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23rd October 2008

Mr. Jeroen Hooijer
Head of Unit
European Commission
Brussels
By email to: alain.deckers@ec.europa.eu and to remo.croci@ec.europa.eu.

Re: The European Commission Draft Letter to IASB after the stakeholder meeting in Brussels on 21 October 2008

Dear Mr Hooijer,

The European and North American Accounting Policy Committees of the International Swaps and Derivatives Association ("ISDA") are pleased to jointly provide the following comments to the draft letter that the European Commission is going to address to the IASB with respect to the above mentioned stakeholders meeting.

ISDA has over 840 member institutions from 56 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. As such, we believe that ISDA brings a unique and broad perspective to the work of the standard setting process.

General issues related to IASB standard-setting activities and IFRS

- ISDA vigorously supports independent standard setting with robust due process. Independent standard setting and robust due process are key requirements for the production of high quality accounting standards.

- ISDA is concerned that current discussions on existing accounting standards may result in additional European "carve-outs." Jurisdictional carve-outs impair the IFRS brand, damage confidence in accounting standards, and jeopardise current efforts to converge various national accounting standards with IFRS.

We are pleased to provide the following specific comments in relation to the draft Letter that the European Commission is going to submit to the IASB:

Specific issues related to the European Commission letter to the IASB:

a) Due process: consistent with paragraphs above we believe this letter should more clearly state that the Commission supports the need to work within the IASB framework and the requirement for appropriate due process, for example:

> (i) To highlight the need to stay inside the IASB framework rather than creating EU-level amendments to IFRS as the former would be better perceived by users of financial statements and have a better chance of restoring market confidence.
>
> (ii) To highlight that the appropriate due process is essential whenever amendments to accounting literature are envisaged in order to avoid technical mistakes and appropriately assess impacts and potential side-effects. However, in some cases due process would have to be tailored to take account of the need for urgency.

b) Convergence: the annex to the letter contains conflicting messages on convergence with US GAAP. In one case, the letter advocates that the IASB change the First Value Option (FVO) to permit reclassifications or change the impairment guidance for Available For Sale (AFS) to be based solely on changes in expected cash flows. In the other case, the letter advocates converging to US GAAP for certain embedded derivatives. In both cases, these changes would diverge from US GAAP.

Those conflicting messages weaken the letter and therefore the letter should not be based on the notion that it is attempting to "level the playing field" because that will not be the outcome of all the requested changes. We also believe that basing the letter on that notion can be construed as misleading.

c) Eligible assets and reclassification basis: we understand that some have questioned which assets would be eligible to be reclassified under paragraphs 50B and 50D, respectively. Further, there appear to be questions relating to whether paragraph 50D applies only to financial instruments that could have been classified as loans and receivables at initial recognition or at the date of reclassification. Based on the current wording in paragraph 50D, we believe that paragraph 50D applies only to those financial instruments that could have been classified as loans and receivables at initial recognition. We do not support the other, more inclusive, view.

We believe it is appropriate to extend the reclassification eligibility to assets for which the fair value option was elected. If such assets can no longer be managed on a fair value basis, reclassification seems acceptable and reasonable. Consequently, we believe that the expansion to assets accounted for under the fair value option is consistent with the spirit of the amendments.

We do not support the reclassification of financial instruments at any basis other than fair value at the date of the reclassification. Some have advocated that financial instruments be transferred at their original cost; we disagree with that view.

d) Embedded Derivatives: we believe that all derivatives should be accounted for at fair value through profit or loss. In our opinion, embedded derivatives should be bifurcated and accounted for at fair value with the underlying host qualifying for reclassification.

However, we understands that some entities support an exception for certain embedded derivatives that under US GAAP are exempted from derivative accounting (refer to paragraph 14B of Statement No. 133, Accounting for Derivative Instruments and hedging Activities. As noted in the preceding paragraph, we believe that it is theoretically superior to account for all derivatives at fair value; however, we would not object to such an exception.

e) Reclassification of Equity Securities: Under the Equity securities section, the annex states the following: “We understand that, because of the above, some entities are considering classifying as Fair Value through Profit or Loss equity investments that are long-term, strategic and not managed on a fair value basis. This too is a concern.”

We believe that this sentence should be softened as it appears to suggest that reporting entities are considering willful circumvention of accounting standards.

f) Impairment: many members believe that the Amendments to IAS 39 and the current market conditions result in concerns about assessing impairment for securities classified as AFS. In the event an AFS security is deemed impaired because its cash flows are not expected to be recovered, IAS 39 requires that any difference between the asset’s carrying amount and its fair value be recognized in profit or loss. Many members believe those requirements can overstate the amount of loss as other factors impacting fair value also will be reflected in the amount of loss recognized in profit or loss. Therefore, they would support further consideration being given to recognizing only the amount of loss attributable to the change in expected cash flows to be recovered.

g) Impairment: under the bottom of page 3 which states 'that there are differences on how impairment is recognised depending on whether the asset is measured at fair value through profit or loss or at amortised cost'. We believe there may be a typo here, profit or loss should say equity.

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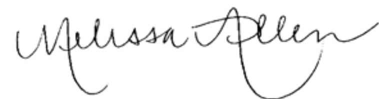
International Swaps and Derivatives Association, Inc.

We hope you find ISDA's comments informative and beneficial. Should you have any questions or desire any clarification concerning the matters addressed in this letter please do not hesitate to contact the undersigned.

Sincerely



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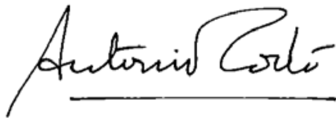

Antonio Corbi
International Swap and Derivatives Association
Risk and Reporting