additional information as may be required by the Exchange.

(2) NOTICE OF CLEARANCE; NOTICE OF NON-CLEARANCE

(a) Not later than 5:00 p.m. on a Singapore business day on which the Buyer gives the Seller the Delivery Instructions, Seller shall give the Buyer a properly completed and signed Notice of Clearance in such form as prescribed by the Exchange, with a copy to the Exchange, indicating that it is prepared to make delivery in accordance with the provisions of the Buyer's Delivery Instructions.

(b)(i) In the event that the Seller is unable to make delivery in accordance with the Buyer's Delivery Instructions because of a good faith inability to receive clearance from the facility, the Seller shall, not later than 5:00 p.m. of the Singapore business day on which the Buyer gives the Seller Delivery Instructions, give to the Buyer a Notice of Non-Clearance, with a copy to the Exchange, and state the reasons for such inability. The Seller may, at its option, in the Notice of Non-Clearance suggest an alternate or preferred delivery site, date or time. In the event the facility nominated by the Seller asserts a minimum loading requirement for barge delivery which is an amount greater than the quantity nominated by the Buyer for lifting, the Seller may not issue a Notice of Non-Clearance to the buyer based solely upon such loading requirement. However, in the event the facility's minimum loading requirement prevents delivery as nominated by the Buyer, the Seller may unilaterally and without the Buyer's consent, upon written notice to the Buyer, with a copy to the Exchange, not later than 5:00 p.m. of the business day on which the Buyer gives the Seller Delivery Instructions, amend the name and location of the delivery facility set forth in the Delivery Instructions and otherwise accept delivery on the terms provided in the Delivery Instructions.

(ii) If Notice of Non-Clearance is given, the Seller shall require its Seller's Customer, at the time the Notice of Non-Clearance is given, to post additional original margin equal to 25% of the total contract value of all contracts listed in the Delivery Instructions. Such additional margin shall be posted by the Seller with the Exchange not later than 11 a.m. on the next business day.

(iii) Not later than 5:00 p.m. of a Singapore business day on which the Buyer gives the seller Revised Delivery Instructions, the Seller shall give the Buyer a Notice of Clearance, with a copy to the Exchange, indicating that it is prepared to make delivery in accordance with the provisions of the Buyer's Revised Delivery Instructions. Revised Delivery Instructions given after 12:00 Noon on any business day shall be deemed to have been given on the following business day. In the event that the Seller is unable to make delivery in accordance with the Buyer's Revised Delivery Instructions because of Force Majeure, the Seller shall, not later than 5:00 p.m. of the business day on which the Buyer gives the Seller Revised Delivery Instructions, give to the Buyer a Notice of Non-Clearance with a copy to the Exchange, and state the reasons for such inability to make delivery.

(C) NOTICE DAY. The Clearing House shall allocate Notices of Intention to Deliver and Notices of Intention to Accept by matching size of positions to the extent possible. The Clearing House shall pass copies of the notices to the respective Clearing Members on the morning of the next business day. The day the notices are passed to the Clearing Members shall be referred to as the Notice Day. The Notice Day shall be the third-to-last Singapore business day of the month prior to the delivery month.

(D) NON-TRANSFERABLE. The Clearing Member who receives a Notice of Intention to Deliver or a Notice of Intention to Accept from the Clearing House shall have agreed to accept or deliver product. Notices of Intention to Deliver or Notices of Intention to Accept are not transferable.

(E) DELIVERY DAY

(1) Shipment will commence when product passes the Buyer's Customer's cargo intake flange, tank or facility connection.

(2) The Buyer shall pay the Seller at the office of the Seller by certified check by 12:00 noon of the Singapore business day following the receipt of the product, or by 12:00 noon on the last business day of the delivery month, whichever is earlier. The amount of payment shall be based on volume delivered as determined in accordance with Rule 675.03. Should the inspector, appointed under Rule 675.12, be unable to supply quantitative results prior to the time established herein for payment of the product, a pro forma payment based on 100 metric tonnes per contract shall be made. Payment adjustments based on actual quantity transferred shall be completed between Clearing Members by 12:00 noon of the first business day after receipt of the telexed Inspector's report but no later than the third business day after transfer of physical product. Alternatively, Buyer and Seller may mutually agree to effect payment or adjustment, as otherwise prescribed in this Rule, by federal funds money wire as a substitution for a certified check.

