

# ISDA

International Swaps and Derivatives Association, Inc.  
1 Robinson Road  
#18-00 AIA Tower  
Singapore 048542  
Telephone: (65) 538-3879  
Facsimile: (65) 538-6942  
e-mail: isdaap@isda.org  
website: www.isda.org

7 May, 2001

## BY HAND

The Bills Committee for the Securities and Futures Bill  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

Attention: Clerk to the Bills Committee for the Securities and Futures Bill

Financial Services Bureau  
18th Floor, Tower 1  
Admiralty Centre  
Harcourt Road  
Hong Kong

Attention: The Secretary for the Financial Services Bureau

Securities and Futures Commission  
12th Floor, Edinburgh Tower  
The Landmark, 15 Queen's Road Central  
Hong Kong

Attention: The Secretary to the Securities and Futures Commission

Dear Sirs,

## DISCLOSURE OF PURELY CASH-SETTLED EQUITY DERIVATIVES

We refer to the Securities and Futures Bill (the "**Bill**") presented to the Legislative Council of the Hong Kong SAR. The International Swaps and Derivatives Association, Inc. ("**ISDA**") would like to submit this commentary letter to the Bills Committee (the "**Bills Committee**"), the Financial Services Bureau (the "**FSB**") and the Securities and Futures Commission (the "**SFC**") in relation to Part XV of the Bill.

ISDA is an international organisation whose membership comprises over 500 of the world's largest commercial, merchant and investment banks, corporations, governmental entities and other

institutions. ISDA's members represent a broad cross-section of the institutions that are dealers in and end-users of privately negotiated derivatives ("**over-the-counter**" or "**OTC**" derivatives) both in Hong Kong and world-wide. A recent list of ISDA's members is attached as Appendix B to this letter for your information.

## **Proposals Under Part XV of the Securities And Futures Bill**

ISDA is generally supportive of the new regulatory regime proposed in the Bill and its intent to further develop in Hong Kong a user friendly regulatory regime that will facilitate the development of a fair, orderly, transparent and internationally competitive market which is attractive to investors, issuers and intermediaries. However, ISDA has a number of concerns in relation to Part XV of the Bill, which seeks to extend the disclosure regime to cover purely cash-settled derivatives as an economic interest in shares that requires disclosure.<sup>1</sup>

Although ISDA supports generally the intention to increase the level of transparency in the market through the reform of the disclosure regime including the reduction of the disclosure threshold, ISDA is concerned that the proposed extension of the disclosure regime to cash settled derivative contracts as set out in Part XV will not fulfil these objective.

## **Submissions by ISDA and Other Market Participants**

We note that a number of industry participants have made a submission in relation to the proposed extension of the disclosure regime to cash settled derivatives.

With this letter, ISDA supports the remarks and observations made previously by these industry participants (see Appendix A to this letter) and would like to reiterate the following concerns, which may arise from the extension of the disclosure regime to cover purely cash-settled derivatives:

### ***Out of Line with International Disclosure Standards***

An objective of the Bill is to bring the Hong Kong securities disclosure regime in line with international and regional disclosure standards. ISDA understands that there are currently no disclosure requirements for purely cash-settled derivatives in major markets, including under the disclosure regimes in the United States, United Kingdom and Australia. There is a danger that the extension of the disclosure requirements on purely cash-settled derivatives would bring the Hong Kong disclosure regime out of line with international and regional disclosure standards.

### ***Burdensome Disclosure Requirements***

One of the objectives of the Bill is to remove unnecessary and unduly burdensome requirements. The extension of disclosure requirements to purely cash-settled derivatives will result in high compliance costs and will increase the administrative work that will need to be carried out, not only for the parties to derivative transactions, but also for the underlying listed company and the Stock Exchange of Hong Kong ("**HKSE**").

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<sup>1</sup> Purely cash-settled equity derivatives refer to contracts for differences, which are derivative transactions settled by the payment of cash only (based on the difference between a pre-agreed settlement price and the then prevailing market price of the shares) rather than by the physical delivery of the underlying shares. Purely cash-settled equity derivatives, therefore, do not give the contracting parties ownership of, or voting rights derived from, the underlying shares, but give them economic exposure to equity price movements, without physically buying or selling the underlying shares directly.

## *Excessive Information and Misinformation*

There is concern that the extension of disclosure requirements to purely cash-settled derivatives will give rise to disclosure of multiple interests in an underlying share, greatly increasing the volume of disclosure and obscure any meaningful analysis of the ownership of or interests in the shares of listed companies. The proposed aggregation rules in relation to long and short positions are also complex and may lead to no greater transparency for the regulators or the public. The sheer amount of information and its complexity may even impede the regulatory efforts of the SFC itself.

