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Subject: Response to the Consultation Paper on margin requirements for non-centrally cleared derivatives
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Dear Working Group on Margin Requirements

As Cargill, a major, international provider of food and agricultural products and services, we would like to comment on one or two aspects of your consultation paper on margin requirements for non-centrally cleared derivatives.

Firstly, we reaffirm that we support the overall aim which is to reduce the systemic risk of non-centrally cleared OTC derivatives. We understand the broad scope is that the principles proposed should apply to financial firms and systemically important non-financial entities. In other words, non-financial entities which are not systemically important should not be covered by these principles and therefore should not be under common margin requirements for uncleared OTC derivatives. This we agree with.

In our line of business of hedging the risks involved in moving agricultural commodities around the world, where we do OTC business we are able to differentiate the issue of margin requirements with customers in accordance with the credit risk they pose. None of this business is systemic, but managing the issue on the basis of credit risks allows our costs and risks to be minimised. This is important to preserve working capital for investments while keeping control of the risks in trading.

In the document there are no definitions of “non-financial entity”, nor of “systemically important”. While this appears to be intended, it makes it hard to consider the impact of what is proposed. We would strongly support an exemption from these principles on margin requirements for firms engaged in hedging real market risks. This could be done by adopting language around the idea of exempting non-financial end users or by clearly defining “systemically important non-financial entities” as not including those who hedge real every-day risks of raw material prices moving against them and the associated interest rates, freight and foreign exchange rate risks. In other words we support the exemption of a category of users rather than of specific products. We believe clarification of this definitional point is necessary to ensure there is international consistency on margin requirements for non financial entities and to avoid regulatory arbitrage. We would prefer a clear definition rather than a threshold. It becomes tricky to manage a threshold since when you apply a threshold to real world industries, different levels are appropriate for different industries, though none of them pose systemic risk. If this was managed by threshold the level would need to be set appropriately high.

Secondly, on a related point, the lack of a definition of non-financial entity means that the principles are unclear when it comes to OTC transactions between affiliates. We would like it clarified that such transactions are exempt from daily variation margin requirements when the affiliates are non financial entities or where at least one party to the transaction is a non financial entity. This is because for companies operating in the real economy, liquidity remains a major issue and tying up working capital in

margining requirements for all those companies hedging real everyday risks of price movements would withdraw significant liquidty. The concern in one of the questions about whether excessive collection of margin would also lead to concentration of margin and therefore of risk rather than reducing risks is also a valid point.

Thirdly, on a similarly related point, we are unclear about the extent of the scope of the provisions where initial margin must be kept separate. We think this may pose difficulties for non-financial entities, again because of the need to segregate working capital, and therefore reduce liquidity severely. If non-financials / end users are exempt from the margin requirements generally then of course the problem does not arise.

With best wishes

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