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**Margin requirements for non-centrally-cleared derivatives – consultative document issued by BCBS and IOSCO**

Dear Sir or Madam,

BVI[1] welcomes the opportunity to present its views on BCBS/IOSCOs consultation on margin requirements for non-centrally-clearfed derivatives.

BVI supports the proposal of the EU-Commission to regulate the derivative market infrastructures (e.g. central counterparty (CCP), trade repositories) and to require risk mitigation techniques for OTC derivatives not cleared by a CCP.

In order to achieve a solid level of investor protection in the OTC derivative

[1] BVI represents the interests of the German investment fund and asset management industry. Its 82 members currently handle assets of EUR 1.8 trillion in both investment funds and mandates. BVI enforces improvements for fund-investors and promotes equal treatment for all investors in the financial markets. BVI`s investor education programmes support students and citizens to improve their financial knowledge. BVI`s members directly and indirectly manage the capital of 50 million private clients in 21 million households. (BVI's ID number in the EU register of interest representatives is 96816064173-47). For more information, please visit www.bvi.de.

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market BCBS/IOSCO should take into consideration the following points when drafting standards of margin requirements:

- We would like to draw your attention to the fact that the collateralization of cleared and non-cleared OTC derivatives by highly regulated German investment funds is quite different from credit institutions since investment funds have to comply with investment fund law and the contractual restrictions of the relevant investment fund. Funds are subject to specific rules on collateral and on segregation of assets.

- BVI strongly supports an exemption for foreign exchange swaps and forwards independently from the maturity of such foreign exchange instruments. We share the BCBS/IOSCO position that such products do not present significant counterparty credit risks to market participants and should not be considered as a source of systemic risk.

- BVI disagrees with the proposal to collect and post initial margin (IM). European legislation (Article 11 para 3 EMIR) does not require the exchange of initial margin. The implementation of the proposed requirements for IM by the German investment fund industry are technically and legally very complex as the investment fund management companies have to set up new legal and operational procedures for IM which could take place on a transaction by transaction basis.

- BVI believes that the implementation of margining requirements on non-centrally-cleared derivatives by the investment fund industry should be carefully calibrated and not be rushed. We think that the German investment fund management companies will need two years after the enactment of the relevant legislation to prepare the legal and operational margining requirements on non-centrally-cleared derivatives.

We would like to make the following comments:

**Q1.** What is an appropriate phase-in period for the implementation of margining requirements on non-centrally-cleared derivatives? Can the implementation timeline be set independently from other related regulatory initiatives (eg central clearing mandates) or should they be coordinated? If coordination is desirable, how should this be achieved?

BVI believes that the implementation of margining requirements on non-centrally-cleared derivatives by the investment fund industry should be carefully calibrated and not be rushed. Our members tell us that the German investment fund management companies will need two years after the enactment of the relevant legislation to prepare the legal and operational margining requirements on non-centrally-cleared derivatives.

Our members are of the view that the implementation timeline for centrally and non-centrally cleared derivatives should be set independently and not be coordinated. The implementation process of both centrally and non-centrally-cleared derivatives by the investment fund management companies are quite different and very complex.

Currently, the investment fund management companies have set up projects and budgets in order to prepare for the implementation of the requirements laid down in the EMIR regulation for centrally and non-centrally cleared derivatives.

The implementation of the requirements for centrally cleared derivatives by the investment fund industry generally requires the selection of the relevant CCPs and clearing members. We expect that many investment fund management companies will use CCPs only on a basis of an indirect membership as it is currently the case for listed derivative products so that they don´t meet the participation requirements for a direct clearing membership to a CCP made in the EMIR regulation. For that they have to develop legal and operational procedures. They also have to ensure that the segregation arrangements offered by the CCPs and clearing members are compliant with European/national investment fund law.

The legal and operational framework of the relevant CCPs determines the base line for all market participants (e.g. indirect clearing members, investment fund management companies) in respect to the calculation of the margin requirements, the collateral accepted by a central counterparty and the valuation of the OTC products.

The implementation of the requirements for non-centrally-cleared derivatives by the investment fund management companies involves various market participants (e.g. custodians, external collateral manager, selection of solvent counterparties, valuation service provider, etc.). Therefore, the legal and operational framework of non-centrally-cleared derivatives concluded

between the buy-side firms and the relevant counterparties need to be negotiated on a bilateral basis. This is a different process from setting up a CCP relationship.

