



December 16, 2011

To: All NGX Customers

Re: CFTC Large Trader Reporting Rules for Swaps – December 16, 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 derivatives clearing organizations, clearing members and swap dealers of physical commodity swaps and swaptions (collectively, “**swaps**”) to submit 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**”).

Pending the final definition of "swap", there is uncertainty as to which contracts may ultimately constitute paired swaps and be reportable. As a preliminary measure, NGX anticipates that there may be five potential swap contracts that may meet the reporting requirements of Large Trader Reporting:

- i. NGX Phys, BS, LD1 (US/MM), AB-NIT
- ii. NGX Phys, BS, LD1 (US/MM), Union-Dawn
- iii. NG Firm Phys, BS, LD1, (US/MM), Henry
- iv. Crude Firm Phys WCS, ID, WTI, Har-Husky
- v. Crude Firm Phys SYN, ID, WTI, Edm-AOSPL

Once the final definition of swap has been settled, NGX will require a dialogue with CFTC staff to confirm the list of reportable NGX contracts, if any.

#### Relief from LTR Reporting Obligations for NGX Participants

On November 17, 2011, we 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<sup>2</sup>. This no-action relief relies upon NGX’s reporting of cleared transactions in LTR swaps as a derivatives clearing organization, and in addition, providing reports on behalf of its clearing members. A limitation on this relief is that the no-action, as it applies to uncleared large trader reporting requirements, does not extend to (i) NGX participants that are clearing members of another clearing organization as set out in Commission

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

<sup>2</sup> See <http://cftc.gov/ucm/groups/public/@lrfederalregister/documents/letter/11-08.pdf>

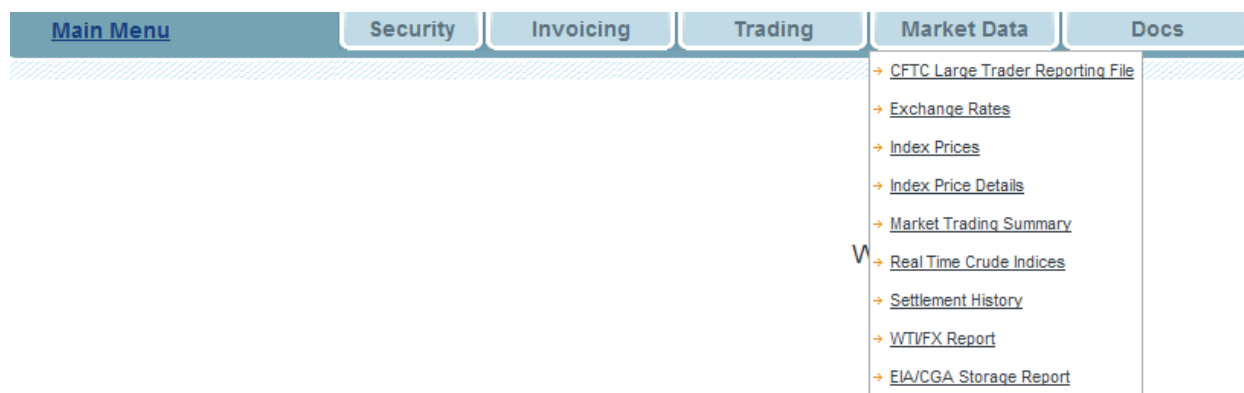
Regulation 20.1, or (ii) NGX participants that are ultimately deemed to be swap dealers under final Commission regulations further defining that term.

#### LTR Reporting under Section 20.4(a) of the LTR Swap Rules to Commence by January 3, 2012

Further to the conditional safe harbor regarding large trader reporting obligations issued by the CFTC on Friday, November 18, 2011 (the "LTR Safe Harbor")<sup>3</sup>, on November 21, 2011 NGX confirmed to the Commission that effective on that date, we would be in compliance with our reporting obligations as a derivatives clearing organization for cleared transactions and settlement prices (Section 20.3). Additionally, NGX advised the Commission of our intent to rely upon the LTR Safe Harbor with respect to the reporting obligations of our clearing members under Section 20.4(a), and will make best efforts to be fully compliant with respect to those 20.4(a) clearing member reports by January 3, 2012.

Once NGX begins to generate and submit the 20.4(a) clearing member reports to the Commission, NGX participants will be able to download those reports submitted by NGX on their behalf to allow for reconciliation, record keeping or other business purposes.

The LTR reports will be available for download through the Trading Reports section our website, [www.ngx.com](http://www.ngx.com) (via secure login) under the *Market Data* heading – *CFTC Large Trader Reporting File*. The reports will be available on an historical basis, but may only be downloaded for one reporting day at a time.



To download a LTR report the user will need to select the appropriate *Reporting Date* and click on the *Retrieve File* button, which will then prompt the user to save (in .zip format).

Please note that for NGX participants with cleared positions that do not satisfy the Reporting Threshold for a given date there will be no LTR report generated for that day.

#### 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:

<sup>3</sup> See [http://cftc.gov/ucm/groups/public/@newsroom/documents/file/relief\\_letter\\_111811.pdf](http://cftc.gov/ucm/groups/public/@newsroom/documents/file/relief_letter_111811.pdf)

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