

Geneva Energy Markets, LLC

July 27, 2011

Mr. David A. Stawick
Secretary
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

**RE: Capital Requirements of Swap Dealers and Major Swap Participants
(RIN 3038-AD54)**

Dear Mr. Stawick:

Geneva Energy Markets, LLC (“GEM”) previously submitted comments¹ on the CFTC’s proposed rule on swap dealer capital requirements as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”). As currently proposed in the CFTC rulemakings,² any entity defined as a Swap Dealer would be required to maintain \$20 million of net tangible equity plus capital for the market risk exposure of its positions, regardless of whether those positions were cleared or not cleared and whether or not the entity has customers.

In our comments, we drew the Commission’s attention to the existing, proven capital requirements for non-bank swap dealers who deal exclusively in exchange-defined and cleared over-the-counter (“OTC”) swaps, particularly in the energy markets. Additionally, we expressed our belief that the related financial disclosure requirements are unnecessary and overly burdensome for non-bank swap dealers trading only cleared products.

As a follow-up to our letter, below we offer specific language to the Commission that would address the concerns we raised while still meeting the objectives of Dodd-Frank. Specifically, we suggest new §23.101(a)(5) which states that non-bank swap dealers trading solely for their own account who do not enter into uncleared swaps are subject to the minimum capital required by their futures commission merchant, so long as that minimum capital is equal to or greater than the requirements to be an eligible contract participant. New §23.101(c)(1)(v) adds a Swap Dealer registration category with the National Futures Association that matches the entities described in new §23.101(a)(5). New §23.106(a)(2)(iv) addresses the financial recordkeeping and reporting requirements for the entities described in new §23.101(a)(5).

¹ See letter submitted June 30, 2011 via the CFTC’s comment portal.

² 76 Fed. Reg. 27806 (May 12, 2011)

Proposed Language

§ 23.101 Minimum financial requirements for swap dealers and major swap participants.

(a)(1) Except as provided in paragraph (a)(2), (3), (4) or (45) of this section, each registered swap dealer must meet or exceed the greatest of the following regulatory capital requirements:

(i) Tangible net equity (as defined in § 23.102 of this part) in an amount equal to \$20,000,000 plus the amounts calculated under this part for the swap dealer's market risk exposure requirement and its over-the-counter derivatives credit risk requirement associated with swap positions and related hedge positions that are part of the swap dealer's swap activities; or,

(ii) The amount of capital required by a registered futures association of which the swap dealer is a member.

....
(5) A registered swap dealer that is a U.S. nonbank entity, trades only for its own account, is not a commodity pool operator and does not enter into uncleared swaps shall maintain the capital required by that swap dealer's futures commission merchants, provided, however, that in no event shall the tangible net equity of the swap dealer be less than the amount of total assets required for it to be an eligible contract participant.

....
(c)(1) Before any applicant may be registered as a swap dealer or major swap participant, the applicant must demonstrate to the satisfaction of the National Futures Association one of the following:

(i) Its compliance with the applicable regulatory capital requirements in paragraphs (a)(1), (2), (b)(1) or (2) of this section;

(ii) that it is a futures commission merchant that complies with § 1.17 of this chapter;

(iii) that its minimum regulatory capital requirements are supervised by a prudential regulator in paragraph (a)(3) or (b)(3) of this section; ~~or~~

(iv) that it is designated by the Financial Stability Oversight Council as a systemically important financial institution and subject to supervision by the Federal Reserve Board under paragraph (a)(4) or (b)(4) of this section; or

(v) that it is a U.S. nonbank entity that trades solely for its own account, that it is not a commodity pool operator, that it does not enter into uncleared swaps and that it maintains the capital contemplated by paragraph (a)(5) of this section.

(2) Each swap dealer and major swap participant subject to the minimum capital requirements set forth in paragraphs (a) and (b) of this section must be in compliance with the

Commission's minimum capital requirements at all times and must be able to demonstrate such compliance to the satisfaction of the Commission.

§ 23.106 Financial recordkeeping and reporting requirements for swap dealers and major swap participants.

(a)(1) Except as provided in paragraph (a)(2) of this section, each registered swap dealer or major swap participant must comply with the requirements set forth in paragraphs (b) through (j) of this section.

(2) The requirements in paragraphs (b) through (j) of this section do not apply to any swap dealer or major swap participant that:

(i) Is subject to the capital requirements of a prudential regulator;

(ii) Has been designated a systemically important financial institution by the Financial Stability Oversight Council and is subject to supervision by the Board of Governors of the Federal Reserve System; ~~or~~

(iii) Is registered as a futures commission merchant; or

(iv) In the case of a swap dealer, is a U.S. nonbank entity that trades only for its own account, is not a commodity pool operator, does not enter into uncleared swaps and maintains the capital contemplated by paragraph (a)(5) of § 23.101 of this part.

* * *

GEM greatly appreciates the opportunity to submit our views on these important issues before the CFTC. Do not hesitate to contact us if you have any questions regarding the comments in this letter.

Sincerely,

/s/ Mark Vonderheide

Managing Partner
Geneva Energy Markets, LLC

/s/ Robert S. Creamer

President
Geneva Trading USA, LLC