HUNTON& WILLIAMS

CMC COMMODITY MARKETS COUNCIL

July 19, 2011

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

VIA ELECTRONIC SUBMISSION

Re: *Portfolio Level Analysis Needed Under the Commission's Proposed Rules*

Dear Secretary Stawick:

On behalf of the Working Group of Commercial Energy Firms (the "Working Group")[1] and the Commodity Markets Council ("CMC")[2] (collectively, the "Commercial Alliance"),[3] Hunton & Williams LLP submits the following comments to supplement comments of the Working Group on a number of the Commodity Futures Trading Commission's (the "CFTC" or the "Commission") proposed rules that touch on the characterization of hedging under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Act").[4]

The Commercial Alliance applauds the Commission for providing swap market participants an additional period to submit comments on its proposed rules.[5] The recently expired 30-day period, among other things, allowed swap market participants to provide the Commission with helpful insights on subjects that apply to several of the Commission's proposed rules. The 30-day period, however, was too short and did not afford commenters

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[1] The Working Group is a diverse group of commercial firms in the energy industry whose primary business activity is the physical delivery of one or more energy commodities to others, including industrial, commercial and residential consumers. Members of the Working Group are energy producers, marketers and utilities.

[2] CMC is a trade association bringing together commodity exchanges with their industry counterparts. The activities of our members represent the complete spectrum of commercial users of all futures markets including agriculture. Specifically, our industry member firms are regular users of the Chicago Board of Trade, Chicago Mercantile Exchange, ICE Futures US, Kansas City Board of Trade, Minneapolis Grain Exchange, and New York Mercantile Exchange. Please note that Hunton & Williams LLP is not counsel to CMC.

[3] The Commercial Alliance is a combined effort among commercial agriculture and energy companies to address significant issues under the Commission's rulemakings to implement derivatives reform under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").

[4] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010).

[5] *Reopening and Extension of Comment Periods for Rulemaking Implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act*, 76 Fed. Reg. 25,274 (May 4, 2011).

sufficient time to address the many subjects in adequate detail. The Working Group submitted a number of comment letters during the 30-day period.[6] However, the complexity of certain topics require time beyond the 30-day period in order to be properly addressed. As the Commission will benefit in its rulemakings with the receipt of additional in-depth analysis, the Commercial Alliance trusts that the Commission will consider the comments herein.

The Commercial Alliance submits these comments to highlight certain issues being considered by the Commission that could have a direct and substantial impact on not only commercial firms in energy and agriculture markets, but swap markets as a whole. While the examples included herein demonstrate the relevant issues and hedging strategies from the perspective of a commercial energy firm, the Commercial Alliance believes that they illustrate issues that will apply to strategies used by commercial firms in all physical commodity markets, including many of the members of CMC.

I. TRANSACTION LEVEL REGULATION OF SWAPS.

A common theme across many of the Commission's proposed rules is the application of such rules on the individual transaction level. This approach runs counter to the well accepted market practices of most swap market participants which analyze their swap activity at the portfolio level. Specifically, swap market participants calculate their exposures and their hedges by observing the characteristics of their portfolio of swaps and possibly physical positions. Portfolios may be comprised of thousands of trades. This comment letter identifies a few, but not all, of the Commission's proposed rules in which the transaction level application of regulatory requirements will likely result in a substantial burden on swap market participants.

We are concerned about the specific "referencing" of the exposure that any swap hedges. A swap could reference a single, discreet and identifiable exposure, or it may reference an exposure that arises in a portfolio of other swaps in physical positions. Though in limited cases a trader may be able to reference a single exposure, predominantly this is not what traders, or even firms, do. They reference exposures arising in a portfolio.

The Commercial Alliance is acutely concerned that the Commission's rules, if they require transaction-by-transaction referencing, will fundamentally alter the day-to-day operation of commercial firms (and most other market participants). Mandating that firms adopt a transaction-by-transaction approach would impose exorbitant costs on market participants. Additionally, such a requirement would represent an ill advised step in credit and risk management, the very functions that help prevent contagion in the swaps markets should a counterparty fail. At worst, a transaction-by-transaction approach might make hedging so difficult as to create an unworkable regulatory environment.

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[6] The Working Group submitted comments on the further definition of "swap dealer," *bona fide* hedging, 2(h) grandfathering, and the sequencing of rule issuances under Title VII of the Act.

