



AMERICAN PETROLEUM INSTITUTE

August 19, 2013

Commodity Exchange Act Section 2(a)(13)
Commission Regulation § 43.4(d)(iii)
and Appendix E to Part 43

Via Hand Delivery and Electronic Mail

David Van Wagner, Chief Counsel
Division of Market Oversight
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Identification of Non-U.S. Delivery or Pricing Points in Appendix E2 of the Block Trade Rule

Dear Mr. Van Wagner:

Pursuant to CFTC Rule 140.99, the Futures Industry Association (“FIA”), the International Swaps and Derivatives Association, Inc., (“ISDA”) and the American Petroleum Institute (“API”) (together, the “Associations”) request that the Division of Market Oversight (“DMO”) of the Commodity Futures Trading Commission (“Commission”) issue interpretive guidance regarding the scope of non-U.S. pricing or delivery points listed in Table E2 of appendix E to Part 43 of the Commission’s regulations.¹ In particular, the Associations request that DMO confirm that market participants can rely on the Geoscheme issued by the Statistics Division of the United Nations (“U.N. Geoscheme”) as a source to identify the delivery or pricing locations set forth in Table E2. In addition, as described further below, the Associations request that DMO confirm certain assumptions made by the Associations and its members in identifying non-US locations where the U.N. Geoscheme does not match Table E2.

Alternatively, the Associations request that DMO grant no-action relief providing that it will not recommend an enforcement action against a market participant that uses the non-U.S. geographic identifications as set forth by the Associations in this letter. Until DMO provides additional

¹ See 17 C.F.R. § 140.99; and *Procedures To Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades*, 78 Fed. Reg. 32866 (May 31, 2013) (“Block Trade Rule”).

guidance as to the scope of non-US locations, the Associations believe that Appendix I provides an appropriate reporting framework.

I. The Associations

FIA is the leading trade organization for the futures, options and OTC cleared derivatives markets. It is the only association representative of all organizations that have an interest in the listed derivatives markets. Its membership includes the world's largest derivatives clearing firms as well as leading derivatives exchanges from more than 20 countries. As the principal members of the derivatives clearinghouses, our member firms play a critical role in the reduction of systemic risk in the financial markets. They provide the majority of the funds that support these clearinghouses and commit a substantial amount of their own capital to guarantee customer transactions.

ISDA's mission is to foster safe and efficient derivatives markets to facilitate effective risk management for all users of derivative products. ISDA has more than 800 members from 58 countries on six continents. These members include a broad range of OTC derivatives market participants: global, international and regional banks, asset managers, energy and commodities firms, government and supranational entities, insurers and diversified financial institutions, corporations, law firms, exchanges, clearinghouses and other service providers.

API is a national trade association that represents all segments of America's technology-driven oil and natural gas industry. Its more than 500 members – including large integrated companies, exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms – provide most of the nation's energy.

II. Public Dissemination and Table E2

Under the CFTC's Block Trade Rule, swap data repositories ("SDRs") must publicly disseminate certain "other commodity" swap transaction and pricing data using the pricing and delivery descriptions listed in Table E1 for U.S. locations and Table E2 for non-U.S. locations. For non-U.S. locations described in Table E2, the Block Trade Rule does not provide guidance concerning the geographic scope of the various regions. For example, neither the rule text nor the preamble defines the scope of geographic regions such as "Central Africa" or "Northern Asia (excluding Russia)." In informal conversations, CFTC staff have suggested that the U.N. Geoscheme could be used as a source for identifying pricing or delivery locations that fall within the non-U.S. regions set forth in Table E2.²

A majority of the non-U.S. regions in the U.N. Geoscheme overlap with the non-U.S. delivery or pricing points identified in Table E2 of the Block Trade Rule. In certain instances, however, the non-U.S. regions in Table E2 do not overlap with the U.N. Geoscheme. For example, the Asian delivery or pricing points listed in Table E2 include Northern Asia (excluding Russia), Central Asia, Eastern Asia, Western Asia and Southeast Asia, while the U.N. Geoscheme sub-regions