## *Potentially Stifle the Growth of Derivatives*

The extension of disclosure requirements to purely cash-settled derivatives may impede the further growth of the derivative market in Hong Kong. The continued development of the derivatives market in Hong Kong is of course an integral part of its development as a financial centre. The imposition of an onerous disclosure regime in relation to cash settled derivatives may not encourage this form of development.

## *Criminal Offence*

A person who fails to perform a duty of disclosure will commit a criminal offence that may be punishable by a fine and/or imprisonment. In view of the serious consequence following a breach of the duty of disclosure, there should be very strong justification before the disclosure regime is extended to cover purely cash-settled derivatives.

## **Conclusion**

Although ISDA generally supports the objectives of the Bill including those of Part XV, ISDA wishes to reiterate the issues that industry participants have previously identified in relation to the imposition of a disclosure regime on purely cash settled derivatives.

ISDA is grateful for the opportunity to submit this commentary letter and would be pleased to discuss the issues addressed above further or otherwise to assist in any way that the Bills Committee, the FSB and the SFC may deem appropriate.

Yours sincerely,

**Angela Papesch**  
**Head of Asia-Pacific Office**

## **Appendix A**

1. ISDA's letter to the Securities and Futures Commission dated 8th October, 1998 (which is enclosed)
2. Comments on Securities & Futures Bill - Linklaters On Behalf of A Group of Financial Institutions (January 2001)
3. The Hong Kong Association of Banks - Submission On The Securities And Futures Bill And The Banking (Amendment) Bill 2000 (2001)

8th October, 1998

**BY HAND**

Securities and Futures Commission  
12th Floor, Edinburgh Tower  
The Landmark, 15 Queen's Road Central  
Hong Kong

Attention: the Secretary to the Securities and Futures Commission

Dear Sir/Madam,

The International Swaps and Derivatives Association, Inc. ("**ISDA**") is pleased to submit this comment letter to the Securities and Futures Commission (the "**SFC**") in response to its Consultation Paper on Amendments to the Securities (Disclosure of Interests) Ordinance (the "**Ordinance**") published in June 1998 (the "**Consultation Paper**").

ISDA is an international organisation whose membership comprises over 360 of the world's largest commercial, merchant and investment banks, corporations, governmental entities and other institutions. ISDA's members represent a broad cross-section of the institutions that are dealers in and end-users of privately negotiated derivatives ("**over-the-counter**" or "**OTC**" derivatives) both in Hong Kong and world-wide. A recent list of ISDA's members is attached as an Annex to this letter.

As you are aware, the growth in the use of OTC derivatives has been instrumental in reducing risks arising from traditional commercial and financial activities. OTC derivatives have increased opportunities for risk-sharing whilst allowing for lowering of transaction costs. Their use in corporate finance and as trading, investment and risk management tools, has grown substantially over the last decade. A survey by the Bank for International Settlements in March 1995 indicated that the total notional value of derivatives outstanding was US\$14,475,702,000,000.

## **I. Introduction: Proposals for Derivatives**

The Consultation Paper proposes that the issue, acquisition, disposal and exercise of derivative instruments on listed shares by a substantial shareholder should be declared to the relevant company and The Stock Exchange of Hong Kong Limited (the "**Stock Exchange**"). It states that:

*"SFC enquiries suggest that OTC derivatives dealings by substantial or controlling shareholders have a significant influence on trading in many listed companies with smaller market capitalisation in Hong Kong and provide the explanation for changes in price and volume which are otherwise unexplained. In the interests of transparency and of deterring manipulative conduct the SFC believes that it is essential that the derivatives dealings of substantial shareholders be fully declared to the market in a timely fashion."*

ISDA is concerned about the effect of the proposals contained in the Consultation Paper on OTC trading in equity derivatives. ISDA believes any new disclosure requirements must help to achieve greater transparency in the underlying equity markets whilst ensuring that the amount and type of information to be disclosed does not impede liquidity in the OTC markets by imposing onerous

obligations on investors wishing to deal in OTC equity derivatives. ISDA has the following specific concerns:

- conformity with international standards;
- the complexity of calculations of economic interest in respect of cash-settled and structured OTC derivative transactions; and
- the proprietary nature of information to be disclosed.

