

You state:

*32. Should the forward contract exclusion from the swap definition apply to environmental commodities such as emissions allowances, carbon offsets/credits, or renewable energy certificates?*

*If so, please describe these commodities, and explain how transactions can be physically settled where the commodity lacks a physical existence (or lacks a physical existence other than on paper)?*

*Would application of the forward contract exclusion to such environmental commodities permit transactions that should be subject to the swap regulatory regime to fall outside the Dodd-Frank Act?*

The Forward Contract Exclusion should definitely apply to environmental commodities such as emissions allowance, carbon offsets/credits, or renewable energy certificates. Environmental commodities are subject to changing conditions, mitigation and monitoring that may change the nature of a straight financial transaction and have legal obligations involved on a federal or state jurisdiction and a possible local jurisdiction for municipal owned utilities and/or municipal assets.

Environmental commodities may involve Public Private Partnerships and other limitations of transparency and risk and questionable control.

You state:

*35. How would the proposed interpretive guidance set forth in this section affect full requirements contracts, capacity contracts, reserve sharing agreements, tolling agreements, energy management agreements, and ancillary services?*

*Do these agreements, contracts, or transactions have optionality as to delivery?*

*If so, should they--or any other agreement, contract, or transaction in a nonfinancial commodity that has optionality as to delivery--be excluded from the swap definition?*

*If so, please provide a detailed analysis of such agreements, contracts, or transactions and how they can be distinguished from options that are to be regulated as swaps pursuant to the Dodd-Frank Act.*

*To what extent are any such agreements, contracts, or transactions in the electric industry regulated by the Federal Energy Regulatory Commission ("FERC"), State regulatory authorities, regional transmission organizations ("RTOs"), independent system operators ("ISOs") or market monitoring units associated with RTOs or ISOs?*

Many will not be guaranteed delivery but a hedge around the demand side of energy. The FERC jurisdiction may apply to State regulated utilities, but not municipal owned utilities. The FERC jurisdiction may apply to Joint Powers Authority JPA which may have municipal owned utilities as member.

Regional transmission organizations may be dependent on foreign energy sources as is the case of the California Transmission Planning Group CTPC and a dependence on Mexico utilities.

LADWP Los Angeles Department of Water and Power is a signatory of SCPPA Southern California Public Power Authority, yet funds a majority of energy projects and has no State regulatory jurisdiction and FERC jurisdiction because of the JPA. The jurisdictional control of the

LADWP is the Board of Water and Power Commissioners with exercise of (limited) jurisdictional authority by the Los Angeles City Council.

There are limitations of transparency and risk and questionable control.

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