**Q2.** Should foreign exchange swaps and forwards with a maturity of less than a specified tenor such as one month or one year be exempted from margining requirements due to their risk profile, market infrastructure, or other factors? Are there any other arguments to support an exemption for foreign exchange swaps and forwards?

BVI strongly supports an exemption for foreign exchange swaps and forwards independently from the maturity of such foreign exchange instruments. We share the BCBS/IOSCO position that such products do not present significant counterparty credit risks to market participants and should not be considered as a source of systemic risk. The already existing market infrastructure (e.g. CLS) supports the settlement of these instruments which reduce the settlement risk associated with these products. We believe that BCBS/IOSCO should not put up regulatory barriers in order to prevent the hedging of foreign exchange obligations through the use of OTC derivatives.

We believe that the requirements to collect and post IM for foreign exchange swaps and forwards and the high costs involved in order to implement the process of IM by the investment fund management companies outweigh the benefit to mitigate the counterparty credit risk. In case of swaps and forwards with very short maturity it is impossible to post collateral as the collateralization process takes longer than the term of the contract.

Furthermore, the regulatory framework for the collateralization of foreign exchange swaps and forwards across jurisdictions should be consistent in order to avoid regulatory arbitrage. As the US Treasury considers to exempt foreign exchange swaps and forwards from the collateralization provisions of the US laws, BCBS/IOSCO should also recommend exempting these instruments.

**Q3.** Are there additional specific product exemptions, or criteria for determining such exemptions, that should be considered? How would such exemptions or criteria be consistent with the overall goal of limiting systemic risk and not providing incentives for regulatory arbitrage?

BCBS/IOSCO should consider an exemption of OTC products when a national authority declares a class of derivatives as clearing eligible but no CCP offers adequate segregation arrangements as required in Article 39 of EMIR. The segregation arrangements of the CCPs should be compliant with European/national investment fund law restriction.

**Q4.** Is the proposed key principle and proposed requirement for scope of applicability appropriate? Does it appropriately balance the policy goals of reducing systemic risk, promoting central clearing, and limiting liquidity impact? Are there any specific adjustments that would more appropriately balance these goals? Does the proposal pose or exacerbate systemic risks? Are there any logistical or operational considerations that would make the proposal problematic or unworkable?

BVI disagrees with the proposal to collect and post initial margin for non-centrally-cleared derivatives.

European legislation (Article 11 para 3 EMIR) does not require the exchange of IM. The daily exchange of collateral, the application of appropriate haircuts and a caped minimum transfer amount should be sufficient in order to mitigate existing counterparty credit risk.

We think that highly regulated German investment funds should not be required to post and collect IM as they are not systemically important as a party and do not pose a systemic risk. The requirements to post initial margins were neither requested by G-20 nor by European regulation (Article 11 para 3 EMIR). The provision in Article 11 para 3 EMIR requires only the accurate and appropriately segregated exchange of collateral.

In this context we would like to draw your attention to the fact that the collateralization of cleared and non-cleared OTC derivatives by investment funds is quite different from credit institutions since investment funds have to comply with investment fund law and contractual restrictions of the relevant investment fund. This situation needs to be taken into account when assessing the application of IM and variation margin (VM).

Investment funds are highly regulated products (e.g. by the European UCITS-, AIFM Directive as well as by national legislation). The counterparty

credit risk to a financial counterparty is limited due to the following investment fund provisions:

- According to Article 41 para 1 (a) of Directive 2010/43/EC, the incremental exposure and leverage generated by the managed UCITS through the use of financial derivative instruments including embedded derivatives pursuant to the fourth subparagraph of Article 51 para 3 of Directive 2009/65/EC shall not exceed the total of the UCITS net asset value. The regulatory provisions applied by UCITS could be compared with the prudentially regulated financial counterparties capital requirements to the effect that investment funds have to hold a much higher "capital ratio" as they are leveraged at the most only 100 percent.
- A UCITS should be capable to meet at any time all its payments and delivery obligations arising from transactions involving financial derivative instruments (cf. Box 28 of CESR's Guidelines on Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS, CESR/10-788). The provision is known in the EU-Member States as the liquidity "Cover Rule".
- The counterparty risk carried by the investors of a regulated investment fund is limited to a maximum of 10% of the relevant investment fund without any obligatory collateralization (Article 52 para 1 of Directive 2009/65/EC). Therefore the default of one counterparty could not trigger the default of the relevant investment fund, but will be reflected in a reduction of the final price ("equity loss").
- Investment funds that are constituted in accordance with contract law (Article 1 para. 3 of EU Directive 2009/65/EC) do not obtain a legal personality. In case of contractual funds the investment fund management company concludes on behalf of the investment fund OTC derivative transactions with a prudentially regulated financial counterparty. If the investment fund management company enters into an OTC derivative which cannot be fulfilled with the assets of the relevant investment fund, it is liable with its own assets. As any income from such transactions is automatically property of the relevant investment fund which is segregated from the manager assets. Therefore, investment fund management companies do not have an incentive to conclude OTC derivatives which cannot be fulfilled with the assets of the investment fund.

