From:	Ruth Rawling
To:	wgmr@iosco.org; Basel Committee, Service
Cc:	Samina Anwar; Marta Zuluaga; Bryan Dierlam; Jon Hixson
Subject:	Response to Second Consultation Paper on Margin Requirements for Non-Centrally Cleared Derivatives
Date:	16 March 2013 00:33:08

Dear Working Group on Margin Requirements,

As Cargill, a major international provider of food and agricultural products and services, we would like to respond formally to certain questions in your second consultation paper and otherwise make some observations. This follows on from our response to the first consultation paper dated 28 September 2012.

Q1: We support the view that physically settled FX forwards and swaps should be exempt from the margin requirements. In our view different treatments for different maturities should be left to the bilaterally counterparties.

Q2: In answer to the question of whether re-hypothecation be allowed for collateral collected as initial margin we would like to first re-emphasise the point that we remain unclear as to whether in any national jurisdictions we will fall under the definition of a systemically important non-financial entity. As this point has not been clarified the scope of these proposed rules remains unclear to us. Our view here therefore may be a hypothetical one. As we said in our response to the first consultation paper we are concerned about liquidity and our ability to source working capital. If we end up being covered by these rules we would want it to be possible to re-hypothecate collateral used as initial margin under certain defined circumstances. These would mean that the key principles would need to be met, the national jurisdiction would need to allow the possibility and the customer would need to provide explicit written consent that this is allowable. We would want this possibility because of the need to maintain liquidity and not starve the business of working capital.

Element 6: We continue to believe that there should be clear international guidelines that margining between affiliates in non-financial entities, whether systemically important or not, should not be covered by these rules. This would be excessively burdensome and would drain liquidity from normal business. We are not comfortable that this point is left to national jurisdictions.

Q3: As we mention above, we do not know whether we are a covered entity or not under these rules. Should it turn out that we are a covered entity then we would be concerned with the phase-in timetable for initial margin exchange. The timetable goes from a threshold of EUR 750 billion in 2018 to EUR 8 billion in 2019. We think this has been done without sufficient consideration of the implications for non-financial entities and the impact of initial margin exchange on them. We would propose that in 2019 the threshold should reduce to EUR 300 billion and that any further reduction beyond that point for non-financial entities should be subject to further investigation and impact assessment. We remain extremely concerned about the impact that this will have on liquidity and we do not think that it is necessary to include non-financial entities in this exchange of initial margin. Since the impact assessment did not look at non-financials it clearly did not look at the thresholds that impact non-financials. We

suggest that this needs more investigation, in particular as to whether there are any non-financials which are sufficiently systemic in this context to warrant being caught by these thresholds, given the liquidity downsides involved. We also think that the use of hedging in this context is relevant i.e. where hedging is involved the transaction should not be caught in the rules.

Finally we note in relation to Q4 on the accuracy of the impact assessment that non-financial firms were not surveyed. We repeat therefore that the impact assessment gives us no insight into the impact of these margining rules in the non-financial sector. This would be a further reason not to apply these rules to non-financials because of the lack of quantification on what might happen to the liquidity in the real business world.

With best wishes

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