II. THE COMMISSION'S PROPOSED RULES MUST PROPERLY ACCOUNT FOR PORTFOLIO AND DYNAMIC HEDGING.

A. PORTFOLIO HEDGING.

A transaction-by-transaction view of hedging is a flawed perspective. Portfolio hedging involves hedging the net risk of an overall portfolio of products, that will often include various financial, physical and other positions with similar characteristics.[7] Portfolio level hedging is a long-established risk management practice in swap markets for both market risk (*i.e.*, the view a firm's portfolio takes on the market) and credit risk (*i.e.*, the overall credit exposure to one counterparty or a group of counterparties). Portfolio hedging has developed as the optimal way for commercial firms, particularly commercial energy firms, to manage risks in their physical and financial portfolios in an integrated manner. Requiring swap market participants to adopt a transaction-by-transaction approach to hedging, and thus risk management, to utilize certain hedge exemptions under the Commission's proposed rules will degrade risk management best practices in swap markets.

Commercial energy firms maintain hedge positions in swaps that do not match their physical positions on a one-to-one basis.

> *Example*: A utility that both owns generation assets and supplies power to retail customers may have a portfolio that contains (a) its long physical generation, its coal, natural gas and other fuel positions; and (b) its short physical load obligations, and physical contracts it has in place to procure additional energy. The aggregate of these positions may balance, but no long position specifically balances a short position.

The portfolio, after the positions within it are combined and offset where appropriate, will have a net risk that a portfolio manager will have the opportunity to hedge. If a transaction-by-transaction approach is taken to its logical end, the utility would be required to put on an individual hedge for each of its customer accounts, of which there might be millions.

Portfolios of swaps do not deconstruct into neat pairs of offsetting positions. Thus, it would be false to assume that transaction-to-transaction referencing could simply scale up to the equivalent of portfolio hedging. One reason is that commercial energy firms commonly enter into a number of swaps to hedge several different risks posed by one physical position.

> *Example*: A commercial energy firm entering into a physical natural gas contract with a Canadian counterparty might enter into a futures contract to hedge general price risk, a basis swap to hedge location-specific price risk, an FX swap to hedge currency risk and

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[7] At a very basic level, portfolio hedging is the hedging of the net exposure of a portfolio. A firm may have a subset in its portfolio of long positions in certain assets, physical positions, contracts and derivatives. The firm may also have a subset of short positions. If the aggregate long exposure is offset against the aggregate short exposure, a net exposure results. The resulting net exposure could be either long or short. It is this net exposure that a firm might seek to hedge.

> a weather swap to hedge risk associated with weather driven changes in natural gas usage.

Alternatively, it may be that any given swap hedges exposure across several specific positions.

> *Example*: A commercial energy firm has several generators in a specific state, but if demand for energy increases dramatically on an unusually hot day, the firm's generation may not be sufficient to meet the energy demand. Thus, the generator must go into the open market and acquire the necessary energy. However, to hedge the risk that the market price for energy might exceed what the firm can charge customers for electricity, the commercial firm might enter into weather related derivatives that help offset the higher cost of electricity on an unexpectedly hot day. Like with the other examples, there is no discreet physical position that is being offset by the financial hedge.

Transaction-by-transaction reference also does not fit the manner in which commercial energy firms typically enter into swaps from an operational perspective. A commercial energy firm typically executes a swap for the purpose of reducing the risk in its overall portfolio. A transaction-by-transaction reference requirement might force the characterization of swap as a speculative position because there is no contemporaneous, offsetting physical transaction. Also, an individual trader may enter into a swap at a particular point in time because they receive favorable pricing terms, intending for that swap to offset future physical exposure.

> *Example*: A commercial energy firm is in the business of buying and delivering Brent Crude to the United States. A trader might enter into an attractively priced Brent/WTI swap that does not correspond to a definitive cargo, with the knowledge that they are likely to purchase a cargo of Brent Crude within the coming weeks.

Due to the dynamic nature of physical energy markets, commercial energy firms find the portfolio hedging approach to be the most efficient and effective means of reducing their commodity risk and protecting their customers from price volatility.