² A copy of the U.N. Geoscheme can be found at: <http://unstats.un.org/unsd/methods/m49/m49regin.htm>

include Central Asia, Eastern Asia, Southern Asia, South-Eastern Asia and Western Asia. To account for these differences, the Associations compared the countries included in each Asian sub-region in the U.N. Geoscheme with the sub-regions identified in Table E2 and matched each Asian sub-region in the Geoscheme to a sub-region on Table E2 of the Block Trade Rule in Chart 1 below:

Chart 1	
U.N. Geoscheme	Table E2
Eastern Asia	Northern Asia (excluding Russia)
Central Asia	Central Asia
Southeastern Asia	Southeastern Asia
Western Asia	Western Asia
Southern Asia	Eastern Asia

In addition, the U.N. Geoscheme identifies the Oceania sub-regions of Australia and New Zealand, Melanesia, Micronesia and Polynesia. For purposes of the Block Trade Rule, the Associations believe that these sub-regions should fall under the “Australia/New Zealand/Pacific Islands” delivery or pricing point listed in Table E2. Finally, the Associations have identified many Caribbean islands and certain additional countries that should fall within the “Other Commodity Regions” field listed in Table E2.

III. The Associations’ Proposed Non-U.S. Geographic Identifications for Public Dissemination

In the absence of formal guidance from DMO, market participants must make reasonable assumptions based on their understanding of the delivery or pricing points listed in Table E2 of the Block Trade Rule in order to publicly disseminate reportable “other commodity” swap transactions. To help ensure consistency in the public dissemination of non-U.S. delivery and pricing points, the Associations have developed the identifications in the attached Appendix I. The Associations request that DMO issue interpretive guidance that confirms the Associations’ understanding of how the U.N. Geoscheme applies to Table E2 of the Block Trade Rule, or, alternatively, no-action relief to the Associations’ members who rely on the identifications in Appendix I.

In the event that DMO provides publically available formal guidance with respect to non-U.S. geographic identifications that is inconsistent with Appendix I, market participants should only be required to apply the guidance to swaps executed after a reasonable transition period following when the guidance is made available. The guidance should not be applied retroactively and should not require market participants to amend prior reports submitted to an SDR. As an example, if DMO publishes guidance on September 1, 2013, market participants would only be required to apply any new non-U.S. geographic identifications to swaps executed 60 days after September 1, 2013.

IV. Conclusion

For the foregoing reasons, the Associations respectfully request that DMO issue the requested interpretive guidance or, alternatively, grant the requested no-action relief regarding the non-U.S. pricing or delivery points listed in Table E2 of the Block Trade Rule.

I hereby certify that the material facts set forth in this letter are true and complete to the best of my knowledge, information, and belief.³

Sincerely,



Walt Lukken
President
Futures Industry Association



Robert Pickel
Chief Executive Officer
International Swaps and Derivatives Association, Inc.



Stephen Comstock
Director - Tax & Accounting Policy
American Petroleum Institute

cc: Honorable Gary Gensler, Chairman
Honorable Bart Chilton, Commissioner
Honorable Scott D. O'Malia, Commissioner
Honorable Mark P. Wetjen, Commissioner
Eric Juzenas, Senior Counsel to the Chairman
Jonathan Marcus, General Counsel

³ In addition, I hereby agree that, if any time prior to issuance of a no-action letter, any material statement made in this letter ceases to be true and complete, I will ensure that Commission Staff is informed promptly in writing of all materially changed facts and circumstances.

