



August 21, 2017

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
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Washington, DC 20581

RE: General CFTC Comments for DMO Swap Data Reporting Review

The Natural Gas Supply Association (“NGSA”) appreciates the opportunity to provide comments in response to the Commodity Futures Trading Commission’s (“CFTC”) Staff solicitation of comments regarding the CFTC’s swap reporting rules.¹ NGSA commends the CFTC for reconsidering its swap reporting rules to reduce unnecessary burdens and “right-size” the reporting of swap data to swap data repositories (“SDR”). NGSA generally supports these efforts, but cautions against certain aspects contained in Staff’s “Roadmap to Achieve High Quality Swaps Data” (“CFTC Roadmap”).²

NGSA urges the CFTC to streamline obligations and eliminate unnecessary or duplicative reporting requirements. To promote a culture of compliance, Commission regulations must be transparent, easy to understand and feasible to implement – both from a compliance and cost standpoint. To that end, any swap data that market participants report to an SDR should be tailored to what the CFTC needs to promote and protect the integrity of markets, as opposed to collecting every data element about every swap.³ In addition, any changes to the CFTC’s Swap Reporting Rules should be

¹ The CFTC Staff requested comment on the CFTC’s real-time reporting rule (Part 43), SDR reporting rule (Part 45), and other rules applicable to SDRs (Part 49) (collectively “Swap Reporting Rules”). A copy of the CFTC Staff request for comment is available here: <http://www.cftc.gov/PressRoom/PressReleases/pr7585-17>.

² A copy of the CFTC Roadmap is available here: http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/dmo_swapdataplan071017.pdf (“CFTC Roadmap”).

³ Although the CFTC Roadmap only requests comments on reporting swap data to SDRs, as part of the Commission’s consideration of its swap reporting rules, the Commission should utilize the sunset provision in CFTC Rule 20.9 to sunset the Part 20 swaps large trader reporting rule. Part 20 is duplicative

prospective and not require reporting parties to amend existing reports. Finally, we urge the Commission to ensure that the SDRs have equivalent standards for the data they receive and disclose. Differences in which data fields are required and which data fields are included in the SDRs' real time tickers translate into competitive advantages or disadvantages to the entities that report to the SDRs. Parties to swaps are understandably sensitive to the amount of information they have to provide to their counterparties, and will be attracted to those who demand less data rather than more. A party that reports to a relatively stringent SDR, will therefore find itself losing business to competitors that report to SDRs that have lower standards.

I. The CFTC Should Not Require Market Participants to Report Inter-Affiliate Swaps to an SDR

The SDR Reporting Rules should expressly exclude inter-affiliate swaps that involve a non-bank swap dealer ("SD") or an end-user from SDR reporting requirements. These transactions are internal to a corporate group and are designed for capital efficiency purposes. As a result, the reporting of swap data associated with these transactions does not improve the CFTC's market surveillance capabilities nor does it promote price transparency in the market.

Current CFTC Staff Letter 13-09 acknowledges that inter-affiliate swaps "do not increase overall systemic risk or warrant the same reporting requirements as market-facing swaps."⁴ In light of this acknowledgement, CFTC Staff Letter 13-09 allows a participant that is not an SD or affiliated with an SD to exclude from SDR reporting those swaps that are between wholly-owned affiliates.⁵ Such non-SDs still must report swaps between majority, but not wholly-owned affiliates to an SDR, but may report these swaps on a less frequent basis (*i.e.*, quarterly).

NGSA urges the CFTC to codify and expand this relief, by:

- (1) allowing non-bank SDs and end-users to rely on the reporting exemption for inter-affiliate swaps without distinguishing between SDs and non-SDs; and
- (2) applying the exemption for swaps between commonly-controlled affiliates, even if the affiliate is not wholly-owned.

of swap reporting to SDRs and imposes substantial costs on commercial swap dealers. Additionally, the CFTC should clarify that non-jurisdictional market facing swaps between non-US persons are not reportable per prong 6 of section III.A. in the No-Action Relief CFTC Staff Letter (13-09).