The Commission, when promulgating final rules, should (a) allow firms to assign the characterization of a swap as a hedging transaction or a speculative transaction at the portfolio level and (b) provide a safe harbor for characterizations made in good faith that turn out to be incorrect. As discussed above, typically whether or not a swap is a hedging transaction must be determined in the context of a portfolio. A trader can most often determine whether a particular swap is a hedge or is speculative within that trader's scope of accountability (*e.g.*, a book). However, when that trade is placed in the context of a firms' larger portfolio, the character of that swap might change. Also, given that the Commission's proposed regulations place legal consequences on the characterization of an instrument as a hedge, speculative or

other position, the ultimate characterization should be made by an appropriately situated employee.[8]

B. DYNAMIC HEDGING.[9]

Commercial energy firms, to efficiently mitigate commercial risk and to optimize the value of underlying physical assets or portfolios, hedge dynamically. A transaction-by-transaction approach of certain hedging-related proposed rules would also severely limit the ability of many swap market participants to engage in dynamic hedging. A key aspect of dynamic hedging is the ability to modify the hedging structure related to physical assets or positions when relevant pricing relationships applicable to that asset change. Dynamic hedging can involve reversing a hedge on an asset or position when necessary to reduce the cost of hedging. This may require hedges to be established, unwound, and re-established on an iterative basis.

To effectively and efficiently mitigate commercial risk associated with underlying physical assets and related positions, commercial energy firms will take a portfolio level approach when hedging dynamically. They reassess their aggregate exposures on a regular and on-going basis. A commercial firm normally will hedge these exposures utilizing physical transactions, futures and swaps, the exact combinations of which will be determined by various characteristics of the risk unique to such firm.

The following provides an example of dynamic hedging of natural gas and power prices by a commercial energy firm in over-the-counter swap markets. The dynamic hedging transactions relate to the sale of power from a gas-fired, electric generating facility (the "Asset"). As illustrated, the goal of the dynamic hedging strategy set forth below is to hedge commercial risk associated with changing market conditions to (i) facilitate a cumulative improvement in the cost of hedging, and (ii) allow for a better economic allocation of the underlying physical commodities being used or generated by the Asset.

- Step 1: Power Prices Exceed Gas Prices; Asset Hedged to Lock in Gross Margin. The commercial energy firm purchases fixed price swaps to fix the prices for the natural gas used by and power output produced by the power plant ("Initial Hedges"). At the time the Initial Hedges are entered into, power prices exceeded natural gas prices. This strategy locks in a specified gross margin for the power plant's production.

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[8] Several of the Commission's proposed rules require that certain determinations must be made before or very shortly after a swap is executed. For example, the swap reporting rules will require that a swap be identified as a hedge if a party seeks to avail itself of the end-user exception from mandatory central clearing. Separately, the Commercial Alliance believes that many of these rules have unnecessarily short time periods, particularly when considered against the largely efficient operation of the energy swap markets. If the Commission ultimately does incorporate short time periods in its final rules, it should allow firms meaningful opportunity to reconcile and change items.

[9] For additional discussion and examples of the benefits of dynamic hedging, see Alexander Eydeland and Krzysztof Wolyniec, *Energy and Power Risk Management: New Developments in Modeling, Pricing and Hedging* 27-41 (1st ed. 2003).

- Step 2: Power Prices and Gas Prices Reverse; Hedge Recalibrated to Improve Gross Margin and Lower the Cost of Hedging. At a later date, the relative prices of natural gas and power reverse (*i.e.,* gas prices exceeded power prices to the point where the natural gas was worth more sold as gas than it would be if it was converted to electricity), the commercial energy firm offset the Initial Hedges with additional swaps, futures or physical positions to maximize the gross margin on the power plant and lower the cost of hedging. Note that the commercial energy firm likely cannot simply reduce the use of the Asset as it may have existing long-term contractual obligations to provide power to customers. The offset of the Initial Hedges left the power plant in an unhedged position. The offset of the Initial Hedges made economic sense and it would have been uneconomic based on the price of the relevant physical commodity to run the power plant. Specifically, dynamic hedging allowed the commercial energy firm to mitigate the commercial risk associated with the power plant under the then-existing market conditions.

