



International Petroleum Exchange

07 March 2005

Mr. Fabrice Demarigny
Secretary General
Committee of European Securities Regulators
11-13 avenue de Friedland
75008 Paris
FRANCE

Dear Mr. Demarigny

Response to CESR's Draft Technical Advice on Possible Implementing Measures of the Directive 2004/39/EC on Markets in Financial Instruments: Admission of Financial Instruments to Trading on Regulated Markets

About the International Petroleum Exchange of London Limited

The International Petroleum Exchange of London Limited ('IPE' or 'Exchange') is Europe's leading energy futures and options exchange. It was established in 1980 and provides highly regulated open outcry and electronic marketplaces where industry participants can manage their price risk exposure in the physical energy market. The Exchange offers six main energy contracts - namely Brent Crude futures and options, Gas Oil futures and options, Natural Gas futures, UK Power futures – and aims to launch European emissions allowance derivative contracts shortly. The IPE became a wholly-owned subsidiary of IntercontinentalExchange Inc. ('ICE Inc.') on 10 August 2001.

The IPE has 140 Members based mainly in the UK, continental Europe and the United States, which range from global investment banks and energy trading companies to proprietary floor traders and daily volumes represent a notional value of over €5 billion. Our main contract, Brent Crude futures, is used in the complex for determining the price of two-thirds of the world's crude oil. The IPE is regulated in the UK by the Financial Services Authority ('FSA') as a recognised investment exchange ('RIE') under the Financial Services and Markets Act 2000 and the Exchange also has secured regulatory permissions to place its electronic trading screens across the European Union, in the USA and South-east Asia.

General comments

The IPE has been actively involved in the on-going debate around the scope and content of the Directive on Markets in Financial Instruments ('MiFID' or 'Directive') and welcomes the opportunity to respond to CESR's Consultation Paper. We also welcomed the opportunity to meet with CESR's Working Group to discuss the issues relating to the requirements relating to the admission of commodity derivatives. Given the nature of the IPE's business we would, in

this instance, limit our comments to the requirements relating to the admission of commodity derivatives as set out in paragraph 16 of the Consultation Paper.

As a general statement, and subject to the comments below, the IPE welcomes CESR's proposals, which largely reflect the standards set out in the Tokyo Communiqué on supervision of commodity futures markets (October 1997) and the FESCO Standards for Regulated Markets (December 1999). We particularly welcome the amendments which CESR has made to the original proposal in paragraph 16(b) which now, in the case of derivatives on commodities and other intangibles (such as freight rates and emissions allowances), helpfully clarify that the ambit of a regulated market which admits to trading such an instrument is limited to the monitoring of trading in that derivatives product only and does not extend to a supervisory remit over the underlying cash market. We would therefore urge CESR to retain this clarification.

Specific comments on Paragraph 16(b) – Requirements for derivatives (Question 6)

In the light of the general comments made above, we would like to take this opportunity to make the following comments:

- (i) The second sentence of this paragraph should include a reference to the full range of products – i.e. other intangibles - as well as commodities to which these conditions apply in order to reflect properly the scope of the products referred to in the Annex to the Directive. Additionally, the second parenthesis needs to be moved. Therefore, this second sentence should be amended thus (additional words highlighted):

“However in cases where a regulated market admits derivatives, notably commodities **and other intangibles (as contained in** Sections C 5, 6, 7 and 10) of Annex 1 to MiFID) to trading

- (ii) It would also be helpful for CESR to clarify exactly what it means by the “appropriate supervisory arrangements” referred to later in this sentence. Presumably these arrangements will be the subject of discussions between the regulated market and its home State competent authority, but clarity would be helpful.

Should you have any questions on these comments, or wish to discuss these matters further, please do not hesitate to contact me on +44 (0)20 7265 3608 or marc.leppard@theipe.com, or my colleague, Mark Woodward on +44 (0)20 7265 5729 or mark.woodward@theipe.com.

Yours sincerely,

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cc. Ted Morris, FSA
John Whitmore, FSA
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