

# ISDA

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December 31, 2002

Mr. Lawrence W. Smith  
Director – EITF Chair  
Financial Accounting Standards Board  
401 Merritt 7  
PO Box 5116  
Norwalk, CT 06856-5116

Dear Mr. Smith:

Members of the International Swaps and Derivatives Association<sup>1</sup> (ISDA) would like to express our serious concern about a recent FASB staff action related to EITF Issue No. 02-3, “Issues Involved in Accounting for Derivative Contracts Held for Trading Purposes and Contracts Involved in Energy Trading and Risk Management Activities.” Without appropriate due process and sufficient consideration of the impact on constituents, the recent decisions by the FASB staff effectively modified a previously agreed-upon approach to resolving concerns associated with this issue.

The FASB staff broadened the scope of Issue No. 02-3 beyond energy trading to include all derivative transactions and the appropriateness of recognizing an unrealized gain or loss at the inception of a derivative transaction absent any discussion with the Task Force and solely through the October meeting minutes process. This scope extension was made even after there had been agreement at a previous meeting of the Task Force to transfer consideration of the broader (non-energy related) fair value issues to the FASB’s larger fair value project and not consider them as part of this EITF issue. Use of the EITF minutes process in this fashion effectively preempts deliberation of these issues through the normal FASB due process, which includes public exposure over an appropriate comment period, and directly contradicts the discussion and approach decided upon by the EITF members.

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<sup>1</sup> 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 600 member institutions from 46 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).

Establishing guidance through staff observation is not an effective way to develop clear fully vetted standards or inspire confidence in the standard-setting process. We continue to believe that it is critical for the FASB to engage industry participants as fair value guidance is developed and offer ISDA's assistance to these efforts. ISDA members have been instrumental in developing best practices with respect to fair value accounting and are well positioned to offer technical support to the FASB as it progresses with these initiatives. Our members have demonstrated their ability to apply fair value accounting to a wide range of financial products in a manner that has yielded meaningful financial information and have proven sound market discipline and controls in this area. Your sincere consideration of these views would be greatly appreciated.

Sincerely,



Robert G. Pickel  
Executive Director and CEO

cc: Robert H. Herz, FASB  
G. Michael Crooch, FASB  
John M. Foster, FASB  
Gary S. Schieneman, FASB  
Katherine Schipper, FASB  
Edward W. Trott, FASB  
John K. Wulff, FASB  
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