- Step 3: Power Prices and Gas Prices Reverse Again; Asset Re-Hedged to Improve Gross Margin. As the relative prices of natural gas and power reverse again a few months later it becomes economical to produce output from the power plant. The commercial energy firm then enters into new fixed price natural gas and power price hedges to lock in gross margin associated with the power plant.

- Step 4: Unplanned Outage of Asset; Hedge Recalibrated to Account for New Risk. At a later date, the power plant is subject to an unplanned outage. Even if the commercial energy firm has other generation assets, there is substantial likelihood that the commercial energy firm will be unable to meet its contractual load obligations. Because of the outage, the commercial energy firm (assuming they were at capacity or had excess capacity prior to the outage) will temporarily be short power. The commercial energy firm would enter into short term swaps to hedge that risk and would unwind or trade around such swaps when the outage was remedied.

If the Commission continues to take a transaction-by-transaction approach to its hedging-related proposed rules, swap market participants will likely be faced with the choice between (a) utilizing the exemptions explicitly included by Congress to benefit nonfinancial entities engaged in hedging commercial risk while attempting to undertake the exceedingly costly if not impractical task of building systems to identify hedge transactions or (b) continuing the use of the proper methods of hedging such as portfolio and dynamic hedging and not making use of statutory hedge exemptions.[10]

[10] Another form of dynamic hedging is known as "delta hedging." "Delta" is defined as the rate of change in the value of a derivative with respect to the change in the price of the underlying asset. Delta hedging involves executing trades that have equal but opposite delta exposures to the deltas of the underlying portfolio, so that the combination of the portfolio and the hedge transactions has a delta of zero. For portfolios with linear instruments, this is accomplished by trading swaps or futures. Delta hedging a linear portfolio immunizes the portfolio against changes in the underlying price. If the underlying portfolio contains options, then the delta hedged portfolio will be immunized against "small" price changes but not to "large" price changes. This is due to the fact that the delta of an option depends on the underlying price, which is a non-linear relationship.

III. BONA-FIDE HEDGE EXEMPTION FROM POSITION LIMITS.

The Commercial Alliance submitted a letter to the Commission on June 3, 2011 providing specific examples related to the *bona fide* hedging exception from the Commission's proposed position limits. That letter illustrates some of the difficulties commercial firms, regardless of the type of commodities they handle, have with hedging transactions under the Commission's proposed rules.

The Commercial Alliance offers these additional observations regarding how the issues identified in that letter are magnified if portfolio hedging is not accounted for in the Commission's final rules for position limits. Proposed CFTC Rule 151.5(g) requires that a party relying on the *bona fide* hedging exemption provide a written representation verifying that the particular swap qualifies as a *bona fide* hedging transaction under proposed Rule 151.5(a)(1)(iv).[11] As discussed above, it is impracticable to require a trader to make a determination at the time of the trade on the nature of the transaction, particularly, whether the swap is a hedge or speculative in nature.[12]

> *Example*: Two traders trading for different books within the same commercial energy firm might enter into trades that they believe to be speculative, but result in a flat position at the portfolio level. One trader, trading on behalf of an exploration and production group could take a short physical natural gas position as a speculative position and another trader trading on behalf of a power group could take a long position in natural gas in swaps as a speculative trade. At the entity level, the outcome is that the long gas swap hedges the short gas physical position.[13]

For example, you can represent a combined cycle gas fired power plant as a gas-power spread option. That's because the operator has natural gas as the input to the plant, and power as the output, so the operator of the plant is short natural gas and long power. When you do so, you get a short gas delta and long power delta that represents each commodity leg of the "option."

As you manage a plant through time, forward power and gas prices move, and the deltas on the spread option representing the physical plant move in relation to those price moves. To stay delta neutral, one has to buy and sell gas and power swaps or futures in volumes that lead to a net delta position of approximately zero when those swap positions are combined with the gas and power deltas from the plant. In relatively liquid and efficient forward markets, where the bid-ask spreads and other transaction costs are minimal, this will lead to lower costs for the hedger versus putting a forward hedge on at one point in time and leaving it there. The lower costs are the result of a process similar to the example in Section II.C.

[11] Proposed CFTC Rule 151.5(g)(1) states: "The party not hedging a cash market commodity risk, *or both parties to the swap if both parties are hedging* a cash market commodity risk . . . ." The Commercial Alliance submits that if both counterparties are hedging, there is no need to pass through their respective hedge exemptions, and thus fails to understand the provision as written.

