February 7, 2011

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

Subject: **Comments of Encana Marketing (USA) Inc. on the Proposed Rule on Swap Data Recordkeeping and Reporting Requirements RIN Number 3038–AD19**

Dear Secretary Stawick:

Encana Marketing (USA) Inc. (EMUS) hereby files comments on the Notice of Proposed Rulemaking (NOPR) issued by the Commodity Futures Trading Commission (Commission) in this proceeding.[1] EMUS is an indirect wholly owned subsidiary of Encana Corporation (Encana). Its principal U.S. office is located in Denver, Colorado. EMUS' marketing activities include selling and purchasing natural gas, natural gas liquids, other related energy commodities and services in the U.S. wholesale energy markets. As part of EMUS' marketing activities, Encana, for itself and its subsidiaries, enters into hedging transactions or swaps to manage and mitigate commercial risks associated with EMUS' sales, purchases and movement of these energy commodities. It considers itself to be an end-user of swaps under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act).

Comments

EMUS is concerned that, when one of the counterparties to an uncleared swap is an end-user, the reporting party would be required to submit an electronic file to report the data proposed in this NOPR plus a separate electronic file to provide the registered Swap Data Repository (SDR) with information regarding the end-user's election to use the exception to mandatory swap clearing under the Commission's proposed rule on *End-User Exception to Mandatory Clearing of Swaps*.[2] EMUS recommends that the Commission incorporate the information required to be provided to a registered SDR by a reporting party regarding an end-user's

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[1] *Swap Data Recordkeeping and Reporting Requirements*, 75 Fed. Reg. 76,574 (Dec. 8, 2010).
[2] *End-User Exception to Mandatory Clearing of Swaps*, 75 Fed. Reg. 80,747 (Dec. 23, 2010).
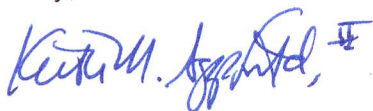
election to use the exception to mandatory swap clearing[3] into the data fields adopted in this rulemaking in a format that is easily gathered and reported for each swap transaction. This could be accomplished by revising the data fields proposed under this NOPR to reflect the end-user election for the exception to mandatory swap clearing in a format similar to that set forth on Appendix A to this letter.

In this NOPR, the Commission proposes § 45.10 which would impose certain obligations on reporting and non-reporting swap counterparties related to the reporting of errors and omissions in swap data previously reported to a registered SDR. In a separate rulemaking, the Commission has proposed § 49.11 which would require a registered SDR to confirm with both counterparties to a swap the accuracy of swap data submitted to it and correct any errors.[4] The Commission should provide additional guidance on how these two regulations will work together.

EMUS believes that revising the data fields proposed in this NOPR to incorporate the reporting requirements related to the end-user election for an exception from mandatory swap clearing will enable a reporting party to quickly and with little or no errors provide such information to a registered SDR.

Sincerely,

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[3] Proposed § 39.6(b) specifies the information that the electing counterparty would be required to provide to a registered SDR, or the Commission if no registered SDR is available.
[4] *Swap Data Repositories*, 75 Fed. Reg. 80,898, 80,905 (Dec. 23, 2010).

APPENDIX "A"
Minimum End-User Election from Clearing - Terms & Data (Uncleared Swaps)

Rule	Sample Data Field	Comment	
Counterparty electing exception	Unique Counterparty Identifier	As defined in 39.6 (b) (1)	
Counterparty financial entity	Yes/No	As defined in 39.6 (b) (2)	
Counterparty a financial affiliate	Yes/No	As defined in 39.6 (b) (3)	
Swap used to hedge or mitigate commercial risk	Yes/No	As defined in 39.6 (b) (4)	
written credit support	Yes/No	As defined in 39.6 (b) (5) (i)	
Pledged or segregated Assets	Yes/No	As defined in 39.6 (b) (5) (ii)	
written third-party guarantee	Yes/No	As defined in 39.6 (b) (5) (iii)	
solely the electing's party available financial resources	Yes/No	As defined in 39.6 (b) (5) (iv)	
other means	Yes/No	As defined in 39.6 (b) (5) (v)	
If Other Means is yes, then provide written description	comment	As defined in 39.6 (b) (5) (v)	
Electing counterparty is a issuer of securities	Yes/No	As defined in 39.6 (b) (6)	
If electing counterparty is an issuer of securities	SEC Central Index Key number for Counterparty	As defined in 39.6 (b) (6) (i)	
If the electing counterparty is an issuer of securities whether board of directors has approved the election	Yes/No	As defined in 39.6 (b) (6) (ii)	