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ISDA Responds to the Financial Stability Board Report on OTC Derivatives Markets Reforms Implementation

LONDON, Friday, May 13, 2011 – The International Swaps and Derivatives Association, Inc. (ISDA) has submitted its response to the Financial Stability Board's (FSB) progress report on OTC derivatives market reforms, published on April 15, 2011. The work of the FSB is vital to ensuring that regulatory reform is consistent across different regions, and ISDA believes that the progress report offers a valuable insight into the extent of international convergence.

While some differences with respect to reform are inevitable between jurisdictions given differences in market structures, ISDA believes that a far greater degree of convergence is essential to the long-term health of the global financial system. ISDA calls on the FSB to discourage particular jurisdictions from introducing rules in a way that leads to gaps in oversight or to regulatory overlap, whereby particular markets and participants are subject to duplicative rules. This creates significant costs, does nothing to reduce systemic risk and runs contrary to the idea of fostering convergence and broader principles of competition. Areas of priority for achieving international consistency should include the scope of the clearing obligation, margin and collateral requirements, public transparency, capital requirements and the standards applied to central counterparties (CCPs).

In terms of meeting the G20 commitments to reforming derivatives markets, ISDA believes that the target of completing the legislative process by the end of 2012 is, in principle, achievable. However, to ensure that the transition to the new regime does not create instability or give rise to new risks, ISDA believes that the implementation of new rules should not be rushed and it would be of benefit to industry and regulators to establish a roadmap setting out the timescale of full implementation of the new regime.

In its report, the FSB highlights the differences that are emerging between jurisdictions in central clearing, emphasizing differences concerning the 'top-down' approach to determining whether a class of contracts is eligible to be centrally cleared. ISDA does see a need for consistency in this area, and welcomes further work by IOSCO on the international standard addressing central clearing.

ISDA supports the principle that the benefits of central clearing should be accessible to a broad range of market participants which will help foster a level-playing field and maintain the supply of liquidity in the associated markets. However, the principle of access should never be put above the need to ensure that CCPs are financially and operationally sound given the significant amount of risk that will be concentrated into CCPs. ISDA also believes certain end-users should be exempted from mandatory clearing given the nature of their involvement in the market.

ISDA is supportive of a regulatory approach that encourages an orderly transition to a new clearing environment and welcomes the increasing awareness of the risks associated with the 'pace of implementation' evident in some jurisdictions.

ISDA welcomes IOSCO's contribution to the discussion on exchange-trading of derivative contracts and the conclusion that a flexible approach to defining what constitutes an organized platform would maximize the number of standardized derivatives products that can be appropriately traded on these venues. As for the additional analysis of the role of multi or single dealer platforms that IOSCO is currently undertaking, ISDA believes that single-dealer platforms can provide enriched content and functionality to the end-user and should be eligible as an execution venue for derivatives, particularly in co-existence with multi to multi platforms. Equally, ISDA does not believe that allowing single dealer platforms as permitted execution venues for derivatives in locations outside the US will create regulatory arbitrage.

Finally, considering the report's comments on reporting to trade repositories, ISDA believes that initial data requirements should be designed to enable regulators to monitor concentrations of risk in markets and among participants. ISDA also believes proliferation of trade repositories should be avoided. Regulators should also seek to reconcile contractual obligations concerning confidentiality of client information with the requirement to report to trade repositories and the nature of supervisory access to that data. If client confidentiality is undermined, it could have a serious adverse impact on the functioning of the market.

To view ISDA's response paper and cover letter in full, please refer to: http://www2.isda.org/G20objectives/

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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 800 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. Information about ISDA and its activities is available on the Association's web site: www.isda.org.