Due to the above mentioned restrictions of the counterparty credit risk by the investment fund and the new obligation to collateralize OTC derivative, there only exists a theoretical counterparty risk.

However, if initial margin for non-centrally-cleared derivatives is introduced, the German investment fund management companies require two years after the enactment of the relevant legislation for the implementation of the IM due to the following reasons:

- Currently, the investment fund industry does not exchange IM. Therefore, new technical processes need to be developed.

- According to principle 5 the IM shall be segregated from the regular collateralization process VM. This process can only take place via the pledge of collateral or by appointing a trustee. The coordination of the arrangements needs to be in line with the relevant insolvency laws of the counterparties which takes additional time to negotiate.

- A market standard documentation for IM needs to be developed which takes additional time. An audit process also has to be developed in order to ensure that it is in compliance with the different national insolvency laws.

- To the extent that IM is posted by the means of pledge, there is legal uncertainty regarding the applicable law of property when the pledged security is certified in a collective safe custody. The arrangements also need to be developed which takes additional time.

**Q5.** Are initial margin thresholds an appropriate tool for managing the liquidity impact of the proposed requirements? What level of initial margin threshold(s) would be effective in managing liquidity costs while, at the same time, not resulting in an unacceptable level of systemic risk or inconsistency with central clearing mandates? Is the use of thresholds inconsistent with the underlying goals of the margin requirements? Would the use of thresholds result in a significant amount of regulatory arbitrage or avoidance? If so, are there steps that can be taken to prevent or limit this possibility?

BVI disagrees with the proposal to introduce a flexible threshold for IM depending upon the characteristics of both the firm and its counterparty. The

introduction of appropriate threshold provisions for IM depending on both the firm and its counterparty is very difficult and complex and should be treated differently in a CCP environment where the methodologies are centrally provided and calculated.

Please see also our answer to question 4.

**Q6.** Is it appropriate for initial margin thresholds to differ across entities that are subject to the requirements? If so, what specific triggers would be used to determine if a smaller or zero threshold should apply to certain parties to a non-centrally-cleared derivative? Would the use of thresholds result in an unlevel playing field among market participants? Should the systemic risk posed by an entity be considered a primary factor? What other factors should also be considered? Can an entity's systemic risk level be meaningfully measured in a transparent fashion? Can systemic risk be measured or proxied by an entity's status in certain regulatory schemes, eg G-SIFIs, or by the level of an entity's non-centrally-cleared derivatives activities? Could data on an entity's derivative activities (eg notional amounts outstanding) be used to effectively determine an entity's systemic risk level?

Please see our answer to question 4. We think that UCITS and other regulated investment funds should not be considered as a systemically important party and do not pose any systemic risk. We believe that UCITS and other regulated investment funds should be excluded from the requirements to collect and post IM.

Outside investment funds it is a very complex matter to consider triggers across different entities. Furthermore, it is impossible to reflect every market situation in order to adapt certain thresholds for different market participants.

**Q7.** Is it appropriate to limit the use of initial margin thresholds to entities that are prudentially regulated, ie those that are subject to specific regulatory capital requirements and direct supervision? Are there other entities that should be considered together with prudentially-regulated entities? If so, what are they and on what basis should they be considered together with prudentially-regulated entities?

BVI agrees with BCBS/IOSCO assessment that the usage of the IM threshold should be restricted to prudentially regulated entities which are

subject to specific regulatory capital requirements, with direct supervision and which collapse may cause a widespread disruption to the financial system. All other entities and financial firms should not be able to profit from the threshold.