(a) If the Buyer requires multiple delivery dates, multiple payment shall be required for each portion of product transferred.

(b) The Seller, upon receipt of payment, shall give the Buyer a bill of lading or other quantitative certificate and any other appropriate documents necessary to transfer ownership of the product to the Buyer.

(3) The day the Buyer receives the product shall be referred to as the Delivery Day.

**675.10.**

**SHIPMENT**

(A) The Seller's Customer's delivery facility must be capable of making delivery by barge or tanker.

(B) The Seller's Customer must supply the product as soon as the barge or tanker reports readiness to load; alternatively, if delivery is to be made on shore, the Seller's Customer must supply the product as soon as the Buyer's Customer reports that the transfer facility is ready to accept the product.

(C) The Buyer's Customer's barge or tanker must be safely afloat at all times.

(D) The Seller's Customer shall pay all applicable demurrage charges if the shore facility is unable to deliver the product at a rate and within a period as agreed between the parties or is unable to deliver ex-tank or pipeline within the period as agreed between the parties. The Buyer's Customer shall pay all other demurrage charges. No demurrage shall be payable when delay is due to fault or failure of the vessel or loading is suspended for Buyer's Customer's or Buyer's Customer's vessel's purposes. Unless otherwise agreed, the rate of demurrage to be used for the purposes of this agreement shall be at actual charter party rate, provided that the vessel is of a size commensurate with Buyer's Customer's cargo. If the vessel size is not commensurate with the size of the Buyer's Customer's cargo, the actual charter party rate shall be adjusted for cargo size in accordance with the following formula:

Cargo size

Charter party

----- X demurrage rate  
Vessel (multiply) dead weight  
summer

The applicable demurrage rate shall be prorated in the case of a part day.

**675.11. VALIDITY OF DOCUMENTS**

The Exchange makes no representation respecting the authenticity, validity or accuracy of any inspection certificate, Notice of Intention to Deliver, Notice of Intention to Accept, bill of lading, check or of any document or instrument delivered pursuant to these rules.

**675.12. INSPECTION**

(A) The Buyer shall notify the Seller in the Initial Delivery Instructions that a grade and quality or quantity inspection is requested. The Seller's Customer shall initiate inspection of the product to be delivered 24 hours prior to the nominated time and date specified in the delivery instructions. The Buyer may request the tests for any or all grade and quality specifications for the stated product listed in Rule 675.07(B)(1). The Buyer may request a quantity inspection for all deliveries. The Buyer shall require a quantity inspection for delivery by barge, tanker or inter-facility transfer (pump-over). If the Buyer does not request a quantity inspection, the seller may request such inspection.

(B) If a Buyer's Customer requests grade and quality or quantity inspection, or if a Seller's Customer requests a quantity inspection, the inspection company listed in the Initial Delivery Instructions shall perform the inspection, unless an alternate inspection company is appointed by the Petroleum Delivery Committee, pursuant to Rule 675.09(A)(3).

(C) If the product meets grade and quality specifications, the Buyer's Customer and Seller's Customer shall share equally in the cost of inspection. If the product does not meet grade and quality specifications, the Seller's Customer shall pay the cost of inspection. The cost of verifying the quantity of product transferred shall be shared equally by Buyer's Customer and Seller's Customer.

(D) If the product does not meet grade and quality specifications, the Seller's Customer, at its own expense shall initiate a second inspection, performed by the same inspection company as the initial inspection. Seller's Customer shall furnish the results of the second inspection to the Buyer's Customer no later than the nominated time and date of pickup. If the product does not meet grade and quality specifications in the second inspection, within one business day of receipt of the report by the Exchange a Panel of the Petroleum Delivery Committee, as appointed by the Chairman, shall meet to review the delivery if necessary, pursuant to the procedures set forth in Rule 675.16(C).

