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Basel Committee on Banking Supervision
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

ATTENTION: To Whom it May Concern

Dear Sir/Madam

Margin requirements for non-centrally cleared derivatives

FirstRand Bank is grateful for the opportunity to comment on the abovementioned document. FirstRand is supportive of the objective of the paper and the improved systemic soundness such changes are intended to bring.

This letter contains brief responses to the first three questions posed in the abovementioned document. As a general and introductory comment, FirstRand is strongly supportive of the scope of application of the proposals to cover financial entities and systemically important non-financial entities only. A wider scope of application would prejudice counterparts seeking to hedge real risk without necessarily achieving any positive contribution to the reduction of systemic risk.

Response to question 1:

We would advocate for the exemption of physically settled FX forwards and FX swaps from the scope of application of the document. The first reason for this view is that the credit mitigation and funding requirements across cleared and non-cleared derivatives should be consistent. To the extent that these instruments are exempt from clearing requirements, they should be exempt from the scope of application of this document. The second reason is that any resultant disturbance in the FX market could have unintended consequences to global trade flows. The third reason is that the main risk in physically settled FX forwards and swaps is settlement risk which initial margin is not intended to mitigate.

Response to question 2:

Rehypothecation of security collateral contributes to the increase of systemic risk due to the leveraging of the financial system. We would advocate against funding collateral via rehypothecation. Additionally, the infrastructure required to legally and physically separate client collateral is extremely onerous and it would be exceedingly difficult to implement appropriately. In essence, national regulators would be outsourcing client collateral protection to individual financial institutions. This could cause significant prejudice to clients.

Response to question 3:

It is our view that the first date and trigger level will affect both the counterparts of the largest banks as well as those banks that are intended to be affected first. As the first date is reached and the top tier OTC derivative liquidity providers are impacted, they will dictate similar risk mitigating terms that they are required to meet to their counterpart banks. In other words, the phase in period will be moot as the entire industry will respond to the demands of the top tier, first-affected banks. While this is not necessarily negative, it negates the need for a phase-in period.

The equating of risk mitigation and funding requirements across the cleared and non-cleared markets will contribute to the capital incentives having the principal impact and reducing leverage and systemic risk globally.

Sincerely,

Yvette Singh
Public Policy and Regulatory Affairs Executive
On behalf of FirstRand Bank