



## STATEMENT OF CURRENT PRACTICE FOR CERTAIN ENERGY PRODUCTS

**NEW YORK, Thursday, December 1, 2005** – The International Swaps and Derivatives Association (**ISDA**) today announced a statement of current practice articulated by certain members engaged in derivatives transactions involving Commodity Reference Prices that reference Brent blend crude oil and gas oil futures contracts on ICE Futures (**ICE Futures**, formerly known as the International Petroleum Exchange, or IPE).

On October 3, 2005, ICE Futures announced that it plans to open for trading on the following days not previously scheduled as trading days on ICE Futures (the **Additional Trading Days**): December 27, 2005, April 17, 2006, May 1, 2006, August 28, 2006 and December 26, 2006.

Members of the ISDA Energy, Commodities and Developing Products Committee and the ISDA Substantive Issues Working Group met by teleconference on November 22, 2005 to discuss how to treat the Additional Trading Days for purposes of transactions that are based on two or more Commodity Reference Prices. In addition to ISDA and its counsel, Allen & Overy LLP, the participants in that meeting included representatives from the following firms: ABN AMRO Bank N.V., Bank of America N.A., Barclays Bank PLC, BP Plc, CALYON, CIBC World Markets Inc., Citadel Investments Group, L.L.C., Dresdner Bank AG, Hess Energy Trading Company, LLC, Koch Supply & Trading LP, Goldman Sachs & Co., Lehman Brothers, Mitsubishi UFJ Securities Co., Ltd., Morgan Stanley & Co. Inc., Phibro, RWE Trading GmbH, Shell International Trading and Shipping Co. Limited, Societe Generale, Totsa Total Oil Trading S.A. and Wachovia Corporation. Cargill, Merrill Lynch Commodities (Europe) Limited and Glencore Commodities Ltd. provided feedback to the November 22, 2005 meeting, as well.

As there were divergent views as to whether or not it was appropriate or practical to devise an approach for treating Additional Trading Days as anything other than Commodity Business Days, following discussions, the participants in the November 22, 2005 meeting described above agreed that it would be most practical to preserve existing practice and that the following statement summarizes current practice with respect to the Additional Trading Days and any derivatives transaction that is based on two or more Commodity Reference Prices, at least one of which references Brent blend crude oil or gas oil futures contracts on ICE Futures (an **ICE Price**). This statement pertains to all such transactions, whether documented under ISDA Master Agreements or under other (non-ISDA) contractual arrangements, so long as the documentation of such a transaction is silent (including containing no controlling concept of common pricing) as to how the Additional Trading Days are to be treated (**Affected Transactions**).

### *Statement*

1. In any Affected Transaction entered into on or before November 22, 2005, the Additional Trading Days are treated both as Commodity Business Days and as Pricing Dates with respect to any ICE Price, and such days are treated with respect to any Commodity

Reference Price that is not an ICE Price as they would have been had ICE Futures not designated the Additional Trading Days; and

2. In any Affected Transaction entered into after November 22, 2005, common pricing (however defined by the parties to such Affected Transaction) will not apply unless expressly stated in the relevant transaction documentation.

For the purposes of this Statement, the **Additional Trading Days** are December 27, 2005, April 17, 2006, May 1, 2006, August 28, 2006 and December 26, 2006.

All capitalized terms used in this statement and not defined herein shall have the meanings set forth in the 2005 ISDA Commodity Definitions, the 1993 ISDA Commodity Derivatives Definitions (and the 2000 Supplement thereto), as may be appropriate

ISDA is the global trade association representing leading participants in the privately negotiated derivatives industry. ISDA was chartered in 1985, and today has more than 670 member institutions from 47 countries on six continents. These members include most of the world's major institutions that deal in privately negotiated derivatives, as well as many of the businesses, governmental entities and other end users that rely on over-the-counter derivatives to manage efficiently the financial market risks inherent in their core economic activities. Information about ISDA and its activities is available on the Association's web site: [www.isda.org](http://www.isda.org).

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