**Q8.** How should thresholds be evaluated and specified? Should thresholds be evaluated relative to the initial margin requirement of an approved internal or third party model or should they be evaluated with respect to simpler and more transparent measures, such as the proposed standardised initial margin amounts?10 Are there other methods for evaluating thresholds that should be considered? If so what are they and how would they work in practice?

BVI believes that the specification of the threshold should be calculated in a simple and transparent way. Otherwise we deem it likely that the entities involved in the non-centrally-cleared derivatives will be in a dispute about the IM amounts to be delivered which could increase the ongoing costs.

**Q9.** What are the potential practical effects of requiring universal two-way margin on the capital and liquidity position, or the financial health generally, of market participants, such as key market participants, prudentially-regulated entities and non-prudentially regulated entities? How would universal two-way margining alter current market practices and conventions with respect to collateralising credit exposures arising from OTC derivatives? Are there practical or operational issues with respect to universal two-way margining?

The application of a universal two-way margin approach for non-centrally-cleared derivatives will have an adverse effect of the liquidity position on investment funds.

The liquidity position in regulated investment funds is restricted due to the following points:

- Funds face redemption on a regular basis.
- Investment funds have to be invested in accordance with the relevant investment objectives of the fund which limit the holding of cash.
- European ESMA guidelines on ETFs and other UCITS published on 25 July 212 restrict the re-use of cash obtained from UCITS repo

transactions for the collateralization of non-centrally-cleared derivatives. The ESMA guidelines also include a prohibition for UCITS to post cash collateral received from a counterparty as own cash collateral contribution to a third party.

- UCITS have to adhere to a statutory limitation on credits at 10 per cent of the net asset value, which restricts the ability to generate cash in the short term.

The above mentioned liquidity restrictions in investment funds clearly show that UCITS and other regulated investment funds will face significant difficulties to access the liquidity volume necessary in order to obtain the cash for the collateralization of both centrally and non-centrally-cleared derivatives.

We are of the opinion that the application of a universal two-way margin approach for non-centrally-cleared derivatives could also have an adverse practical effect on investment funds. According to principle 5 of the proposed requirements the IM should be exchanged by both parties and segregated from the variation margin. The introduction of the universal two-way margin will mean that investment fund management companies have to set up plenty of new pledge accounts for IM in order to fulfill the segregation obligation. This will increase the costs of implementation for the investment fund and could simultaneously reduce the fund performance without any additional benefit in the reduction of counterparty credit risk.

**Q10.** What are the potential practical effects of requiring regulated entities (such as securities firms or banks) to post initial margin to unregulated counterparties in a non-centrally-cleared derivative transaction? Does this specific requirement reduce, create, or exacerbate systemic risks? Are there any logistical or operational considerations that would make the proposal problematic or unworkable?

German regulated investment funds are not allowed to enter into OTC derivatives with unregulated counterparties. Therefore we do not expect any practical effects on investment funds.

**Q11.** Are the proposed exemptions from the margin requirements for non-financial entities that are not systemically important, sovereigns, and/or central banks appropriate?

Please see our answer to question 4. However, we agree that low risk sovereign and central banks could be exempted from the IM.

**Q12.** Are there any specific exemptions that would not compromise the goal of reducing systemic risk and promoting central clearing that should be considered? If so, what would be the specific exemptions and why should they be considered?

Please see our answer to question 4.

**Q13.** Are the proposed methodologies for calculating initial margin appropriate and practicable? With respect to internal models in particular, are the proposed parameters and prerequisite conditions appropriate? If not, what approach to the calculation of baseline initial margin would be preferable and practicable, and why?

If BCBS/IOSCO considers the introduction of IM for non-centrally-cleared derivatives, we support the recommendation to permit the required amount of initial margin to be calculated by reference either to a quantitative portfolio margin model (subject to certain conditions) or a standardized margin schedule based on a percentage of notional exposure by asset class.

The option between a quantitative portfolio margin model or a standardized table or schedule would promote greater uniformity and transparency for market participants and could be administered operationally without too much difficulty.

We recommend that the model's methodology should be disclosed with sufficient details to permit the counterparty and the regulator to calculate the initial margin requirement independently. The counterparties should be required to document the rationale for the choice between a model or schedule for calculating initial margin and the reasons for any changes in the method selected.

The proposed initial margin model for non-centrally-cleared derivatives sets initial margin at a level to cover 99 percent of price changes by product and portfolio over at least a 10-day liquidation horizon. The proposed measure to

calculate a liquidation period that exceeds the actual timeframe for liquidation could add unnecessary cost to non-centrally-cleared derivatives.

