

4/22/2010

Senate Agriculture Passes Prescriptive Derivatives Bill but Provides End User Exemption

Staff Contact: Susan Ginsberg

The Senate Agriculture Committee reported the commodity derivatives component of financial reform legislation on April 21, the "Wall Street Transparency and Accountability Act of 2010." The bill mandates clearing for most derivatives but contains an exemption from clearing for commercial end users, defined as any person other than a financial entity who, as its primary business activity, owns, uses, produces, processes, manufactures, distributes, merchandises, or markets goods, services, or commodities (which shall include but not be limited to coal, natural gas, electricity, ethanol, crude oil, gasoline, propane, distillates, and other hydrocarbons) either individually or in a fiduciary capacity.

There are uncertainties, but the bill keeps the end-user provision that IPAA members needed.

The Committee staff and members strongly supported exempting end users from the collateral and margin requirements of clearing, while noting that financial entities have no right to an exemption. It is unclear what will happen to counter parties, as the implications may not emerge until financial reform has been enacted and put it into practice. If end users' counterparties are compelled to clear derivatives through commodity exchanges and that makes them subject to higher margins, then it will affect end users by raising costs. Some options may no longer be available to end users. The Committee vote of 13-8 largely was along party lines, with Republican Sen. Charles Grassley voting with the Democrats.

The Agriculture Committee's component will be melded into the Senate Banking Committee financial reform bill and most likely will go to the Senate floor early next week. Democrats and Republicans have continued to work on some changes to the overall bill to achieve bipartisan support. It is not clear that any substantive changes to the end user exemption will be part of further compromise. Assuming the Senate passes financial reform, the House and Senate must reconcile their respective bills. Then the Commodity Futures Trading Commission and Securities Exchange Commission will begin an 18-24 month process to translate their new legislative authority into regulation. IPAA will continue to be active as the bill moves through Congress and through the regulatory process.

Climate Bill Now Expected Next Week

Staff Contact: Brendan Bradley

Having missed the original target to have an energy and climate bill proposal released this week, the three Senators behind the long awaited legislation are now hoping to have their proposal unveiled as early as next Monday. Sens. John Kerry (D-MA), Lindsey Graham (R-SC) and Joe Lieberman (I-CT) have worked for months to prepare a package that will appeal to the moderate members of both major parties. And as the legislation is prepared for its offering, there remain some significant questions.

IPAA has been advocating that natural gas be incorporated into any energy or climate legislation. Earlier this month, IPAA, along with the Natural Gas Supply Association and Interstate Natural Gas Association of America wrote to Kerry, Graham and Lieberman, imploring the Senators to include more natural gas in their legislation as "one of the pillars upon which the solution to America's energy and environmental challenges are built."

"Natural gas should be a linchpin to any climate strategy," said IPAA President and CEO Barry Russell in the group's letter. "Emerging shale gas plays and other domestic sources can produce more than enough natural gas to meet America's needs for 100 years or more."

Though the bill's authors reportedly have worked their language to include incentives for nuclear power and offshore oil and natural gas production, the primary focus may be to create a cap-and-trade system on the electric utility sector, ultimately to be applied to manufacturers and other industries and to then levy a "carbon tax" on the transportation sector, linked to the cost of carbon trading under the cap-and-trade provision.

This week, the major points of contention have come on the issues of how the offshore production royalties would be shared with the states and on the expected rise in the price of gasoline if the bill were to be passed. A survey released this week showed that seven out of 10 Americans oppose higher gasoline taxes in order to limit emissions.

Last week, the market analysis firm Point Carbon released an estimate that U.S. gasoline prices would rise an average of 27 cents per gallon from 2013 to 2020 if the Kerry, Graham, Lieberman bill would pass.

IPAA will keep its membership up to date on the progress of the legislation and its effect on the industry in the weeks ahead.

IPAA Wildcatter Fund Candidate Profile - Sen. Robert Bennett (R-UT)

Staff Contact: Cortney Hazen

Sen. Robert Bennett (R-UT) is the third-term Senator from Utah. Born and raised in Salt Lake City, UT, Bennett is a graduate of the University of Utah. Prior to his time in Congress, Bennett served as a Congressional liaison for the U.S. Department of Transportation. He also served as the C.E.O. of Franklin Quest. He has been a member of the U.S. Senate since 1993.

Bennett's committee assignments allow him to play an important role for the independent producer. As a member of the Energy and Natural Resources Committee, Bennett serves as a voice for the oil and gas producers that develop federal land in the West. Bennett also uses his seat on the Appropriations Committee to monitor funding for research and development programs.

Passive Loss Exception for Working Interests – Information Needed

Staff Contact: Ryan Ullman

The Obama Administration has proposed to repeal the passive loss exception for working interests in oil and natural gas properties. IPAA is opposing this repeal. In presenting arguments to Congress, members ask about the importance of the issue to operators in their states. IPAA would like to develop a list of companies that value the provision and their states of operation.

In this tax provision, Congress permitted taxpayers to deduct losses from oil and natural gas investments if the investments are made in the form of a working interest. That is, it is an interest that carries with it the obligation to share in the costs to develop the resources on the property. To qualify, the taxpayer must hold the working interest through an entity that does not limit liability with respect to the interest. Thus, a taxpayer who holds a working interest in this prescribed fashion and puts up capital to fund the drilling of oil and natural gas wells is entitled to deduct their share of tax losses resulting from the drilling expenditures. If the passive loss exception is repealed, working interest owners who are not the actual operator of a property- e.g., all other investors - would have to treat the property as a passive investment.

Please contact Ryan Ullman, rullman@ipaa.org, to provide information.



America's Oil & Gas Producers

Washington Report

Make Plans to Attend IPAA's Upcoming Meetings/Events

IPAA Offshore Committee Meeting

May 7, 2010
The Petroleum Club of Houston
Houston, TX

IPAA-TIPRO Luncheon

May 12, 2010
The Petroleum Club of Houston
Houston, TX

OGIS London

June 10, 2010
The Credit Suisse Building
London, England

IPAA Midyear Meeting

June 16-18, 2010
The Broadmoor
Colorado Spring, CO

Please visit www.ipaa.org/meetings for more information.

Rig Count

Staff Contact: Fred Lawrence

	<u>4/16/10</u>	<u>4/9/10</u>	<u>Year Ago</u>
Land	1421	1407	922
Inland Waters	14	15	6
Offshore	56	54	47
U.S. Total	1491	1476	975

Independent Petroleum Association of America

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America's Oil & Gas Producers

Washington Report

Gulf of Mexico	55	53	46
Oil	506	505	205
Gas	973	959	760
Miscellaneous	12	12	10

Source: Baker Hughes