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Via Electronic Submission

To: Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Attn: Mr. Christopher J. Kirkpatrick
Secretary of the Commission

Re: RIN 3038-AD99: EDFTNA's Comments in response to Supplemental Notice of Proposed Position Limit Rulemaking

Dear Mr. Kirkpatrick:

EDF Trading North America, LLC ("EDFTNA") submits these comments in response to the supplemental notice of proposed rulemaking and proposed rule (the "Supplemental Proposal") released by the Commodity Futures Trading Commission (the "CFTC", or the "Commission") on the May 26, 2016.

EDFTNA is a wholly-owned indirect subsidiary of Eléctricité de France, S.A., a global leader in energy production and supply with over 140.4 Gigawatts of generation capacity and approximately 39 million customers globally. In addition to being the fifth largest marketer of natural gas in North America, EDFTNA is also a leading provider of energy management and a provider of retail power and gas services to large-scale commercial and industrial customers through its affiliated companies.

EDFTNA generally supports the Commission's proposals delegating to DCMs and SEFs (the "Exchanges") the authority to recognize certain hedge exemptions from position limits, the revision of the previously proposed bona fide hedging definition, and delaying the requirement that DCMs and SEFs establish and monitor position limits on swaps until such time as DCMs and SEFs have access to sufficient swap position information. The Commission's Supplemental Proposal will simplify requests for federal and exchange hedge exemptions and provide seamless integration of the proposed federal position limit regime with the existing exchange position limit regime.

In support and in response to several questions and requests for comments (not listed herein for the sake of brevity and simplicity) within the Supplemental Proposal, EDFTNA suggest the Commission consider requiring a standardized and harmonized non-enumerated bona fide hedge ("NEBFH") application process among all of the participating Exchanges. This is consistent with CFTC Staff's recent findings under the Draft Technical Specifications for Certain Swap Data Elements Report ("TAC Report") under Part 43 and 45 and Commission analysis from the Swap Dealer De Minimis Exception Preliminary Report ("De Minimis Report").

EDFTNA is not proposing a single process for all NEBFH applications among the various exchanges, but rather the same or standardized application process for all exchanges.

From the findings and analysis from these Reports, we have seen the importance of standardizing and harmonizing industry data when submitted to the CFTC. Although, we / Market participants capture and record the same general, and in some cases unique, market and transaction data, we however, report and produce the data in vastly different ways. Standardizing the NEBFH exemption application process among all participating Exchanges will ensure the ease of review and analysis for hedge exemption application. It will also simplify the process and allow market participants to adhere to one universal hedge exemption application process for multiple exchanges. Clearly, we have seen the effects of having several different data submission processes, standards, and requirements when we look at the adverse effects such a process has had on SDR data submission. Retrospective analysis from the Reports have provided best practices and lessons learned we as an industry should collectively adopt in building and designing future data collection and submission regimes. Any variations between the hedge exemption application processes should be minor / subtle variations, such as "Exchange Name", Product Name / I.D.", etc.

Having a standardized application process would complement the Supplemental Proposal's "Requirements for an Exchange To Process Applications"[1] particularly since the requirements for an exchange to process an application are the same for all participating and qualifying exchanges.

A standardized hedge exemption application will minimize market participants' monitoring and processing costs for maintaining compliance with the proposed regulations. The proposed requirements will have an impact to market participants' existing hedge exemption processes, requiring greater oversight, increased scope of monitoring, and additional personnel and process in many cases. In addition, lack of sophistication and an emphasis on simplicity will work to reduce barriers to market entry and reduce regulatory compliance risk. In keeping with core market principles, regulations must not serve as a barrier to market entry and work simultaneously to ensure participant performance and market integrity. End users have limited funds and may not, in most cases, have the technical capabilities to support several different exchange hedge exemption application structures. Typically, the upstream costs from regulatory changes is passed down to end-users and consumers, placing greater strain on limited commercial resources. Furthermore, over-time the rising cost of compliance and increasing capital investments in regulatory compliance infrastructures in response to global regulatory activity may lead to a widespread decrease in market participation and market liquidity.

Having different applications for all participating exchanges will over complicate the federal hedge exemption process. One hedge exemption application process will allow dedicated resources proper management of multiple applications to multiple exchanges. A standardized application process and an emphasis on simplicity will increase in importance once exchanges are required to monitor and provide hedge exemptions for swap position limits. Consistent with industry and market best practices, a standardized process would drive process efficiency, lending further support for minimizing regulatory risk exposure through

[1] *See* 81 FR at 38470

innovation. As we evolve and move forward under a Dodd-Frank Regulatory culture we can anticipate an evolution from what is now predominantly manual to more automated processes. Foreseeably, the hedge application process could occur through online form completion and submission. A web based process, unique to the respective exchange, yet supporting a standardized application would work for all participants including "some market participants, such as commercial end users in some circumstances, [who] may not be required to trade on an exchange, but may nevertheless desire to have a particular derivative position recognized as a NEBFH."[2] Therefore, having a standardized form / application and process could make the transition from manual to automated processes seamless and beneficial to all market participants, not only those submitting data, but also for those required to analyze and generate reports based on such data.

II. Conclusion

The Commission should strongly consider standardizing the NEBFH application among all exchanges and require one universal application for market participants. The potential success of one standardized application process is evidence by Commission findings and conclusions drawn from analysis the TAC and De Minimis Reports. Now that market participants are having to operate under global regulatory regimes, uniform standards and regulatory requirements are crucial for market structures and efficiency. With the increase in regulatory oversight and enforcement, market participants are having to increase the scope and reliability on internal regulatory and compliance functions. Regulatory requirements must provide a balance, so the Commission can have the transparency and oversight they desire, while market participants can narrow the focus of their regulatory departments to ensure compliance.

[2] *Id* at 38471