[12] The Commission also recognizes the difficulty in discerning between speculation and hedging. *See* End-User Exception Rule, at 80,753.

[13] That swap, as a hedge at the portfolio level, should be considered a *bona fide* hedge for position limit purposes.

Moreover, as stated above, it would be impracticable, if not impossible, for the vast majority of market participants to link hedges with specified underlying physical positions for purposes of complying with the pass-through requirements in proposed CFTC Rule 151.5(g).

The Commercial Alliance is also concerned with proposed CFTC Rule 151.5(j)(2), which permits a party to exceed a position limit only "to the extent and in such amounts that the qualifying swap directly offsets, and continues to offset, the cash market commodity risk of a *bona fide* hedger counterparty." This provision is problematic as it implies that a hedger must monitor and track the status of each transaction it represented to its counterparty as a *bona fide* hedge and continually inform and represent to the counterparty that such swap continues to be a *bona fide* hedge. Such a requirement would result in significant and costly burdens on hedgers.

The Commercial Alliance submits that the transaction-by-transaction approach to the *bona fide* hedge exemption creates not only an unnecessary compliance burden on market participants but also a significant burden on the Commission who will have to review and evaluate daily such position reports.

IV. END USER CLEARING EXCEPTION.

The Commercial Alliance submits that it would be prohibitively expensive, legally risky and, as discussed in Section II.A, contrary to risk management best practices for swap market participants to attest to the requirements associated with the end user exception from clearing on a transaction-by-transaction basis.

The Commission's proposed rule implementing Section 723 of the Act's end user exception from the Act's mandatory clearing requirement also contemplates a transaction-by-transaction approach to hedging.[14] New Section 2(h)(7)(A) of the CEA provides counterparties to a swap an exception from mandatory clearing if one of the counterparties "(i) is a non-financial entity; (ii) is using swaps to hedge or mitigate commercial risk;[15] and (iii) notifies the Commission, in a manner set forth by the Commission, how it generally meets its financial obligations associated with entering into non-cleared swaps" (the "End User Clearing Exception").

Proposed CFTC Rule 39.6(b) requires the "reporting counterparty" to provide notification of the manner in which the non-financial electing party expects to meet its financial obligations associated with the qualifying, non-cleared swap and whether such swap "is used by the electing counterparty to hedge or mitigate commercial risk." Specifically, such notification

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[14] Proposed Rule on *End-User Exception to Mandatory Clearing of Swaps*, Fed. Reg. 80,747 (Dec. 23, 2010).

[15] The Commercial Alliance notes that the use of the word "swaps" rather than the word "swap" is significant, in that it demonstrates that Congress did not contemplate a transaction-by-transaction approach. The Commission relied on the importance in Congress' use of the singular rather than the plural form of a word ("customer" vs. "customers") as a key factor justifying the adoption of different segregation regimes for cleared swaps and futures. *See* Draft Proposed Rule on *Protection of Cleared Swaps Customer Contracts and Collateral; Conforming Amendments to the Commodity Broker Bankruptcy Provisions* at 19.

must be submitted to a swap data repository ("SDR") pursuant to the protocol for "reporting counterparties" set forth in the proposed rule for *Swap Data Recordkeeping and Reporting Requirements*[16] and must contain several items of information associated with a non-financial entity's election to use the End User Clearing Exception.[17] The submission of information required by proposed CFTC Rule 39.6(b) must be submitted to an SDR on a transaction-by-transaction basis.[18]

The Commercial Alliance recommends that the Commission, in its final rules for the End User Clearing Exception, explicitly provide that a commercial firm may designate a swap as a hedge by reference to its portfolio. A transaction-by-transaction approach to the End User Clearing Exception would effectively eliminate the End User Clearing Exception for many swap market participants. The Commercial Alliance, in its comments to the proposed rule on the End User Clearing Exception, suggested a significantly less burdensome approach.[19]