In addition, the Seller shall require its customer to post additional margin equal to 25% of the total contract value of all contracts listed in the Delivery Instructions. Such additional margin shall be posted by the Seller with the Exchange not later than 12:00 Noon on the next business day.

(E) The inspection company shall not be affiliated with the parties to the delivery. The inspection company must be capable of performing the quantity or quality tests requested by the Buyer or Seller in such a manner so as to assure that the product delivered conforms with these rules. The inspection company shall determine the quantity or quality of product transferred by using the prevailing practices of the facility transferring the product in effect at the time of delivery.

(F) The Buyer shall deliver to the Exchange a copy of all reports of the inspection company when they are received.

**675.13. MARGINS AND PAYMENT**

(A) The Buyer shall obtain from the Long and the Seller shall obtain from the Short, if any, margin in an amount fixed, from time to time, by the Exchange.

(B) The Buyer and Seller shall be required to deposit additional delivery margin with the Clearing House in such amounts and in such form as required by the Exchange. Buyer's and Seller's delivery margins shall be held by the Exchange until one business day following the parties' Final Physical Delivery Confirmation, in the form prescribed by the Exchange, that performance against the Forward Contract (i.e., delivery of the physical oil and payment therefore) has occurred. Any false claim by the Seller that delivery against the Forward Contract has occurred, or a failure by the Buyer to acknowledge completion of such delivery, shall be a major offense of the Rules of the Exchange. In the event either party to the Forward Contract claims that the other party has failed to perform its payment or delivery obligations as required, NYMEX shall retain all delivery margins until notified by both parties, and satisfied, that such claims have been resolved in the forum and manner for resolution of disputes set forth in the Forward Contract.

**675.14. EXCHANGE OF FUTURES FOR PHYSICAL (EFP) AND EXCHANGE OF FUTURES FOR SWAPS (EFS)**

Any exchange of futures for physical (EFP) or exchange of futures for swaps (EFS) involving the futures contract shall be governed by the provisions in Exchange Rules 538 and 538A, respectively.

**675.15. ALTERNATE DELIVERY PROCEDURE (ADP)**

A Seller's Customer or Buyer's Customer may agree with the Buyer's Customer or Seller's Customer with which it has been matched by the Exchange under Rule 675.09(D) to make and take delivery under terms or conditions which differ from the terms and conditions prescribed by this Chapter. In such a case, Clearing Members shall execute an Alternative Notice of Intention to Deliver on the form prescribed by the Exchange and shall deliver a completed executed copy of such Notice to the Exchange. The delivery of an executed Alternative Notice of Intention to Deliver to the Exchange shall release the Clearing Members and the Exchange from their respective obligations under the Exchange contracts.

In executing such Notice, Clearing Members shall indemnify the Exchange against any liability, cost or expense it may incur for any reason as a result of the execution, delivery, or performance of such contracts or such agreement, or any breach thereof or default there under. Upon receipt of an executed Alternative Notice of Intention to Deliver, the Exchange will return to the Clearing Members all margin monies held for the account of each with respect to the contracts involved.

**675.16. FORCE MAJEURE, LATE PERFORMANCE AND FAILURE TO PERFORM**

(A) DEFINITION. As used in this Rule 675.16. the following terms, as well as variations thereof, shall have the meanings described below.

(1) "Late Performance" means the failure of a Party to complete a material act with respect to a delivery obligation imposed by, and within the time period established in, the Rules. No Late Performance may exceed the lesser of five continuous business days or eight consecutive calendar days.

(2) "Failure to Perform" means the failure of a Party to complete a material act with respect to a delivery obligation prior to the expiration of the period allowed for the late performance of such act.

(3) "Contract Value" means the amount equal to the Settlement Price on the last day of trading in

the contract times 100 times the number of contracts to be delivered.

