Dodd-Frank Reform: Challenges for the Natural Gas Marketplace

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Challenges of the Dodd-Frank Act Title VII

- CFTC rulemaking process – the landscape ahead

- Key issues facing the industry/market

- Important advocacy efforts – constructive dialogue and engagement

Dodd-Frank - Winding Path, Ever-Shifting Landscape

- CFTC must consider thousands of public comments submitted representing concerns from a wide range of industries on more than 40 proposed rules
- No definite timeline for rule sequencing
- Technology challenges at CFTC to process registration applications, conduct surveillance and rule enforcement reviews, investigate fraud and manipulation
- New political climate could delay/alter implementation
- FY 2012 budget still unclear
- Questions of alignment with global initiatives for derivatives reform

An Industry View: Potential Market Implications

General themes across many of the energy group comments:

- Emerging position limits could impact liquidity and potentially hedging costs
- Uncertainty around increased hedging costs and requirements:
  - margining
  - capital
  - registration, reporting, and compliance costs
- Limited ability to utilize certain exemptions (i.e. end-user and *de minimis*)
- Potential impact on customers who will need to comply with increased reporting requirements

Ongoing Dialogue – Swap Dealer/MSP Definitions

Several upstream trade associations' advancing financial reform initiatives -- among them API and NGSA.

Swap Dealer/MSP Definitions: Many trade groups have had concerns that the hedging activities of commercial end-users could be classified as swap dealing in the proposed rule

- NGSA, in partnership with NCGA, identified a 2-part implementation solution that provides the CFTC with the ability to clearly exclude commercial end-users who primarily use derivatives.

- Concept of intermediation to define swap dealer, thereby separating the difference between traders and dealers.

- Urges the CFTC to establish the *de minimis* exclusion based as a percentage of swap transactions with customers relative to total swap transactions, thus establishing a clear and relevant threshold.

Industry View – Aggregate Position Limits

NGSA on Aggregate Position Limits:

- Should focus solely on physical delivery contracts in the spot month only and not on the cash-settled contracts

- A position limit calculation based on "estimated deliverable supply" should properly account for all potential supply options.

- Supported portfolio-based hedging within bona fide hedging definition and a reduced reporting burden associated with the hedging exemption.

Constructive Engagement – End-User Clearing Exemption

End-User Clearing Exemption: NGSA and NCGA believe certain modifications are necessary for the rule to remain consistent with Congressional intent.

- Clarification that reporting counterparties are authorized to rely on the written representations of electing counterparties with respect to those entities' election not to clear.

- Clarification that Board approval of an electing counterparty's decision not to clear swaps can be given on a blanket basis, eliminating the need to seek approval for common risk-management business transactions.

What's next?

- Market comments on newly proposed product definitions, capital and margin requirements.
- CFTC has announced it will reopen the public comment period for an additional 30 days for further submissions on all proposed rules. Important to remain engaged.
- Monitor progress of H.R.1573 which seeks to delay most Dodd-Frank provisions by 18 months
  - House Agriculture Committee endorsement on May 4
- Prepare for new compliance obligations