

BP Canada Energy Group ULC
240 – 4th Ave. S.W.
Calgary, AB
T2P 2H8
Canada

April 10, 2012

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Manitoba Securities Commission
New Brunswick Securities Commission
Nova Scotia Securities Commission
Ontario Securities Commission
Saskatchewan Financial Services Commission

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario
M5H 3S8
Fax: (416) 593-2318
Email: jstevenson@osc.gov.on.ca

and

Me Anne-Marie Beaudoin
Secrétaire de l'Autorité
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, Tour de la Bourse
Montréal, Québec
H4Z 1G3
Fax: (514) 864-6381
E-mail: consultation-en-cours@lautorite.qc.ca

**Re: Canadian Securities Administrators (CSA) Consultation Paper 91-404 on
Derivatives: Segregation and Portability in OTC Derivatives Clearing**

Dear Members of the CSA Derivatives Committee:

BP Canada Energy Group ULC and its affiliates (BP Canada) buy and sell hydrocarbon production and requirements for the BP group of companies. As such, it is a major purchaser, marketer and trader of Canadian natural gas, power and crude oil and a

purchaser of Canadian crude oil for BP's refineries in the United States. BP Canada welcomes the opportunity to provide comments on Consultation Paper 91-404 setting forth the CSA Derivatives Committee's (Committee) recommendations regarding segregation and portability in OTC derivatives clearing.

As noted by the CSA in Consultation Paper 91-402, the Canadian OTC derivatives market comprises a relatively small share of the global market. Of that market, the majority of the OTC derivatives contracts entered into by Canadians are interest rate swaps and foreign currency forwards; commodity OTC derivative transactions are a minority of the transactions. It is from this perspective that BP Canada asks the CSA and the member regulators, as each looks at the needs of the Canadian OTC market in its respective jurisdiction, to continue to recognize that not all OTC derivatives pose systemic risk and that some, such as commodity derivatives, and in particular energy derivatives, have unique characteristics. For example, energy derivatives are unique in that they may allow for physical settlement or be used as physical hedges. It is important that the various elements of a comprehensive OTC regulatory framework be designed to accommodate the specific needs of these types of OTC derivatives market transactions.

1. Cleared Derivatives Transactions

Our understanding is that transactions that are not cleared through a CCP are not subject to the proposed segregation and portability requirements set out in Consultation Paper 91-404, with the exception potentially of the recommendation on page 33 which we address below.

As stated in BP Canada's comments to CSA Consultation Paper 91-403, not all derivatives pose systemic risk (for example – OTC energy derivatives). Only registrants that pose systemic risk should be prudentially regulated. In other words, there may be participants in the energy derivatives market for which prudential regulation is not required or appropriate.

For those participants that warrant prudential regulation, we encourage Canadian regulators to develop a regime that avoids chilling legitimate market behaviour. Imposing segregation and portability requirements only on derivatives transactions that are cleared through a central counterparty (CCP) would assist in achieving this goal. Many OTC energy derivatives are transacted on an uncleared basis, or are cleared on a platform such as NGX without the use of an FCM or clearing member. In the case of such OTC energy derivatives, imposing segregation and portability requirements could result in increasing costs to customers and ultimately result in increasing costs to consumers.

2. Uncleared Derivatives Transactions

BP agrees with the Committee that parties to an uncleared derivative transaction should be free to negotiate the level of segregation required for collateral. This is consistent with the current market practice. In our view, and in response to Question 12 in Consultation Paper 91-404, OTC derivatives dealers should not be required to offer arrangements for collateral to be held with a third-party custodian for uncleared transactions.

We strongly discourage the Committee from limiting the ability of parties to an uncleared derivative transaction to negotiate alternative or additional collateral arrangements. Collateral arrangements are typically part of the negotiation of the transaction as a whole. Parties should be free to contract as they wish for uncleared derivatives transactions.

If new regulations are introduced that impose new or additional collateral or segregation requirements in a manner not linked to the specific risks inherent in the affected uncleared derivatives transaction, then the result could be significant costs for not only the parties to the transaction, but also the Canadian economy and financial system.

