

Dodd-Frank Financial Reform: What It Could Mean for Gas Buyers

GasMart 2011

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Recent History

- July 21, 2010: President signs Dodd-Frank into law
 - General effective date: July 16, 2011
- August 20, 2010: SEC and CFTC issue Advance Notice of Proposed Rulemaking on key definitions
- December 2010: CFTC issues proposed rules on:
 - Swap Dealer, Major Swap Participant
 - End-User Exception to Mandatory Clearing
 - Recordkeeping and Reporting (multiple rules)

Recent History (cont'd)

- February 2011: House Agriculture Committee begins DFA implementation oversight hearings
- April 2011: CFTC IG confirms rushed nature of rulemakings
- April 2011: House Ag introduces H.R. 1573
- April 2011: CFTC issues proposed rules on:
 - Capital and Margin
 - Definition of “Swap”
 - “Prudential Regulators” and SEC especially relevant

May 11, 2011: State of Play

- Essentially all rules required by Dodd-Frank have been proposed
- The general effective date of DFA is July 16, 2011
- A rule cannot take effect sooner than 60 days after the final rule is published
- Chairman Gensler has suggested finalizing rules in three groups – spring, summer, fall

Note: See Chairman's remarks on which rules might be grouped early/middle/late at:
<http://www.cftc.gov/PressRoom/SpeechesTestimony/opagensler-73.html>.

Where EEI Has Focused

- End-User Exception to Mandatory Clearing
- “Entity” Definitions: SD/MSP
- “Product” Definitions: Swap
- Margin and Capital Requirements for SDs/MSPs
- Recordkeeping and Reporting

Other Areas of Concern

- Position Limits
- Prohibition of Market Manipulation, Whistleblower Provisions, Antidisruptive Practices
- Protection/Segregation of Collateral (Commodity Broker Bankruptcy)

Tea Leaves: Cost Challenges

- Real-time public reporting reduces liquidity:
 - Direct effect on hedger at an illiquid delivery point
 - Indirect effect because dealer has little time to lay off risk
- “Swap dealer” rule = higher costs, more risk
 - Dealer’s costs include clearing, compliance
 - Fewer “end user-to-end user” trades means less-effective hedging
- Banks’ capital costs increase
 - Banks and bank subs subject to Basel III

Tea Leaves: Opportunities

- Capital rule for non-banks: Competitive advantage?
 - End user-to-“commercial SD” – clearing not required
- New platforms, products
- Dramatically improved oversight, market data