(4) (a) "Party" means a Buyer or Seller. For the avoidance of doubt, the Buyer and Seller are each responsible to the Clearing House for their obligations under these Rules and further responsible to the Clearing House for the obligations of their respective customers under the Rules of this section.

(b) "Other Party" means the corresponding Buyer when the Seller is late in performance or has failed to perform and the corresponding Seller when the Buyer is late in performance or has failed to perform.

(5) "Day of Late Performance" means the twenty-four hour period commencing twelve hours after a Party was to have performed, provided however, with respect to the obligations of a Party to submit documents to the Exchange pursuant to the Rules in this chapter, "day of late performance" means that twenty-four hour period commencing immediately after the time specified in the Rules in this chapter for the submission of a document. Each subsequent day of Late Performance shall commence twenty-four hours after the beginning of the prior day of Late Performance. When a Party is late in performance, the day when the act is performed shall be a day of Late Performance.

(6) "Force Majeure" means any circumstance (including but not limited to a strike, lockout, national emergency, governmental action, or act of God) which is beyond the control of a Party, and which prevents that Party from making or taking delivery of product when and as provided for in these Rules, including but not limited to the inability to make or take delivery because of governmental action which prevents a terminal or barge from making or facilitating a delivery on a particular day by the nominated method.

#### (B) RESPONSIBILITIES OF PARTIES TO THE DELIVERY

(1) The Parties to a delivery shall make commercially reasonable efforts to perform their respective delivery obligations at all times until a Party has failed to perform.

(2) A Party which has failed to perform its obligations may no longer perform such obligations; provided, however, that a Buyer which has failed to make a payment shall make such payment.

#### (C) PETROLEUM DELIVERY COMMITTEE

(1) Force Majeure, Late Performance and Failure to Perform shall be determined by a Panel of the Petroleum Delivery Committee as set forth below, except that the inability of a terminal or barge to make or facilitate delivery on a particular day by the nominated method because use of the facility or barge is prohibited by order or agreement with an authorized governmental agency or unit on a delivery day that has been designated by an authorized governmental agency or unit to be a day on which ambient air quality standards for ozone will exceed permissible levels shall be considered Force Majeure without a determination by the Committee. The Chairman of the Petroleum Delivery Committee shall appoint a Panel, which shall consist of three (3) members of the Committee, to review a delivery:

(a) when the Chairman is advised by the President or any person designated by the President that it appears that the performance of a Party to the delivery is late;

(b) upon the written request of both Parties;

(c) when the President or any person designated by the President requests such appointment; or

(d) when either Party to the delivery notifies the Exchange that circumstances exist constituting

Force Majeure.

(2) The Chairman shall not appoint to any Panel any person who has a direct or indirect interest in the delivery in question. Any Panel so appointed shall retain jurisdiction over the delivery in question until the delivery has been completed or a party has been found to have failed to perform such delivery. Exchange Counsel shall serve as advisor to the Panel.

(3) The Panel shall meet within one business day of notification as provided in these Rules. Unless good cause for delay exists, within one business day the Panel shall determine whether Force Majeure exists, whether a Party is late in performing or has failed to perform its obligations as provided in the Rules, and advise the Compliance Department of such determination, and its findings in support thereof immediately. The Panel shall cause its determination to be communicated to the Parties to the delivery as expeditiously as possible.

(4) Absent a declaration of a Force Majeure, the Panel may, with the consent of both Parties, take any one or combination of the following actions as it deems suitable:

(a) grant an extension of time not to exceed five days from the date of the scheduled delivery, provided, however, that each delivery shall be completed not later than the fifth business day of the calendar month following the delivery month or the last day of the period provided for late performance of the contract, whichever is earlier;

(b) change the delivery site to a site within New York Harbor, provided that the Seller's Customer has product or will have product at such site in time for delivery; or

(c) modify the method of taking delivery.

Nothing in this Subsection shall preclude a Party or the Exchange from seeking the remedies set forth in Sections (D), (E), and (F) of this Rule.

