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# Client Alert: New CFTC Proposed Rule Could Provide Relief from Special Entity

*June 2, 2014 | Lisa G. Dowden*

The Commodity Futures Trading Commission ("CFTC") has announced a proposed rule that would provide permanent relief for government-owned utilities from the $25 million "special entity" sub-threshold. The proposed rule offers an opportunity to lock in the fix for the low sub-threshold, which caused counterparties to avoid doing business with special entities, lest they be forced to register as swap dealers with all the regulatory obligations that status entails.

As part of the rulemaking docket, the CFTC also seeks comment on its current interpretation of "volumetric optionality," a concept that has bedeviled many smaller utilities seeking to determine whether particular commodity contracts were or were not subject to regulation as swaps.

The rulemaking offers an opportunity for entities concerned with the effects of CFTC regulation to support the relief from the special entity sub-threshold and potentially to seek favorable changes in the volumetric optionality test, at least as applied to special entities.

Please see the full Client Alert below for further discussion on this topic.

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