



copa*cogeca
european farmers european agri-cooperatives



Ref. 39/2016

Mr. Tilman Lueder
Head of Unit – C3
European Commission
Rue de Spa 2
1000 Brussels
Belgium

Brussels, 23 June 2016

Re: Joint call for a functional capital test as an option for operators in the agri-food chain.

Dear Mr. Lueder,

We are writing to you as the representatives of EU agri-food chain, including the European farmers, collectors and traders of agricultural raw materials and products, primary processors of cereals and oilseeds, starch producers, compound feed producers, food processing and drinks and beverages producing industries.

We thank you once again for inviting our representatives to the meeting held at DG AGRI on 2 June 2016 to discuss a critical topic for our sector on how to establish the criteria when an activity is to be considered ancillary to the main business.

The European agri-food supply chain strongly supports having a capital test under RTS20 as an option, as recommended by ESMA, for companies to be able to demonstrate that they have undertaken significant capital investments in the creation of infrastructure, transportation and production facilities or who produce, supply or trade physical agricultural commodities which cannot or are not primarily hedged in financial markets.

Member companies of our organizations often have integrated collection, transportation and processing facilities across Europe: ensuring a continuous and stable inflow of affordable agricultural raw materials is the clear objective of all operations. Many members use commodity and derivative contracts to manage various financial risks relating directly to production, merchandising, consumption and treasury financing activities. Derivative positions are central to prudent risk management strategies for many

members. Such prudent risk management ensures that agricultural commodity market participants can produce and deliver feed, food and non-food products to European consumers at predictable and stable prices.

As stated during our meeting, taking into account the specificities and the diversity of activities of our sector while designing the level-2 of MiFID is of utmost importance for the functioning of agricultural markets for the benefit of farmers, European industries and consumers.

Numerator discussion:

As discussed at our meeting, the EU agri-food chain is strongly in favour of using a measure of margin or collateral (Option D) as the simpler and better risk measure for the calculation of the numerator. Alternatively we could consider option b) “a simplified approach derived from the CRR”.

The use of notional principal (Option A) or market-to-market (MtM – Option C) is neither appropriate nor acceptable for our sectors. The use of MtM is a measure of the balance sheet value of positions at any point in time and can fluctuate significantly depending how long positions have been held and on recent market movements.

Denominator discussion:

- We would favour **option b)** “total equity”
- We do not support option a) “property plant and equipment (PP&E)”

We believe that equity or indeed adjusted equity including long term debt is the most appropriate measure for the denominator. It allows to measure the amount of capital that would be required to support the activity in a regulated entity.

To reiterate once again, we strongly support the option of having a main business assessment based on the accounting capital, along with the trading activity option provided by ESMA for medium sized companies.

We take this opportunity to remind the Commission to take a cautious approach to initial calibrations and to take into account the specific operating conditions of different sectors and commodity markets.

We look forward to DG FISMA's support in designing the capital test with workable and appropriate parameters for the European agri-food chain, and we remain at your disposal for any further information or explanations.

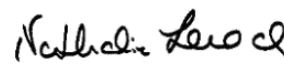
Yours Sincerely,



Teresa Babuscio
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COCERAL



Pekka Pesonen
Secretary General
COPA COGECA



Nathalie Lecocq
Director General
FEDIOL



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