

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of the Request of Cargill, Incorporated
for Limited Purpose Swap Dealer Designations
Under Section 1a(49)(B) of the Commodity Exchange Act

**ORDER OF LIMITED PURPOSE DESIGNATIONS FOR CARGILL, INCORPORATED
AND AN AFFILIATE**

Cargill, Incorporated (“Cargill”), a Delaware corporation, is an international agribusiness company that provides risk management expertise to other businesses through its Cargill Risk Management Business Unit (as defined below, the “CRM Business Unit”).¹ Cargill has submitted an application to the Commodity Futures Trading Commission (“Commission”) pursuant to section 1a(49)(B) of the Commodity Exchange Act (“CEA”), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), 7 U.S.C. § 1a(49)(B), requesting Limited Purpose Designations² as swap dealers (“SDs”) for the swap activities that Cargill and the Cargill Affiliate engage in through the CRM Business Unit. In addition, Cargill and the Cargill Affiliate have requested confirmation that, with respect to swap transactions entered into by Cargill or the Cargill Affiliate outside the Limited Purpose Designations, they may qualify as entities that are not within the definition of the term SD.

¹ The activities of the CRM Business Unit are largely contained within Cargill but also include personnel and/or infrastructure in affiliated entities. The CRM Business Unit enters in swaps through one affiliate, Cargill Financial Services International Inc. (“the Cargill Affiliate”) solely for purposes of meeting local law requirements. As an entity that enters into swaps in connection with the activities of the CRM Business Unit, the Cargill Affiliate will register as an SD. Other affiliates employ personnel who provide services to the CRM Business Unit and who will register as associated persons (“APs”) of Cargill (which will supervise them) in connection with those activities.

² The term, “limited purpose designation,” refers to circumstances in which the Commission designates a person as a SD for one type, class or category of swap or activities without the person being considered a SD for other types, classes, categories or activities. *Further Definition of “Swap Dealer,” “Security-Based Swap Dealer,” “Major Swap Participant,” “Major Security-based Swap Participant” and “Eligible Contract Participant,”* 77 Fed. Reg. 30,596, 30,643 (May 23, 2012). The term, “limited designation,” has been used interchangeably with the term, “limited purpose designation.” *See, e.g., id.* at 30,643-44. Cargill and the Cargill Affiliate are requesting individual Limited Purpose Designations in connection with the swap dealing activities of the CRM Business Unit. Given the interconnected nature of Cargill and the Cargill Affiliate, the requests of these two entities are being considered together by the Commission.

WHEREAS the CRM Business Unit, for purposes of this Order, shall be defined as (a) all direct employees of the CRM Business Unit as shown on its internal organizational directory as of the date hereof, together with such other direct employees of the CRM Business Unit as may be shown on its internal organizational directory from time to time who are engaged in the CRM Business Unit's business as of such future date (to the extent any such change in the CRM Business Unit's business would not be materially inconsistent with this Order as it is in effect on such date), (b) employees of Cargill or any affiliated entity who are (i) registered as APs of Cargill in respect of services provided to the CRM Business Unit, (ii) shown on the internal organizational directory of the CRM Business Unit as employees of the CRM Business Unit, and (iii) subject to supervision by the CRM Business Unit, (c) employees of Cargill within corporate functions that provide direct services to the swap dealer as part of the swap dealer's Risk Management Unit under the Risk Management Program required by Commission Rule 23.600, including legal and risk management professionals, (d) members of the management of Cargill and the Cargill Affiliate who are in the direct supervision reporting line between the CRM Business Unit's President and Cargill's Board of Directors, and (e) the Boards of Directors of Cargill and the Cargill Affiliate,

WHEREAS, the Commission understands that the Dodd-Frank Act amended the CEA in significant ways to establish a new regulatory regime for the swap markets, pursuant to which the comprehensive regulation of SDs is one of the central pillars of that regime,

WHEREAS, a person who meets one of the SD definitions will be deemed a SD with regard to all of its swaps ("full designation") unless the Commission exercises its authority to limit the person's designation as a SD for one or more type(s), class(es) or category(ies) of swaps or activities.