We believe that initial margin should be set at a level that reflects a close-out, offset or other risk mitigation that occurs more or less simultaneously with the default. In light of the relatively high 99 percent confidence interval, we recommend that a 5-day liquidation period is appropriate for non-centrally-cleared derivatives.

More importantly, the 5-day liquidation period is market practice under the ISDA Master Agreements.

**Q14.** Should the model-based initial margin calculations restrict diversification benefits to be operative within broad asset classes and not across such classes as discussed above? If not, what mitigants can be used to effectively deal with the concerns that have been raised?

BVI thinks that the calculation of a model-based initial margin approach across different asset classes is very complex and poses difficult modeling issues.

**Q15.** With respect to the standardised schedule, are the parameters and methodologies appropriate? Are the initial margin levels prescribed in the proposed standardised schedule appropriately calibrated? Are they appropriately risk sensitive? Are there additional dimensions of risk that could be considered for inclusion in the schedule on a systematic basis?

BVI believes that the standardized approach is too general. For instance, credit charges with no reflection of credit quality are not very adequate.

**Q16.** Are the proposed methodologies for calculating variation margin appropriate? If not, what approach to the calculation of baseline variation margin would be preferable, and why?

BVI believes that the calibration of the minimum transfer amount (MTA) should be carefully calibrated in order to protect the counterparties from inadequate costs. We are of the view that the MTA should be set at EUR 500.000,00.

We support the assumption of BCBS/IOSCO regarding the dispute resolution procedures on the basis of standardized master agreements (cf. pages 19 and 20 of the Consultation Paper). Standardized master agreements like the German Master Agreement for Financial Derivatives Transactions include rigorous and robust dispute resolution provisions. The agreement includes a provision that undisputed amounts need to be collateralized immediately. Furthermore there is a tight timeframe for solving the dispute. Dispute resolution provisions are included in the mentioned agreements.

**Q17.** With what frequency should variation margin payments be required? Is it acceptable or desirable to allow for less frequent posting of variation margin, subject to a corresponding increase in the assumed close out horizon that is used for the purposes of calculating initial margin?

BVI is of the view that the calculation of the variation margin should apply on a daily basis if the counterparty exposure of the non-centrally-cleared derivatives reaches the MTA and requires therefore the transfer of variation margin.

**Q18.** Is the proposed framework for variation margin appropriately calibrated to prevent unintended procyclical effects in conditions of market stress? Are discrete calls for additional initial margin due to “cliff-edge” triggers sufficiently discouraged?

We think that stress related changes of haircuts are important to dampen procyclical effects on the variation margin.

**Q19.** What level of minimum transfer amount effectively mitigates operational risk and burden while not allowing for a significant build-up of uncollateralised exposure?

Please see our answer to question 16. We are of the view that the MTA should be set at EUR 500.00,00.

**Q20.** Is the scope of proposed eligible collateral appropriate? If not, what alternative approach to eligible collateral would be preferable, and why?

BVI agrees with the proposal made by BCBS/IOSCO for the scope of eligible collateral. We strongly support the proposal to accept as eligible collateral equities included in major stock indicies.

However, we would like to mention that "Short Term Money Market Funds" as defined in the Guidelines on a Common Definition of European Money Market Funds should also be used as eligible collateral.

German regulated investment funds are only allowed to acquire specific assets because of statutory and contractual limitations. They have very limited access to cash collateral. We think that the scope of eligible collateral should also include guarantees issued by a bank (in the meaning of Art. 46 para 1 EMIR). Otherwise, open-ended regulated real estate funds (qualified as AIF) could have difficulties to provide eligible collateral.

In addition to the proposed eligible scope of collateral, we think it should be allowed to use investment grade corporate bonds with subject to higher haircut.

**Q21.** Should concrete diversification requirements, such as concentration limits, be included as a condition of collateral eligibility? If so, what types of specific requirements would be effective? Are the standardised haircuts prescribed in the proposed standardised haircut schedule sufficiently conservative? Are they appropriately risk sensitive? Are they appropriate in light of their potential liquidity impact? Are there additional assets that should be considered in the schedule of standardised haircuts?