(5) Upon a finding of Force Majeure, the Panel may take any one or combination of the following actions as it deems suitable:

a) order an extension of time not to exceed five days from the date of the scheduled delivery, provided, however, that each delivery shall be completed not later than the fifth business day of the calendar month following the delivery month;

b) change the delivery site to a site within Singapore, provided that the Seller's Customer has product or will have product at such site in time for delivery;

c) modify the method of taking delivery if such method is acceptable to the Buyer;

d) allocate deliveries; or,

e) refer to Board of Directors for emergency action as provided in Article 7.

(6) The Panel may appoint an inspection company as provided in Rule 675.09(A)(3), provided, however, that the inspection company appointed by the Panel shall not be either of the two inspection companies listed in the Notice of Intention to Accept.

#### (D) EXCHANGE ACTION

(1) Whenever a Party is found by the Panel to be late in the performance of or to have failed to

perform a delivery, the Exchange, represented by the Compliance Department, shall issue a Notice of Assessment in accordance with subsections (2) and (3) of this Section, specifying the findings of the Panel with respect to the late or failed delivery.

(2) Either one or both parties shall be assessed a penalty to be paid to the Exchange for each day of Late Performance as follows:

- first day of late performance – 3% of contract value, but not less than \$800 per contract;
- second day of late performance – 3% of contract value, but not less than \$800 per contract;
- third day of late performance – 3% of contract value, but not less than \$800 per contract;
- fourth day of late performance – 3% of contract value, but not less than \$800 per contract;
- fifth day of late performance – 3% of contract value, but not less than \$800 per contract;
- sixth day of late performance – 3% of contract value, but not less than \$800 per contract;
- seventh day of late performance – 4% of contract value, but not less than \$1,000 per contract;
- eighth day of late performance – 5% of contract value, but not less than \$1,000 per contract;

Such penalty shall be cumulative for each day of late performance.

(3) When a Party has failed to perform, the Compliance Department shall issue a Notice of Assessment assessing penalties of ten percent of the contract value, but not less than \$3,000 per contract, in addition to any penalties assessed pursuant to subparagraph (2) hereof, to be paid to the Exchange.

(4) (a) A Party may appeal a Notice of Assessment by filing a Notice of Appeal with the Hearing Registrar of the Exchange and by serving a copy of the same on the Exchange's Compliance Counsel, within two business days of receipt of the Notice of Assessment from the Compliance Department. The Party filing the appeal ("Appellant") shall file, within twenty (20) days after filing the Notice of Appeal, a Memorandum of Appeal setting forth the factual and legal basis for the appeal. The Memorandum of Appeal must be filed with the Hearing Registrar and a copy of the same served upon the Exchange's Compliance Counsel.

(4)(b) The Compliance Department may file with the Appellant and Hearing Registrar an Answering Memorandum to the Memorandum of Appeal within ten (10) days of receipt of that memorandum.

(4)(c) Failure by the Party to file a Notice of Appeal or a Memorandum of Appeal with the time specified in subsection (D)(4)(a) of this Rule shall constitute a waiver, and the penalties set forth in the Notice of Assessment shall be paid within five days to the Exchange. Failure to pay such penalties in accordance with this Rule shall subject the Party to the sanctions set forth in Bylaw 106. In the event a Party fails to Appeal, or waives the opportunity to appeal a Notice of Assessment the Assessment and findings of the Petroleum Delivery Committee shall constitute a final disciplinary action of the Exchange.

(5) Within ten (10) days after receipt of the Compliance Department's reply, the Appellant shall be entitled to examine all books, documents and other tangible evidence in possession or under the control of the Exchange that are to be relied on by the Compliance Department or are otherwise relevant to the matter.

