ISDA

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Dear Mr Demarigny,

RE: CESR-CFTC Communiqué Requesting Comment on a Common Work Programme to Facilitate Transatlantic Derivatives Business

This Association would like to express its support for this CESR/CFTC joint initiative which is aimed at providing clarity over the practical operational issues that affect the conduct of trans-Atlantic business of organized derivatives markets, intermediaries and market users from the European Union and the United States.

This Association is particularly supportive of the goal stated in the Communiqué to provide legal certainty as to the statutory and market requirements in force in the EU and US, including the permissibility of trading of specific products. Legal uncertainty is one of the major challenges to financial markets as a whole and, in the derivatives business, reduces substantially the ability to maximize the risk management benefits that these products can provide.

This Association believes that it would be appropriate to focus the scope of the work program on those trades which fall within the supervisory responsibilities of both the US CFTC and the EU competent authorities which are members of CESR. We would support an exercise along these lines being concentrated on exchange traded derivatives. We would suppose, accordingly, that OTC derivatives, which are excluded from the scope of the regulatory authority of the CFTC, be left outside the scope of the exercise.

One of ISDA’s principal goals is to promote legal certainty for derivatives transactions. Drawing from its experience in the field, this Association would welcome the opportunity to contribute as relevant to the above project. We very much appreciate the level of transparency in this work.

The same letter is being submitted at the same time to the Commodities Futures Trading Commission by ISDA CEO, Mr Robert Pickel.

Yours sincerely,

Jonathan Taylor
Chairman of the European Regulatory Committee
International Swaps and Derivatives Association