A transaction-by-transaction approach to the End User Clearing Exception raises substantive legal issues as well. Proposed CFTC Rule 39.6(b) requires an entity taking advantage of the clearing exception to state that the swap is being "used by the electing counterparty to hedge or mitigate commercial risk." As discussed above, it is impractical for an individual trader to make such a definitive statement on behalf of a commercial energy firm. The trader likely does not have the time, or sometimes the capability, to identify the positions for which he or she is entering into a swap or if the swap is a hedge within the context of an overall portfolio. More importantly, if such statement turns out to be inaccurate, then the trader has violated the CEA and the consequences for doing so can include substantial fines and incarceration. Furthermore, if a swap market participant must obtain board of directors' approval to avail itself of the End User Clearing Exception on a transaction-by-transaction basis,

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[16] Proposed Rule on *End-User Exception to Mandatory Clearing of Swaps* at 80,748. *See Swap Data Recordkeeping and Reporting Requirements*, Notice of Proposed Rulemaking, 75 Fed. Reg. 76,574 (Dec. 8, 2010).

[17] *See* proposed CFTC Rule § 39.6(b). These items generally include: (1) the identity of the electing counterparty to the swap; (2) whether the electing counterparty is a "financial entity" as defined in new CEA Section 2(h)(7)(C)(i); (3) whether the electing counterparty is a finance affiliate meeting the requirements of new CEA Sections 2(h)(7)(C)(iii) or 2(h)(7)(D); (4) whether the swap is used by the electing counterparty to hedge or mitigate commercial risk as defined in proposed CFTC Rule § 39.6(c); (5) the method or mechanism by which the electing counterparty generally expects to meet its financial obligations associated with its non-cleared swaps; and (6) whether the electing counterparty is an issuer of securities registered under section 12 of, or is required to file reports under section 15(d) of, the Securities Exchange Act of 1934.

[18] In relevant part, the Proposed Rule on *End-User Exception to Mandatory Clearing of Swaps* states:

> The Commission proposes in § 39.6(b) to require non-financial entities to notify the Commission *each time the end-user clearing exception is elected* by delivering specified information to an SDR in the manner required by proposed rules for swaps data recordkeeping and reporting.

Proposed Rule on *End-User Exception to Mandatory Clearing of Swaps* at 80,748 (emphasis added; footnote omitted).

[19] The Working Group recommended that the Commission require an omnibus annual filing with regards to the End User Clearing Exception. *See* comments of the Working Group on the proposed rule on *End-User Exception to Mandatory Clearing of Swaps*, filed with the Commission on February 22, 2011.

it would be nearly impossible for a firm to effectively hedge a portfolio of risks as it would not have enough time to execute the hedge and obtain the necessary approvals.[20]

V. VALUATION REQUIREMENTS.

Other of the Commission's rules incorrectly focus on transaction level actions, even if characterizing the nature of the swap or referencing an offsetting exposure are not the central concern. The Commission's proposed rule on Confirmation, Portfolio Reconciliation and Portfolio Compression[21] imposes an obligation on swap dealers and major swap participants to exchange exposure information on a transaction-by-transaction basis and to resolve any valuation disputes discovered in such exchange on a transaction-by-transaction basis. Counterparties exchange valuation information on and measure exposure on a portfolio basis. They do not analyze the valuation of individual swaps unless there is a material dispute as to the exposure between the parties. To do otherwise would be unnecessarily burdensome. The Commercial Alliance respectfully requests that the Commission clarify that the exchange of valuation estimates and the resolution of disputes in the context of the proposed rule on Confirmation, Portfolio Reconciliation and Portfolio Compression refers to valuation disputes on a portfolio and not transaction-by-transaction basis.

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[20] The Commercial Alliance would note that footnote 18 to the proposing release of the Commission's Proposed Rule on the *End-User Exception to Mandatory Clearing of Swaps* indicates that board approval may not necessarily be needed for each swap. However, the Commercial Alliance requests that the Commission clarify that is the case in the text of proposed CFTC Rule 39.6.

[21] *Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants*, 76 Fed. Reg. 6,715 (Feb. 8, 2011).

VI. CONCLUSION.

The Commercial Alliance supports tailored regulation that brings transparency and stability to the energy swap markets in the United States. The Commercial Alliance appreciates this opportunity to comment and respectfully requests that the Commission consider the comments set forth herein prior to the adoption of any final rule implementing Title VII of the Act.

The Commercial Alliance expressly reserves the right to supplement these comments as deemed necessary and appropriate.

If you have any questions, please contact the undersigned.

Respectfully submitted,

/s/ David T. McIndoe

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