SPEECHES & TESTIMONY

Opening Statement of Commissioner Dan M. Berkovitz before the Energy and Environmental Markets Advisory Committee

April 17, 2019

Good morning, and welcome to the Energy and Environmental Markets Advisory Committee (EEMAC or Committee). I am pleased to be joining you here today in my first meeting as the EEMAC Sponsor. Prior to first joining the CFTC, I spent a number of years working on energy issues on Capitol Hill, so I have an affinity for the subjects within this Committee's purview.

The CFTC established this Committee in 2008, a time of turmoil in our energy and financial markets, and Congress codified it in the Dodd-Frank Act two years later.[1] Congress said the EEMAC should "serve as a vehicle for discussion and communication on matters of concern to exchanges, firms, end users, and regulators" regarding the energy and environmental markets and their regulation by the CFTC.[2]

The wealth of expertise and broad diversity of perspectives that the Members and Associate Members bring to this Committee will help inform and enable the Commission to fulfill its mission to foster open, transparent, competitive, and financially sound energy markets.

I would like to welcome our new Member and Associate Members. Rob Creamer, who previously was an Associate Member, has joined the Committee as a Member. Mr. Creamer is President and CEO of Geneva Trading USA, serves on the Board of the Futures Industry Association (FIA), and is Chairman of the FIA Principal Traders Group.

Paul Cicio and Matthew Picardi also have joined the Committee as Associate Members. Mr. Cicio has been the President of the Industrial Energy Consumers of America since its founding sixteen years ago, and is a member of the Department of Energy's Electricity Advisory Committee. Mr. Picardi is the Vice President of Regulatory Affairs for Shell Energy North America, is a member of the Northeast Energy and Commerce Association Board of Directors, and has a leadership role on the Commercial Energy Working Group.

Thanks to each of you, as well as all of our existing Members and Associate Members, for agreeing to serve on the EEMAC and contribute your valuable perspectives.

I would like to thank Dena Wiggins for her continued service to the Committee as our EEMAC Chair. Ms. Wiggins is the President and CEO of the Natural Gas Supply Association, and has over 25 years of experience representing energy clients in federal regulatory matters. Ms. Wiggins has been involved in all of the Federal Energy Regulatory Commission's significant natural gas rulemakings in the past 20 years, including the restructuring of the natural gas industry. This is her second meeting as EEMAC Chair and we are grateful for her leadership.

I would also like to thank Chairman Giancarlo and Commissioners Quintenz, Behnam, and Stump for participating in today's meeting. Chairman Giancarlo was the EEMAC's previous sponsor, and I am very pleased that he has passed me this baton.

Finally, I would like to thank the Commission staff that made today's meeting possible, including Abigail Knauff, the EEMAC secretary; Margie Yates and Altonio Downing; Lucy Hynes and Erica Quinlan on my staff; and everyone else that worked so hard behind the scenes to prepare for this meeting.

I'd now like to introduce our panelists and the topics they will be addressing.

Panel 1: Derivatives Markets' Responses to Physical Markets' Developments

Our first panel of the day will explore how developments in the physical energy markets, particularly in crude oil and natural gas, may be affecting the derivatives markets related to these products. We will begin by hearing from Chris Goodenow, who will be discussing two reports issued last year by the CFTC's Market Intelligence Branch in the Division of Market Oversight. The first report analyzes the effect of the growth of tight oil—also called shale oil—on the WTI and Brent crude oil futures contracts and makes some interesting findings regarding the levels of open interest in longer-dated contracts. [3] The second report assesses the recent growth of U.S. liquefied natural gas exports and the potential impacts of this evolution on CFTC-regulated markets.[4]

These reports reflect the important work of the Market Intelligence Branch and other data surveillance efforts at the CFTC. Objective, fact-based market analyses like those we will be discussing today enable the Commission to more effectively tailor our regulatory approach to the evolving markets.

Also on Panel 1, we will hear from Tyson Slocum, Director of Public Citizen's Energy Program. Mr. Slocum will discuss how technological innovation and regulatory changes have led to the United States exporting a historic volume of oil and gas. He will also share his view on how this growth could impact household consumers.

Panel 2: Exchange-Traded Energy Derivatives Markets

On the second panel, we will hear from Bryan Durkin of CME, Ben Jackson of ICE, and Demetri Karousos of Nodal Exchange. These Exchange Members will give us an overview of the state of the energy futures markets, including the globalization of oil and gas trading and a shift toward clean and renewable energy sources. We will also hear about how the changes in the physical energy markets are generating an appetite for new risk management tools, and the products that the exchanges are creating to satisfy that demand.

