



November 18, 2011

To: All NGX Customers

Re: CFTC Large Trader Reporting Rules for Swaps – November 18, 2011 Update

### Background

On September 20, 2011 we advised of the new Commodity Futures Trading Commission (“**CFTC**”, or the “**Commission**”) regulations (17 CFR Parts 15 and 20, Large Trader Reporting for Physical Commodity Swaps<sup>1</sup>), which require the reporting by derivatives clearing organizations, clearing members and swap dealers of physical commodity swap and swaption (collectively, “**swaps**”) activity reports to the Commission (the “**LTR Swap Rules**”). The LTR Swap Rules apply to those swaps that (i) are linked or priced at a differential to either the price of any of the 46 covered futures or options contracts listed by designated contracts markets (“Covered Contracts”) or the price of the physical commodity for delivery at the same location or locations as that of a Covered Contract (“**Paired Swaps**”) and (ii) comprise a position, in any one futures equivalent month, meeting the reporting threshold of 50 or more futures equivalent paired swaps or swaptions based on the same commodity underlying a Covered Contract (the “**Reporting Threshold**”).

NGX anticipates that certain of its physical natural gas products and physical crude oil contracts will constitute Paired Swaps and meet the Reporting Threshold (“**LTR swaps**”). NGX will provide greater clarity in a subsequent notice as to which products are designated LTR swaps.

### Relief from LTR Reporting Obligations for NGX Participants

On November 17, 2011, NGX received a letter from the CFTC granting a no-action request submitted by NGX on behalf of its participants that relieves NGX participants from the obligation to report cleared and uncleared transactions in NGX products that are subject to large trader reporting requirements (specifically Sections 20.4 and 20.5(a) of the LTR Swap Rules) for LTR Swaps. This no-action relief relies upon NGX’s reporting of cleared transactions in LTR swaps as a DCO, and in addition, providing reports on behalf of its clearing members. Note that a limitation on this relief is that the no-action, as it applies to uncleared large trader reporting requirements, **will not extend to** (i) NGX participants that are clearing members of another clearing organization as set out in Commission Regulation 20.1, or (ii) NGX participants that are ultimately deemed to be swap dealers under final Commission regulations further defining that term.

A copy of the no-action relief is attached hereto as Schedule A and posted on NGX’s website. For a complete understanding of the scope of the relief, please review the no-action letter in its entirety.

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<sup>1</sup> See <http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2011-18054a.pdf>

Communications

NGX will provide further updates on its website, [www.ngx.com](http://www.ngx.com), as new information regarding the implementation of the new LTR Swap Rules becomes available.

Please address any questions to:

Steve Howie, Market Oversight & Compliance Manager  
(403) 974-1767, [steve.howie@ngx.com](mailto:steve.howie@ngx.com).

or

Cheryl Graden, Chief Compliance Officer  
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## 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

### SCHEDULE "A"

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”).<sup>1</sup> 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.

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<sup>1</sup> 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](mailto:dvanwagner@cftc.gov) / phone: (202) 418-5481) or Ali Hosseini, Special Counsel (email: [ahosseini@cftc.gov](mailto:ahosseini@cftc.gov) / phone: (202) 418-6144) with the Division of Market Oversight.

Sincerely,

Richard A. Shilts  
Director