WHEREAS, the Commission is of the view that the default presumption of full designation reasonably reflects the difficulty of separating a SD's dealing activities from its non-dealing activities, and the challenges of applying SD regulatory requirements to only a portion of a SD's swaps activities, such that application for a Limited Purpose Designation necessitates an effort to determine whether the dealing and non-dealing activities have been sufficiently separated and whether in the context of such separation and the other prevailing facts and circumstances, the Commission will be able to effectively regulate the activities of the SD within the Limited Purpose Designation.

WHEREAS, the Commission believes that applications for Limited Purpose Designations must be held to a high standard of assurance that the existence of the Limited Purpose Designations would not create undue risks to the activities within the Limited Purpose Designations, render relevant risks opaque or outside the reach of the Commission, or unduly impede the Commission's ability to oversee, examine or otherwise provide regulatory oversight of the swap business within the Limited Purpose Designations, including without limitation, the personnel, infrastructure and other resources used in or to support such business;

WHEREAS, in connection with the Commission's analysis of Cargill's and the Cargill Affiliate's proposed separation of dealing activities and non-dealing activities, the Commission considered, among other things (i) the potential effect of the registrants' non-swap dealing business and other activities outside of the Limited Purpose Designations on the swap business and related activities inside the Limited Purpose Designations, (ii) the extent to which the activities in the Limited Purpose Designations would need to rely on the registrants' resources outside the Limited Purpose Designations for legal, financial, technological, management, personnel or other support, and (iii) the corporate governance structure proposed for each SD's

activities within the Limited Purpose Designations, including, but not limited to, the role of, and reporting line for, the chief compliance officers (“CCOs”) of Cargill and the Cargill Affiliate;

WHEREAS, in connection with the Commission’s analysis of its ability to effectively oversee, examine and otherwise regulate the activities inside the Limited Purpose Designations, the Commission considered, among other things: (1) whether all elements necessary to engage in such activity within the Limited Purpose Designations and to comply with the Commission’s rules and regulations, are included solely within the Limited Purpose Designations; (2) whether all activities and businesses ancillary or otherwise relevant to such swap activities are included solely in the Limited Purpose Designations; and (3) to the extent there are shortcomings (i.e., there is dependence for relevant support functions from outside of the Limited Purpose Designations) in (1) or (2), the potential effect that any such shortcoming (alone or in the aggregate) might have on the respective applicant’s ability to comply with the regulations or the Commission’s ability to oversee, examine and otherwise regulate the swap activities within the Limited Purpose Designations;

WHEREAS, Cargill represents that almost all of the infrastructure, with limited exceptions, including without limitation, personnel, equipment and other assets and rights necessary to the maintenance and operation of the swap business of the CRM Business Unit and necessary to enable Cargill and the Cargill Affiliate to comply with all of the requirements of the CEA and Commission regulations promulgated thereunder that are applicable to SDs, is and will be located within the Limited Purpose Designations;

WHEREAS, in regards to the support functions that will be located in other parts of Cargill or any of its affiliates but outside of the Limited Purpose Designations, Cargill has represented that: (i) it and such affiliates would provide such support on an ongoing basis, (ii) it

and such affiliates would give the Commission enforceable access rights to those areas, and (iii) the registered SDs will provide for the appropriate supervision, monitoring and reporting with respect to those functions that fall outside of the Limited Purpose Designations;

WHEREAS, Cargill has represented that it understands that staffs of the Commission and National Futures Association (“NFA”) shall have the right to audit Cargill and its affiliates at will to verify compliance with this Order;

AND WHEREAS, the Commission FINDS that, pursuant to sections 1a(49)(B) and 4s of the CEA, 7 U.S.C. §§ 1a(49)(B) and 6s, based on the representations made, and the materials provided, by Cargill, and after reviewing the complete record in this matter, including a review of (a) the adequacy of Cargill’s and the Cargill Affiliate’s proposed separation of swap dealing activities and non-dealing activities, (b) the ability of the registrants to comply with all SD requirements in connection with the activities of the CRM Business Unit, (c) whether the proposed Limited Purpose Designations is such as to allow the Commission to adequately oversee, examine and otherwise regulate the activities within the Limited Purpose Designations, and (d) such other matters as the Commission believes to be necessary or appropriate, the Commission finds that Cargill and the Cargill Affiliate have demonstrated that, for the reasons discussed below, Limited Purpose Designations on the terms and conditions set forth herein are appropriate.