In BP Canada's view, for all uncleared derivatives, the specific terms of a custody arrangement should be left to the parties to the transaction to negotiate. Those terms include both the required level of segregation and which party is the custodian, addressed above, as well as the type of collateral that can be held.

As part of a negotiated uncleared derivatives transaction, market participants should be allowed to deliver non-cash collateral to meet their collateral requirements. In our view, limiting the types of permitted collateral, for example limiting types of permitted collateral to cash and cash equivalents, would eliminate forms of collateral widely accepted in today's OTC derivatives markets. For example, liens on both physical and financial assets and letters of credit are non-cash forms of collateral used by parties today.

3. Segregation of Collateral and Provincial Personal Property Security and Securities Transfer Laws

We wholeheartedly agree with the Committee that the threshold issue related to granting of cash collateral held in deposit accounts must be addressed. A high level of certainty and predictability with respect to priority in cash collateral provided by Canadian market participants is required in order to enhance the financial stability in the derivatives markets in which they take part and their ability to compete in these markets on a more cost efficient basis. We agree that a "perfection by control" regime for cash collateral should be instituted through appropriate amendments to the PPSA laws of each Province. We also agree that applicable legal issues should be addressed to ensure that CCPs whose operation may be impacted by Canadian law can operate with legal certainty under Canadian insolvency legislation.

4. Conclusion

Like others in the industry, BP Canada is very troubled by the recent bankruptcy of, and other events related to, MF Global, Inc. ("MF Global"), which have resulted in a delay in the return of segregated customer assets, material concerns that customers have incurred associated losses, and allegations of misuse or misplacement of customer funds. BP Canada recognizes that the fact-finding related to MF Global has just begun. We urge the Committee to wait until the facts are clearer and there has been sufficient time to formulate lessons learned from the MF Global case before proceeding with regulations related to segregation and portability of collateral for cleared derivatives transactions. We are not suggesting that the Committee wait for definitive answers on every aspect of the MF Global failure before proceeding. Rather, we are suggesting that

given the unprecedented nature of the events surrounding MF Global and the renewed significance of the segregation rules, it is critical that the Committee evaluate segregation and portability of collateral in light of the new information and in light of the standards created globally in response to the learnings from the MF Global insolvency.

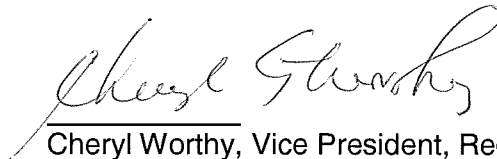
BP Canada supports tailored regulation that brings transparency and stability to the energy derivative markets in Canada. We appreciate the balance Canadian regulators must strike between effective regulation and not hindering the energy derivative markets. Therefore, BP Canada anticipates remaining active in response to the various regulatory reform initiatives that will form the basis of the future consultation papers to be released by the CSA in 2012.

Given that the matters raised in each of the consultation papers are related and together will form a comprehensive framework for the regulation of the Canadian OTC derivatives market, BP Canada suggests that the CSA have a further round of consultation regarding the comprehensive framework, to ensure that all the individual components work together to achieve the goals the CSA has set out. Such a review also would ensure that market participants have an opportunity to comment on all new information released as the CSA progresses the various consultation papers.

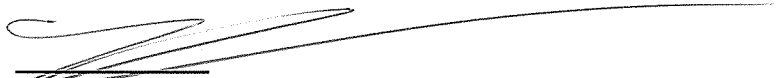
BP Canada thanks the CSA for the opportunity to comment and respectfully requests that the Committee consider its comments set forth herein regarding Consultation Paper 91-404.

If you have any questions, or if we may be of further assistance, please contact the undersigned.

Respectfully submitted,



Cheryl Worthy, Vice President, Regulatory Affairs
BP Canada Energy Group ULC



Krista Friesen, Regulatory Affairs Manager
BP Canada Energy Trading Company