APPENDIX I
Non-U.S. Delivery and Pricing Points for Table E2

Commodity Region	Countries
North America (Other than U.S.)	
<i>Canada</i>	Canada
<i>Mexico</i>	Mexico
Central America	
<i>Central America</i>	Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.
South America	
<i>Brazil</i>	Brazil
<i>Other South America</i>	Argentina, Bolivia (Plurinational State of), Chile, Colombia, Ecuador, Falkland Islands (Malvinas), French Guiana, Guyana, Paraguay, Peru, Suriname, Uruguay, and Venezuela (Bolivarian Republic of).
Europe	
<i>Western Europe</i>	Austria, Belgium, France, Germany, Liechtenstein, Luxembourg, Monaco, Netherlands, and Switzerland.
<i>Northern Europe</i>	Aland Islands, Channel Islands, Denmark, Estonia, Faeroe Islands, Finland, Guernsey, Iceland, Ireland, Isle of Man, Jersey, Latvia, Lithuania, Norway, Sark, Svalbard and Jan Mayen Islands, Sweden, and United Kingdom of Great Britain and Northern Ireland.
<i>Southern Europe</i>	Albania, Andorra, Bosnia and Herzegovina, Croatia, Gibraltar, Greece, Holy See, Italy, Malta, Montenegro, Portugal, San Marino, Serbia, Slovenia, Spain, and The former Yugoslav Republic of Macedonia.
<i>Eastern Europe (excluding Russia)</i>	Belarus, Bulgaria, Czech Republic, Hungary, Poland, Republic of Moldova, Romania, Slovakia, and Ukraine.
Russia	
<i>Russia</i>	Russian Federation
Africa	
<i>Northern Africa</i>	Algeria, Egypt, Libya, Morocco, Sudan, Tunisia, and Western Sahara.
<i>Western Africa</i>	Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Saint Helena, Senegal, Sierra Leone, and Togo.
<i>Eastern Africa</i>	Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Mayotte, Mozambique, Reunion, Rwanda, Seychelles, Somalia, South Sudan, Uganda, United Republic of Tanzania, Zambia, and Zimbabwe.

Commodity Region	Countries
<i>Central Africa</i> ⁴	Angola, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon, and Sao Tome and Principe.
<i>Southern Africa</i>	Botswana, Lesotho, Namibia, South Africa, and Swaziland.
Asia-Pacific	
<i>Northern Asia (excluding Russia)</i>	China, Hong Kong, Macao, Democratic People's Republic of Korea, Japan, Mongolia, and Republic of Korea. ⁵
<i>Central Asia</i>	Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.
<i>Eastern Asia</i>	Afghanistan, Bangladesh, Bhutan, India, Iran (Islamic Republic of), Maldives, Nepal, Pakistan, and Sri Lanka. ⁶
<i>Western Asia</i>	Armenia, Azerbaijan, Bahrain, Cyprus, Georgia, Iraq, Israel, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, State of Palestine, Syrian Arab Republic, Turkey, United Arab Emirates, and Yemen.
<i>Southeast Asia</i>	Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, Timor-Leste, and Viet Nam.
<i>Australia/New Zealand/Pacific Islands</i>	Australia, New Zealand, and Norfolk Island. Fiji, New Caledonia, Papua New Guinea, Solomon Islands, and Vanuatu. ⁷ Guam, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, Northern Mariana Islands, and Palau. ⁸ American Samoa, Cook Islands, French Polynesia, Niue, Pitcairn, Samoa, Tokelau, Tonga, Tuvalu, and Wallis and Futuna Islands. ⁹
Other Commodity Regions	
<i>Country or Sub-Region</i>	Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, Bonaire, Saint Eustatius, Saba, British Virgin Islands, Cayman Islands, Cuba, Curacao, Dominica, Dominican Republic, Grenada, Guadeloupe, Haiti, Jamaica, Martinique, Montserrat, Puerto Rico, Saint-Barthelemy, Saint Kitts and Nevis, Saint Lucia, Saint Martin (French part), Saint Maarten (Dutch part), Saint Vincent and the Grenadines, Trinidad and Tobago, Turks and Caicos Islands, and United States Virgin Islands. ¹⁰ Bermuda, Greenland, and Saint Pierre and Miquelon. ¹¹

⁴ The U.N. Geoscheme uses the term "Middle Africa" for these countries; it does not designate a region as "Central Africa."

⁵ The U.N. Geoscheme classifies these countries as East Asia.

⁶ The U.N. Geoscheme classifies these countries as South Asia.

⁷ The U.N. Geoscheme classifies these countries as Melanesia.

⁸ The U.N. Geoscheme classifies these countries as Micronesia.

⁹ The U.N. Geoscheme classifies these countries as Polynesia.

¹⁰ The U.N. Geoscheme classifies these countries as Caribbean.

¹¹ The U.N. Geoscheme classifies these countries as Northern America.

David Van Wagner, Chief Counsel
August 19, 2013
Page 7