(6) In the event of an appeal by a Party, the Chairman of the Exchange, or his designee, shall appoint an Assessment Appeal Panel to hear and decide the appeal. The Panel shall be composed of three members of the Exchange, at least one of whom shall be a member of the Board of Directors. No member of the Panel may have a direct or indirect interest in the matter under the appeal. Each Panel Member shall disclose to the Chairman any such interest which might preclude such Panel Member from rendering a fair and impartial determination. The formal Rules of Evidence shall not apply to such appeal, and the Panel shall be the sole judge with respect to the

evidence presented to it. Exchange outside counsel shall advise the Panel.

(7) The procedures for the hearing of the appeal before the Assessment Appeal Panel shall be as follows:

(a) At a date to be set by order of the Panel, and prior to such hearing, the Appellant and the Compliance Department shall furnish each other with a list of witnesses expected to be called at the hearing, and a list of documents and copies thereof expected to be introduced at the hearing.

(b) At such hearing: The Appellant may appear personally and may be represented by counsel or other representative of his choice at the appeal.

(c) The Compliance Department shall be entitled to offer evidence relating to the delivery and shall be entitled to call witnesses and introduce documents in support thereof. It shall be the burden of the Compliance Department to demonstrate, by the weight of the evidence, the appropriateness of the sanction set forth in the Notice of Assessment.

(d) The Appellant shall be entitled to rebut the Compliance Department's evidence and shall be entitled to call witnesses and introduce documents in support thereof.

(e) The Compliance Department and the Appellant shall be entitled to cross-examine any witness called by the opposing Party at the hearing.

(f) The Notice of Assessment, the Notice of Appeal, the Memorandum of Appeal, any Answering Memorandum, the stenographic transcript of the appeal, any documentary evidence or other material presented to and accepted by the Panel shall constitute the record of the hearing. The decision of the Panel shall be based upon the record of the hearing.

(g) The Panel shall have the power to impose a penalty against any person who is within the jurisdiction of the Exchange and whose actions impede the progress of a hearing.

(h) The Assessment Appeal Panel shall issue a written decision in which it may affirm, reduce, or waive the charges assessed against the Appellant and shall state the reasons therefor.

(i) The decision of the Assessment Appeal Panel shall be a final decision of the Exchange and shall constitute a final disciplinary action of the Exchange. The fine is payable on the effective day of the decision or as specified. The effective day shall be fifteen (15) days after a copy of the written decision has been delivered to the appellant and to the Commission.

(8) The Assessment Appeal Panel shall consider, and make recommendations to the Board concerning acceptance or rejection of, any offer of settlement submitted by Appellant. In the case of an offer of settlement, acceptance by the Board shall constitute the final disciplinary action of the Exchange.

#### (E) ARBITRATION PROCEDURE

(1) Unless the Buyer and Seller have mutually agreed to arbitrate their disputes in Singapore in accordance with the arbitration rules of the Singapore International Arbitration Centre (SIAC), this Rule shall apply to all claims for damages arising between Parties as a result of a delivery pursuant to this contract.

(2) Notice of Intent to Arbitrate must be submitted to the Secretary of the Exchange within three business days of the occurrence upon which the claim is based or the decision of the Petroleum

Delivery Committee with respect to a late or failed performance. Failure to submit a Notice of Intent to Arbitrate within the prescribed period will be deemed a waiver of a Party's rights to arbitrate such a delivery dispute under the special or Regular Arbitration Rules.

(3) The Arbitration will be governed by Chapter 5 of the Rules except that the Chairman of the Exchange or his designee shall appoint an Arbitration Panel composed of three Members of the Exchange, at least one of whom shall be a Member of the Board of Directors.

(F) ARBITRATION UNDER SIAC RULES

(1) Where the Buyer and Seller have mutually agreed to arbitrate their disputes in Singapore in accordance with the arbitration rules of the Singapore International Arbitration Centre (SIAC), either party must, within three business days of such agreement, submit to the Secretary of the Exchange a Notice of Intent for SIAC Arbitration and such additional information as may be required by the Exchange.

(2) Except for this section F, this Rule and Rule 675.07(B)(5) shall not apply to an arbitration under the SIAC rules.