

An entity (a) shall not be considered a “Financial Entity” for purposes of Section 2(h)(7)(C) of the Act, and (b) shall not be considered a Major Swap Participant, if, in either case, at least 90% of the amount of such entity’s consolidated financing and leasing portfolio (including, without limitation, loans, notes, installment sales contracts, and operating and finance leases) at the end of the immediately preceding fiscal year is from Qualifying Financings.

The following definitions shall apply to the foregoing:

“Qualifying Financing” shall include (a) any financing or lease that includes a Product, or (b) any financing to or for the benefit of an Affiliate or a Distribution Entity or any customer or Affiliate of such Distribution Entity.

“Product” is (a) any good that is manufactured or sold by any Affiliate of the entity, (b) any service that is provided any Affiliate of the entity.

“Distribution Entity” is a Person that sells, leases, or services Products.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Control” means (a) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise, or (b) the ownership of more than fifty percent (50%) of the equity interests of a Person.

“Person” means an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or other entity, or a government or any political subdivision or agency thereof.