⁴ CFTC Letter No. 13-09 (Apr. 5, 2013) (page 3).

⁵ *Id.*

There is no reason to treat differently inter-affiliate swaps that involve a non-bank SD (or affiliate of a non-bank SD) from those that do not involve a non-bank SD (or an affiliate of a non-bank SD). In fact, inter-affiliate swaps (*i.e.*, whether involving a SD or not) already are excluded from the real-time reporting requirements. The real-time reporting rule only requires reporting of any swap that is “an executed swap that is an arm’s-length transaction between two parties that results in a corresponding change in the market risk position between the two parties.”⁶ It does not distinguish between swaps involving a SD or a non-SD. Swaps between commonly-controlled affiliates should be similarly excluded from real-time reporting because they are not arm’s length.

The same category of swaps that currently are excluded from the real-time reporting rule also should be excluded from the SDR reporting rule. NGSAs notes that market facing swaps are reported to an SDR, which provides the CFTC with access to swap data to support market surveillance. For example, if Company A enters into a natural gas swap with Third-Party B, and Company A then enters into an inter-affiliate risk transfer with Subsidiary 1, the swap between Company A and B is reported to an SDR and available for the CFTC to utilize for market surveillance. The inter-affiliate risk transfer between Company A and Subsidiary 1 relates to internal capital allocation and does not inform the CFTC’s market surveillance function. Moreover, market participants are required to retain and produce records of inter-affiliate swaps upon a CFTC request.⁷ Therefore, to the extent the CFTC needs to obtain records of inter-affiliate transactions, it can do so through a request to the relevant market participant.

II. The CFTC Should Streamline the Reporting Process Through Harmonization with IOSCO

Dodd-Frank requires “real-time” reporting of swaps data. Under the real-time reporting rule, the CFTC requires that reporting parties submit certain swap data such as price and volume “as soon as technologically practicable” after execution. The CFTC has said that this “means as soon as possible, taking into consideration the prevalence, implementation and use of technology by comparable market participants.”⁸ NGSAs urges the CFTC to streamline the real-time reporting process via harmonization with IOSCO.

As part of the streamlining process, the swap data required for submission should be pared down to eliminate optional fields and fields that do not apply to

⁶ *Id.*; and CFTC Rule 43.2 (definition of “publicly reportable swap transaction”).

⁷ See CFTC Rule 45.2.

⁸ See CFTC Rule 43.2 (definition of “as soon as technologically practicable”).

commodity swaps. Real-time reporting is costly and the plethora of existing data fields that have little application to commodity swaps increase the potential for unintended errors, and thus, slow transaction time.⁹

By limiting the data fields to report, the Commission will help speed transaction time and ensure that the swap data is accurate when it is submitted in the first instance. This should eliminate the need for a "reconciliation loop" (*i.e.*, reconfirming data after it is submitted to an SDR). According to the CFTC Roadmap, Staff are considering whether the Swap Reporting Rules should obligate market participants to reconcile swap data reported to an SDR, and if so, how frequently.¹⁰ NGSAs believes that any additional obligation for a reconciliation loop will be time consuming, burdensome for end-users, and redundant of the mark-to-market report that swap dealers provide their counterparties.¹¹ Rather than obligate market participants to submit an expansive set of swap data and thereafter reconcile the reports for errors, the Commission should narrow the required data to afford market participants the opportunity to submit accurate data in the first instance.

NGSA appreciates the opportunity to provide these comments. Please feel free to contact me should you like to discuss NGSAs comments to the SDR Reporting Rules.

Respectfully Submitted,



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⁹ As part of the process to pare down swap data elements, the Commission should exclude "exotic" swaps from real-time reporting. For exotic swaps, not all the terms of the swap are published to the market (*e.g.*, a credit adder), so publication of price and other terms may be misleading and harm price discovery.

¹⁰ CFTC Roadmap, slide 6.

¹¹ See CFTC Rule 23.431.