

## Response to European Commission's Consultation on OTC derivatives

9 July 2010

### Introduction

While we welcome the opportunity to comment, we would like to express our strong disapproval of the recent tendency for the Commission to publish consultations with very short deadlines. The end users are the least likely to have the capacity to be able to respond. We therefore call on the Commission to revert to its own commitment to best practice in all future consultations in order to ensure that genuine consultation with the widest possible range of European stakeholders is achieved.

### Key concerns

We set out below our key concerns. In addition, we would refer you to the more detailed comments from AFEP and from the European Association of Corporate Treasurers, to which several of our members have also contributed.

- Non-financial companies use the OTC derivative markets to manage risks. The current proposals for a clearing obligation or a requirement to post collateral do not take this sufficiently into account.
- EU non-financial companies should not be placed at a disadvantage to their competitors elsewhere. Thus a requirement for EU companies to tie up large amounts of cash which did not apply to similar companies elsewhere would be extremely unhelpful.
- Non-financial companies do not themselves constitute a systemic risk to the financial markets in the way that financial institutions may. Thus they should not be subject to the same regulatory requirements.

We would therefore suggest that non-financial companies should be exempt, provided that their transactions are used for hedging purposes, as we understand has been done in the US Dodd-Frank legislation.

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