



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of
Market Oversight

CFTC Letter No. 11-08
No-Action
November 16, 2011
Division of Market Oversight

Peter Krenkel
President & CEO
Natural Gas Exchange Inc.
2330, 140 – 4 Avenue SW
Calgary, Alberta T2P 3N3

Re: Request for No-Action Relief with Regard to the Reporting of Swap Position
Data by NGX Clearing Members Pursuant to Commission Regulations 20.4 and
20.5(a)

Dear Mr. Krenkel:

This is in response to your letter dated October 7, 2011 to the Division of Market Oversight (“Division”) of the Commodity Futures Trading Commission (“Commission”).¹ By this correspondence, and related email on that same date, you requested, on behalf of the Natural Gas Exchange Inc. (“NGX”), exemptive relief for NGX and its clearing members permitting NGX to file reports on NGX cleared positions for, and in the place of, its clearing members, in fulfillment of all of the clearing members’ reporting obligations under Commission regulations 20.4 and 20.5(a).

You represent that NGX is a registered derivatives clearing organization consisting of members which exclusively self-clear and have no customers. You also represent that many of these self-clearing members are non-financial firms that would be characterized as swap “end-users.” You further represent that because clearing members do not act as intermediaries, they will not have customer/counterparties about whom they would be required to file 102S reports under Commission regulation 20.5(a). In addition, you represent that because NGX’s clearing members do not have customers, they will not have any infrastructure through which to report customer positions, particularly with respect to uncleared swap transactions. For these transactions, you represent, NGX members are likely to be end-users for whom a swap dealer counterparty or major swap participant will submit the required reports.

¹ Letter from Peter Krenkel, Natural Gas Exchange Inc., to Richard A. Shilts, Director, Division of Market Oversight, Commodity Futures Trading Commission (October 7, 2011).

You represent that NGX possesses and can report full account, position and ownership information about each and every transaction cleared by NGX. You represent that NGX, if permitted by the Commission, would itself submit the information required by Commission regulation 20.4 of its clearing members for all cleared positions in fulfillment of all of their regulation 20.4 reporting requirements. You represent that NGX would also provide the information required under Commission regulation 20.5(a) for all of its members, which are its counterparties, in fulfillment of their regulation 20.5(a) reporting requirement.

Based upon the foregoing representations in support of your no-action request, the Division will not recommend that the Commission institute enforcement action against NGX's members for violation of Commission regulation 20.4 or 20.5(a) solely on the basis that NGX files reports on NGX-cleared positions for, and in the place of, its clearing members, in fulfillment of the clearing members' reporting obligations with respect to cleared positions under those regulations, and that such reports are in full compliance with the requirements of those regulations. The Division further reminds NGX members relying upon this no-action relief that they remain ultimately responsible for NGX filing such reports. In addition, with respect to an NGX clearing member that (1) is not a clearing member of any clearing organization, as defined in regulation 20.1, other than NGX and (2) is not deemed to be a swap dealer by final Commission regulations further defining such term, the Division will not recommend that the Commission institute enforcement action against such clearing member for violation of Commission regulation 20.4 or 20.5(a) if such clearing member does not report its uncleared positions under those regulations. This relief does not extend to the reporting obligations of NGX's members under regulation 20.5(b) or their recordkeeping requirements under regulation 20.6.

The position taken herein does not necessarily reflect the views of the Commission or any other unit or member of the Commission's staff. Because this position is based upon the representations contained in NGX's no-action request, it should be noted that any materially different, changed, or omitted facts or circumstances may require a different conclusion or render this letter void. Finally, as with all no-action letters, the Division retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of the no-action relief provided herein, in its discretion.

If you have any questions regarding this correspondence, please contact David P. Van Wagner, Chief Counsel (email: dvanwagner@cftc.gov / phone: (202) 418-5481) or Ali Hosseini, Special Counsel (email: ahosseini@cftc.gov / phone: (202) 418-6144) with the Division of Market Oversight.

Sincerely,

Richard A. Shilts
Director