IT IS HEREBY ORDERED that Cargill’s and the Cargill Affiliate’s application for Limited Purpose Designations with respect to the activities of the CRM Business Unit is approved, subject to the terms and conditions set forth below.

IT IS FURTHER ORDERED that Cargill and the Cargill Affiliate shall be responsible for compliance with all of the statutory and regulatory obligations that are imposed on them by the CEA and the Commission regulations promulgated thereunder;

IT IS FURTHER ORDERED that Cargill and the Cargill Affiliate each may qualify as an entity that is not within the definition of the term SD for swap transactions entered into by either of them outside the Limited Purpose Designations, subject to otherwise satisfying the conditions for such status outside the Limited Purpose Designations;

IT IS FURTHER ORDERED that Cargill and the Cargill Affiliate shall be within the definition of the term, "financial entity," to the extent of the swap activities of the CRM Business Unit, because an SD is a financial entity under Section 2(h)(7)(C)(i)(I) of the CEA (although the Commission is making no determination as to whether other Cargill business units or affiliates are major swap participants or financial entities);

IT IS FURTHER ORDERED that the Limited Purpose Designations shall be subject to the compliance of Cargill and the Cargill Affiliate with the following conditions:

- A. All swap dealing activities of Cargill and any of its affiliates will be limited to those of the CRM Business Unit except for swap dealing activities that are (i) engaged in by one or more foreign entities that are affiliates of Cargill, and (ii) have an aggregate annual notional amount of less than the threshold specified in Commission regulation 1.3(ggg)(4) (including all swaps counted towards such threshold consistent with Commission guidance);
- B. The Cargill Affiliate, which has joined the application for a Limited Purpose Designation to cover the portion of the CRM Business Unit that is contained in it, will register with the Commission as an SD no later than November 30, 2013;

- C. The Cargill Affiliate will not engage in any activities other than those of the kind or quantity currently engaged in, or have any employees, if doing so would have a material effect on the Limited Purpose Designations;
- D. Cargill and the Cargill Affiliate will implement written policies and procedures with respect to the activities of the CRM Business Unit (copies of which will be provided to the Commission) to ensure full compliance with the requirements imposed on SDs by the CEA and all Regulations promulgated thereunder, and those written policies and procedures will include measures to ensure full compliance with the requirements of this Order granting Cargill and the Cargill Affiliate Limited Purpose Designations with respect to the activities of the CRM Business Unit;
- E. The written policies and procedures referenced in paragraph D, above, shall include policies and procedures that will require Cargill and the Cargill Affiliate to monitor their employees and annually audit their operations to ensure compliance with the CEA, the Regulations promulgated thereunder, and this Order, including without limitation that none of its business units or affiliates is engaging in swap dealing in excess of that permitted herein;
- F. The Commission or NFA may examine Cargill and any of its affiliates or business units (including, but not limited to, the CRM Business Unit) at any time to ensure, *inter alia*, compliance with this Order;
- G. To the extent that any of the business, activities or operations within the Limited Purpose Designations relies on any support or input from Cargill or any affiliate of Cargill but outside of the Limited Purpose Designations, Cargill and the Cargill Affiliate must by November 30, 2013 (1) provide to the Commission (a) a written

notice adequately describing such support and input and any conditions thereto, (b) minutes of the governing body ratifying or adopting resolutions to provide such support or input, and (c) documents setting forth written and enforceable rights to access the area outside of the Limited Purpose Designations for the purpose of examining the applicant as the Commission determines is necessary or appropriate, (2) implement and maintain diligent supervision of the activities within the Limited Purpose Designations related to such support or input meeting the standards established within Regulation 23.602, and (3) document, maintain and enforce risk management policies and procedures designed to monitor and manage the receipt of, and the satisfaction of, any conditions required as a condition to receipt of, such support or input, and (4) treat any failure from without the Limited Purpose Designations to timely provide any such support or input as a breach of a risk tolerance limit and related policy and procedure pursuant to Regulation 23.600, and provide immediate notice of such breach to the relevant CCO;