We think that German regulated investment funds have to apply to diversification requirements regarding collateral received (for details please see ESMA Guidelines on ETFs and other UCITS Issues, para 40 as well as § 22 para 5 of the German Derivateverordnung). Furthermore, they have to avoid a correlation between the collateral and the creditworthiness of the counterparty.

We believe that the proposed standardized haircut schedule is appropriate if it is allowed to adjust up to +/- 50%. The proposed adjustment will enable market participants to modify the haircuts according to the market situation.

**Q22.** Are the proposed requirements with respect to the treatment of provided margin appropriate? If not, what alternative approach would be preferable, and why? Should the margin requirements provide greater specificity with respect to how margin must be protected? Is the proposed key principle and proposed requirement adequate to protect and preserve the utility of margin as a loss mitigants in all cases?

German regulated investment funds are already subject to the proposed requirements as follows:

- According to para 40 j) of ESMAs Guidelines on ETFs and other UCITS Issues, cash collateral received should only be
  - placed on deposit with entities prescribed in Article 50(f) of the UCITS Directive;
  - invested in high-quality government bonds;
  - used for the purpose of reverse repo transactions provided the transactions are with credit institutions subject to prudential supervision and the UCITS are able to recall at any time the full amount of cash on an accrued basis;
  - invested in short-term money market funds as defined in the Guidelines on an Common Definition of European Money Market Funds.

**Q 23.** Is the requirement that initial margin be exchanged on a gross, rather than net basis, appropriate? Would the requirement result in large amounts of initial margin being held by a potentially small number of custodian banks and thus creating concentration risk?

We prefer the exchange of margin on a net basis in order to reduce cost and to limit the amount of collateral.

**Q 24**: Should collateral be allowed to be re-hypothecated or re-used by the collecting party? Are there circumstances and conditions, such as requiring the pledgee to segregate the re-hypothecated assets from its proprietary assets and treating the assets as customer assets, and/or ensuring that the insolvency regime provides the pledger with a first priority claim on the assets that are re-hypothecated in the event of a pledgee's bankruptcy, under which re-hypothecation could be permitted without in any way compromising the full integrity and purpose of the key principle? What would be the systemic risk consequences of allowing re-hypothecation or re-use?

We think that BCBS/IOSCO should allow a re-hypothecation of collateral received from repo or securities transactions in order to use it for the collateralization of OTC derivative transactions.

**Q 25**: Are the proposed requirements with respect to the treatment of non-centrally-cleared derivatives between affiliated entities appropriate? If not, what alternative approach would be preferable, and why? Would giving local supervisors discretion in determining the initial margin requirements for non-centrally-cleared derivatives between affiliated entities result in international inconsistencies that would lead to regulatory arbitrage and unlevel playing field?

We do not think that the proposed requirements with respect to the treatment of non-centrally-cleared derivatives between affiliated entities are appropriate.

If companies of the same group, which are fully consolidated and members of the same protection scheme, enter into OTC derivative transactions, any losses resulting for one of the two counterparties have no negative impact on the stability of the financial markets.

We believe that, in compliance with the provisions of EMIR, non-centrally-cleared derivatives between affiliated entities should not be subject to any collateralization requirement, as it is the case in Europe.

As far as it is intended to give discretion in determining the initial margin requirements for non-centrally-cleared derivatives between affiliated entities to the local supervisory authorities, we believe that this could result in regulatory arbitrage and an unlevel playing field.

**Q 26**: Should an exchange of variation margin between affiliates within the same national jurisdiction be required? What would be the risk, or other, implications of not requiring such an exchange? Are there any additional benefits or costs to not requiring an exchange of variation margin among affiliates within the same national jurisdiction?

No. We do not see any benefits from such an approach. If companies of the same group, which are fully consolidated and members of the same protection scheme, enter into OTC derivative transactions, any losses resulting for one of the two counterparties have no negative impact on the stability of the financial markets.

**Q 27**: Is the proposed approach with respect to the interaction of national regimes in cross-border transactions appropriate? If not, what alternative approach would be preferable, and why?

We do not agree with BSBC/IOSCO´s opinion that collateral requirements in the jurisdiction of a company shall apply to foreign subsidiaries. We believe that the relevant national laws and regulations shall apply. Otherwise a fragmentation of applicable rules would take place within the same country which might lead to a distortion of competition and of course would lead to uncertainty regarding the responsible supervisory authority.

We hope our suggestions are helpful. We are happy to answer any questions you may have in the context of this matter.

Yours sincerely

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