Panel 3: Availability of Clearing and Other Services in the Energy Derivatives Markets

On our third and final panel, we will hear from market participants about the availability of clearing and other services in the energy derivatives markets.

Among the core objectives of the Dodd-Frank Act, and the G20 Summit that preceded it, are: (1) strengthening prudential oversight of systemically important financial institutions; (2) increasing central clearing for standardized derivatives; and (3) fostering fair and transparent competition in our financial markets.[5] Ten years after the financial crisis, our financial system is stronger and safer as a result of the Dodd-Frank Act and the regulations implementing the Act, including those promulgated by this Agency.

The G20 Summit also sought to promote global energy security, the development of clean, sustainable energy supplies, and improved regulatory oversight of the energy markets. Over the past decade, here in the U.S. we have seen dramatic advances in energy supplies and technologies, particularly with respect to oil, natural gas, and renewable and clean energy sources. The vitality and growth of our domestic energy industry and the improvements in the regulation of our energy derivative markets over the past decade demonstrate that we can have both strong financial market regulation and a strong energy sector. In my view, both are essential for a robust energy sector and a resilient market-based economy.

As we continue to implement the Dodd-Frank Act, the regulators should continue to work together to ensure that their respective approaches complement one another and further all of the objectives of the Act. This afternoon we will hear from market participants regarding how several of the prudential regulations may be affecting clearing and trading in the energy derivative markets.

First, we will hear from Mr. Creamer about the impacts that the Supplemental Leverage Ratio (Leverage Ratio) imposed by the prudential regulators may be having on the provision of clearing services for energy derivatives transactions. The Leverage Ratio requires large banks to meet a fixed, non-risk based capital requirement in addition to risk-based capital requirements. Intended to guard against the underestimation of risk, the prudential regulators implemented the Leverage Ratio so that banks will be adequately capitalized during times of stress.[6]

Mr. Creamer will tell us today about how the manner in which the Leverage Ratio is currently calculated may be affecting the ability of proprietary trading firms to obtain clearing services and compete in the derivatives markets.

We will also hear from Lopa Parikh of Edison Electric Institute, Vincent Johnson of BP Energy Company, and Bill McCoy of Morgan Stanley. These panelists will present their views as to the potential impacts of certain proposed requirements for uncleared energy derivatives, including the prudential regulators' Standardized Approach to Counterparty Credit Risk proposal ("SA-CCR"), on the ability of end users to obtain hedging services for physical commodities.

Although SA-CCR and the Leverage Ratio are not rules imposed or implemented by the CFTC, it is nevertheless important for the CFTC to understand how the various regulatory frameworks affect the derivatives markets we are tasked with overseeing, and look for opportunities to collaborate with other financial agencies to maximize the overall effectiveness of these regulations.

We look forward to hearing from our Members and Associate Members on these issues.

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[1] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203 (2010) ("Dodd-Frank Act") § 751; 7 U.S.C. § 2(a)(15).
[2] Dodd-Frank Act, § 751; 7 U.S.C. § 2(a)(15)(A).
[3] Impact of U.S. Tight Oil on NYMEX WTI Futures, A Report by Staff of the Market Intelligence Branch, Division of Market Oversight, CFTC (Sept. 2018), available at https://www.cftc.gov/MarketReports/StaffReports/index.htm.
[4] Liquefied Natural Gas Developments and Market Impacts, A Report by Staff of the Market Intelligence Branch, Division of Market Oversight, CFTC (May 2018), available at https://www.cftc.gov/MarketReports/StaffReports/index.htm.
[5] *See* U.S. Department of the Treasury, Financial Regulatory Reform, A New Foundation: Rebuilding Financial Supervision and Regulation, (June 17, 2009); available at https://www.treasury.gov/press-center/press-releases/Pages/20096171052487309.aspx; G20, Leaders' Statement: The Pittsburgh Summit (Sept. 24-25, 2009); available at https://www.treasury.gov/resource-center/international/g7-g20/Documents/pittsburgh_summit_leaders_statement_250909.pdf.
[6] Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for U.S. Global Systemically Important Bank Holding Companies and Certain of Their Subsidiary Insured Depository Institutions; Total Loss-Absorbing Capacity Requirements for U.S. Global Systemically Important Bank Holding Companies, Joint Notice of Proposed Rulemaking, 83 FR 17317, 17319 (Apr. 19, 2018).