

A few
words.

Manager
Banking and Capital Markets Regulation Unit
Financial Systems and Services Division
The Treasury
Langton Crescent
PARKES ACT 2600

via email: financialmarkets@treasury.gov.au



7 July 2015

Dear Mr McAuliffe,

OTC Derivatives Central Clearing and Single-Sided Trade Reporting

AGL welcomes the opportunity to respond to draft amendments to the *Corporations Regulations 2001* relating to reporting requirements for over the counter (OTC) derivative transactions.

AGL is one of Australia's largest vertically integrated electricity and gas retailers, with 3.8 million customers and over 10,500 MW of generation capacity. AGL, like many non-financial entities in the energy sector, enters into OTC derivatives to hedge its commercial risks.

AGL has been supportive of Treasury's approach to the G20 OTC proposals in general. However, AGL wishes to highlight that due to the detail of the proposed regulation and supporting rules, many energy companies will be required to report on OTC derivative transactions in some capacity, and it is likely that the costs of reporting will outweigh the benefits.

AGL understands that it was the clear intention of the Commonwealth Government to provide reporting exemptions for non-financial corporate entities, such as AGL, through the end-user exemption. However, the requirement that an Australian Financial Services Licence (AFSL) holder cannot be considered an end-user is likely to capture a broader group of non-financial corporations in the reporting obligations than originally intended. AGL notes that Treasury is proposing to limit reporting requirements for AFSL holders to the types of derivatives for which they are explicitly authorised to trade. However, AGL highlights that this will not have the intended effect of limiting reporting requirements, as many AFSLs held by energy companies allow a broad range of derivatives to be traded. Instead, AGL suggests that consideration be given to exempting reporting for OTC derivatives where these are used for risk mitigation purposes even if they are covered, non-specifically, by an AFSL.



If extending the end-user exemption is not palatable, AGL suggests that a general group of OTC commodity derivatives, such as gas, oil, carbon and green schemes, could be made exempt from reporting requirements. This would achieve the same outcome of ensuring that low risk corporations do not endure an overly burdensome reporting obligation arising from the new measures.

AGL notes that electricity derivatives are exempt from reporting requirements due, in part, to the significant existing checks and balances in the electricity market that limit sectoral financial risk. These include, the Australian Energy Market Operator's prudential requirements, the retailer of last resort regimes and individual business risk management strategies. Similar degrees of risk management measures apply to energy companies' other commodity derivatives. Given it has been accepted that electricity OTC derivatives should be exempt from reporting requirements, it appears counterintuitive to apply these same requirements to transactions that represent a much smaller component of an entity's OTC derivative position. AGL considers that the benefits of reporting this information is limited, as commodity derivatives traded by energy companies are not systemically important to Australia's financial transactions and, for the most part, will be reported on by our financial counterparties.

In summary, AGL proposes the following options to ensure that the original government intention of only requiring OTC derivative reporting, where benefits outweigh costs, is carried out.

Option One: Where an entity holds an AFSL that does not specify the types of commodity that can be traded under the AFSL, an exemption should be provided for OTC derivatives which are used for risk mitigation purposes.

OR

Option Two: Exempt OTC derivative reporting by non-financial corporations for the following group of commodities: oil, gas, carbon and green schemes.

AGL trusts that this information and the proposed options are of assistance. AGL would be happy to provide further information or meet to discuss these proposals in more detail.

Should you have any questions in relation to this submission please contact Kirsten Hall, Wholesale Market Adviser, on (03) 8633 6688 or at khall@agl.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Camroux'.

Simon Camroux
Manager, Wholesale Regulation