March 28, 2011

TMX | NGX

Filed Electonically

David A. Stawick
Secretary
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Re: "Position Limits for Derivatives," 76 *Fed. Reg.* 4752 (Jan. 26, 2011) RIN: 3038-AD15 and AD16.

Dear Mr. Stawick:

Natural Gas Exchange ("NGX") appreciates the opportunity to comment on the Commodity Futures Trading Commission's ("Commission") proposed rules, "Position Limits for Derivatives," 76 *Fed. Reg.* 4752 (Jan. 26, 2011) ("Proposal"). The proposed rules implement Section 737 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"),[1] which amended the Commodity Exchange Act, 7 U.S.C. §1 *et seq.* ("Act") to require that the Commission set and enforce speculative position limits on exempt and agricultural commodities. NGX recognizes the importance of speculative position limits to the Commission's accomplishment of its statutory mission.

NGX

NGX is a trading system for energy products in the North American market. Since March 1, 2004, NGX has been a wholly owned subsidiary of TMX Group Inc.[2] NGX also provides clearing services through which it acts as central counterparty ("CCP") for transactions entered into on the NGX electronic marketplace, certain transactions executed in the OTC market and transactions entered into on a third party trading platform. On December 12, 2008, NGX was registered by the Commission as a Derivatives Clearing Organization ("DCO").[3]

---

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law No. 111–203, 124 Stat. 1376 (2010).

[2] TMX Group operates cash and derivative markets for multiple asset classes including equities, fixed income and energy products. TMX Group is a corporation incorporated under the Business Corporations Act (Ontario) and has its head office in Toronto, Ontario. Its shares have been listed for trading on the Toronto Stock Exchange since November 2002. TMX Group is a reporting issuer in every province and territory of Canada.

[3] NGX also operates as an exempt commercial market ("ECM"). NGX notified the Commission on November 5, 2002, of its operation as an ECM and has requested an extension to operate as an ECM for a period of one year following the effective date of the Dodd-Frank Act.

NGX Supports the Commission's Determination of Which Contracts are Within the Scope of Speculative Position Limits

The proposed rules would impose spot month, single-month, and all-months combined speculative position limits on specified energy futures and options contracts ("referenced futures contracts)[4] and swaps that are economically equivalent to such contracts (together, "referenced contracts").[5] The Commission in proposed Rule 151.1 proposes to define a "referenced contract" as "a contract on a futures equivalent basis with respect to a particular core referenced futures contract, a futures listed in § 151.2, or a referenced paired futures contract, option contract, swap or swaption, other than a basis contract or contract on a commodity index." The Commission proposes to define a "basis" contract as "an agreement, contract or transaction that is cash settled based on the difference in price of the same commodity (or substantially the same commodity) at different delivery points." As the Commission explains,

> Referenced contracts are defined as derivatives (1) that are directly or indirectly linked to the price of a 151.2-listed contract, or (2) that are based on the price of the same commodity for delivery at the same location(s) as that of a 151.2-listed contract, or another delivery location with substantially the same supply and demand fundamentals as the delivery location of a 151.2-listed contract.

Proposal at page 4753.

Proposed Rule 151.4 provides that the spot month speculative position limit applies only to "positions in physical delivery or cash settled referenced contracts with delivery locations that match the delivery locations of a core referenced futures contract in the same commodity." Proposed rule 151.4(d) makes clear that the non-spot speculative position limits only apply to "referenced contracts," which by definition exclude "basis" contracts.

NGX lists for trading physical natural gas and oil contracts that use three different methods for calculation of the settlement price. The contract price can be based on the electronically negotiated price (called "Fixed Price Products"), on a reference price to a cash-price series, such as those published by NGX itself or by an independent, third-party index provider (called "Index Products"), or by reference to a futures contract price with an appropriate locational differential (called "Basis Products", or in the case of crude oil, "Differentials").

Contracts using these three types of settlement price methodologies are listed for a significant number of different delivery locations in Canada. Contracts for natural gas may specify one of 17 possible Canadian transportation systems and 5 different delivery locations. In addition, there are 23 different grades of oil products listed, including, for example, condensate, light sour blend, mixed sour blend, mixed sweet blend and sweet

[4] The 28 core referenced futures contracts are specified in Proposed Rule § 151.2.

[5] Referenced contracts are defined in Proposed Rule § 151.1.

crude. U.S. contracts may specify one of 5 different delivery locations, five transportation systems, and 8 crude types.

NGX contracts, including Basis Contracts and Differentials that are priced at a differential to a core-referenced futures contract, draw on different deliverable supplies than any core-referenced futures contract. Accordingly, although Basis Contracts and Differentials may be priced in relation to a core-referenced futures contract, they do not act as a single, linked market with such a futures contract.

The Commission's proposed rules make clear that basis contracts, like NGX's Basis Contracts and Differentials, are excluded from the application of the class and aggregate speculative position limits. NGX agrees with the Commission's focus on deliverable supply in defining which contracts constitute a single or linked market. NGX agrees that contracts that draw on the same deliverable supply should be considered to be linked and subject to the aggregate speculative position limit. NGX also concurs with the Commission's determination that basis contracts that draw on different deliverable supplies than the reference market are not linked and therefore not subject to an aggregate speculative position limit with the reference market. However, NGX notes that basis contracts need not be cash-settled and may provide for physical delivery with the settlement price determined at a differential to a reference market. Accordingly, NGX suggests that the Commission delete the word "cash" from the definition of "basis" contract. Nevertheless, NGX believes that the Commission's intent to exclude contracts that draw on a deliverable supply separate from that of the reference market is plain and appreciates the clarity with which the Commission has defined which contracts are subject to speculative position limits.

* * * * *

Please feel free to contact Cheryl Graden at (416) 947-4359, or our outside counsel, Paul M. Architzel of Wilmer Cutler Pickering Hale and Dorr LLP, at (202) 663-6240, with any questions about these comments.

Respectfully submitted,

for Peter Krenkel
President and CEO, NGX