- H. Cargill and the Cargill Affiliate will comply with all applicable recordkeeping and reporting rules, and provide the Commission with enforceable access to any books and records of Cargill and the Cargill Affiliate that, in the sole opinion of the Commission, are necessary to determine compliance with the CEA, Commission regulations applicable to SDs, and this Order;
- I. Cargill and the Cargill Affiliate will designate all corporate officers within a direct reporting line from the senior officers in the CRM Business Unit and the relevant support functions to the entire Boards of Directors of Cargill and the Cargill Affiliate, the directors of which shall be principals of the SDs;

- J. Cargill and the Cargill Affiliate represent that their respective CCOs³ will report directly to Cargill's and the Cargill Affiliate's boards of directors, while also reporting to the CRM Business Unit's president, who is the senior officer within the CRM Business Unit;
- K. Cargill represents that all swaps that fall within the Limited Purpose Designations will either be executed by Cargill or the Cargill Affiliate and unconditionally guaranteed by Cargill;
- L. This Order is based upon the representations made and supporting material provided to the Commission by Cargill and, in the event of any changes to or omissions in the material facts or circumstances pursuant to which this Order is issued, or for any reason in its own discretion, the Commission may condition, modify, suspend, terminate, or otherwise restrict the terms of this Order, as appropriate and as permitted by law, on its own motion;
- M. Cargill and the Cargill Affiliate shall promptly inform the Commission and NFA of any event, circumstances, or situation concerning any of their operations or activities that (i) may materially affect or detract from the ability of Cargill the Cargill Affiliate to continue to comply with any of the terms of this Order or (ii) would render any statement in the supporting material provided to the Commission by Cargill or the Cargill Affiliate incomplete, untrue or misleading, or (iii) would constitute a material change to the facts or circumstances pursuant to which this Order is issued;
- N. This notification shall be made by email to the Director of the Division of Swap Dealer and Intermediary Oversight; such notification shall be followed as soon as

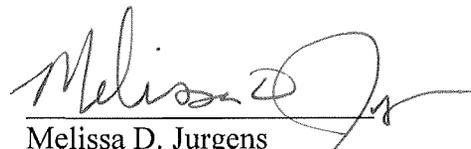
³ Although Cargill and the Cargill Affiliate must each have a CCO, it is acceptable if the same person occupies that role for each of the registrants in connection with the activities within the Limited Purpose Designations:

possible (but in any event within 48 hours of knowledge of such occurrence) by Cargill's assessment of whether the occurrence of such event, circumstances, or situation would impair (i) the separation of the activities within the Limited Purpose Designations from the rest of Cargill's and its affiliates' activities, (ii) Cargill's and the Cargill Affiliate's ability to maintain full compliance, in the context of this Order, with the requirements imposed on SDs by the CEA, Commission regulations promulgated thereunder, and this Order, or (iii) the Commission's ability to oversee, examine and otherwise regulate the activities of the CRM Business Unit; and after providing this notification, Cargill shall be available (and shall make any of its affiliates or personnel available) to discuss with the Commission whether any modification to this Order is required due to the event, circumstances, or situation.

IT IS FINALLY ORDERED that, as the Commission promulgates new regulations (or modifies existing regulations) that apply to SDs, Cargill and the Cargill Affiliate shall demonstrate compliance with those regulations in a timely fashion.

Issued in Washington, DC, this 29th day of October, 2013.

By the Commission


Melissa D. Jurgens
Secretary of the Commission