

ISDA[®]International Swaps and Derivatives
Association, Inc.**LIBA**LONDON INVESTMENT
BANKING ASSOCIATION

NEWS RELEASE

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ISDA, SIFMA, LIBA Respond to EC Consultation on Enhancing OTC Derivatives Infrastructure; Support Proposals to Enhance Risk Management

LONDON, Wednesday, September 2, 2009 —The International Swaps and Derivatives Association, along with the Securities Industry and Financial Markets Association and the London Investment Banking Association said today they welcome further improvements in market infrastructure and strongly support several initiatives outlined by the European Commission in its communication aimed at ensuring efficient, safe and robust derivatives markets. The Associations are especially pleased that the EC acknowledges “the clear value played by OTC derivatives markets,” which have remained open and resilient throughout the financial crisis.

“We have a simple message from all those that use these vital risk management products,” said Robert Pickel, Executive Director and Chief Executive Officer of ISDA. “The real economy faces diverse risks and depends on privately negotiated derivatives to address them effectively. As long as risk itself is not standardized, then tailored instruments will remain important.”

Mr Pickel added: “Close global cooperation is essential to ensure a harmonious approach among different regulatory regimes and to foster appropriate standards for infrastructure solutions. We also encourage the Commission to recognize that robust market infrastructure takes time to build and that hastily implemented solutions, whether voluntary or imposed, could be counter-productive.”

ISDA and the industry have taken a number of steps over the years to increase the robustness of OTC derivatives markets. Many new infrastructure initiatives have been completed in recent months and the Associations strongly support further efforts aimed at increasing process as well as documentation and legal uniformity in order to reduce systemic risk.

“We believe the regulatory focus should be on process uniformity, not product uniformity,” said Mr. Pickel. “Exchange trading is not required to achieve this and it certainly would not insulate our financial system from risk or reduce losses in a challenging environment.”

Further points made by the Associations in response to questions posed by the EC are set out below.

- The Associations are pleased that the Commission recognizes that different asset classes, ranging from credit derivatives to equities and interest rate swaps, are unique and require customized procedures and infrastructure. ISDA, SIFMA and LIBA also strongly encourage the EC to coordinate closely with regulators in the US and Asia.
- The Associations also point out Central Counterparty (CCP) clearers need to work closely with clearing members to carefully determine the eligibility of individual contracts for central clearing based on the key characteristics of the product class in question, the capability of the CCP and the ability of major market participants to support the default process. The process should ensure that no new products are added without appropriate risk-management testing.
- CCPs need to demonstrate an exceptional level of financial and operational robustness and great care must be taken to develop fundamentally sound platforms and services. Regulators should continue to insist on high quality standards and stability for any CCP so the market can be certain that it is a strong and capable counterparty. The Associations support the recommendations made by ESCB/CESR and call for adherence to them in order to establish a legal framework for CCPs.
- ISDA, SIFMA and LIBA are *not* in favor of additional new penalties for contracts that are not centrally cleared. Existing capital charges are already a significant incentive for market participants to use a central clearing house. Additionally, while there are benefits from having CCPs in privately negotiated derivative markets, the Associations believe there are also strong reasons for not clearing all trades.
- The Associations support the collateralization of interdealer OTC trades, with a focus on the quality of posted collateral and the speed with which it can be liquidated in a default scenario. The Associations also note that although considerable progress has been made over the last few years to harmonize the close-out netting and collateral regimes across Europe, significant areas of legal uncertainty remain. Further legislation to address these uncertainties would be beneficial, specifically harmonizing close-out netting and collateral arrangements across the EU.
- ISDA, SIFMA and LIBA believe central data repositories are in principle relevant for systemic participants in all asset classes, though it is also critical that their usage does not curtail the flow of new products to the market and fully respects the global basis on which these products trade. Access to data repositories should be granted to all relevant major financial regulatory bodies.

About ISDA

ISDA, which represents participants in the privately negotiated derivatives industry, is among the world's largest global financial trade associations as measured by number of member firms. ISDA was chartered in 1985, and today has over 830 member institutions from 58 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.

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About SIFMA

The Securities Industry and Financial Markets Association brings together the shared interests of more than 600 securities firms, banks and asset managers. SIFMA's mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public's trust and confidence in the markets and the industry. SIFMA works to represent its members' interests locally and globally. It has offices in New York, Washington D.C., and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

About LIBA

LIBA is the principal trade association in the United Kingdom for firms which are active in the investment banking and securities industry. LIBA represents the interests of its members on both domestic and international aspects of this business, and promotes their views to the authorities in the United Kingdom, the European Union, and elsewhere.