## II. International Standards

ISDA notes that there are currently no disclosure requirements for purely cash-settled derivatives under the laws of the United Kingdom (the “UK”), the United States or Australia even though there has been significant growth in the trading of such products in these jurisdictions over the past few years.

The Securities and Investments Board (“SIB”) in the UK published a report in June 1995 which contained a proposal for requiring the disclosure of certain economic interests in the share capital of UK listed companies. The SIB stated in the report that it considered the disclosure of contracts for differences (that is, purely cash-settled derivatives such as an equity swap) to be of informational value to the market, as they represented economic, if not proprietary, interests in a company's performance. Accordingly, the Market Conduct Regulators Group of the SIB recommended that there should be disclosure of such economic interests if the aggregate of the economic and direct interests of a party exceeded a certain threshold in respect of the share capital of the listed company.

It is important to note that the recommendation by the Market Conduct Regulators Group of the SIB was put forward only in respect of institutions authorised under the Financial Services Act 1986 in relation to contracts for differences entered into by such bodies, rather than in respect of such contracts entered into by the general public.

It is also important to note that the SIB eventually decided not to impose any disclosure requirements on contracts for differences as a result of conceptual and practical objections to requirements of the type described in this letter.

## III. Physically and Cash-settled Transactions

An OTC derivative may be physically-settled or cash-settled. If a transaction is physically-settled this will involve a transfer of a specified amount of the underlying equity at maturity. If a transaction is cash-settled this will involve a payment of differences at maturity, whether calculated on a single date or over a specified period of time.

ISDA notes in relation to physically-settled transactions that, given the delivery requirement, it is usually clear what number of shares has to be delivered, and therefore, the extent of the economic interest in the underlying can easily be identified.

Although not expressly discussed in the Consultation Paper, it is understood that the SFC wishes to extend the current definition to include cash-settled derivative transactions. The current definition of

a notifiable interest in shares is contained in Section 13 of the Ordinance. This does not include any cash-settled derivative transactions, because Section 13(5) only extends to transactions involving a delivery of shares or which involve the transfer of an interest in the shares. ISDA notes that the Consultation Paper suggests (on page 10) an extension of the definition of ‘interest in shares’ to include an ‘economic interest in shares’.

The 10% disclosure rule currently contained in the Ordinance (like the comparable rules in the United States and the UK) was designed to enable a company to ascertain who exercises control, by means of votes attaching to shares, over its affairs. ISDA does not therefore think that it is necessary or desirable from a regulatory standpoint to extend the rule (or any lower disclosure requirement) to cover disclosure of pure economic interests which have no direct bearing on the concentration of voting rights and, as such the issue of control. Indeed the 10% disclosure requirement was never intended to apply to pure economic interests. A cash-settled OTC derivative does not give a counterparty any control over the underlying shares or the issuer of those shares.

Moreover, the simplest way to calculate the economic interest of a party to an OTC derivative transaction is to look at the hedging activity of its counterparty. ISDA notes that most (although not all) hedging activity will involve the acquisition and sale of an amount of the underlying equity or a related product (such as a listed future). ISDA notes that the current legislation requires the disclosure of any significant hedging activity by the counterparty in most circumstances.

The Consultation Paper states (on page 8) that:

*“the market would likely perceive the price of a company’s securities differently if a shareholder or director holding 60% of the company’s issued shares also holds a put option over the same shares exercisable by him at a particular price or price range.”*

However, it is likely that the counterparty will seek to take a short position on the shares so that if the put option is exercised, the counterparty can use the shares put to it to fill the short position. One way of doing this would be for the counterparty to enter into an agreement to borrow shares and then immediately sell them, returning the put shares to the lender. The premium paid by the substantial shareholder for the put option will largely be based on the anticipated cost to the financial institution of this hedging activity.

The physical selling of shares by the counterparty will be a factor affecting the market price of those shares. If (in contrast to the above transaction) the hedging activity involves an acquisition of shares, that acquisition would itself give rise to a disclosure requirement, to the extent the total number of shares held is in excess of the relevant thresholds. ISDA therefore disagrees with the inference that knowledge of a cash-settled transaction will never be available to the market under the current rules.

#### **IV. Index-linked and Basket Transactions**

Equity derivatives have traditionally existed in the form of equity options and convertible securities developed as a means for providing capital raising opportunities for corporations as part of customised financing strategies which focus on individual stocks. However, more recently, these have been dwarfed by the growth in the market of equity derivatives related to baskets of shares and equity indices which are directed primarily towards investors/portfolio managers rather than corporations. Equity index linked derivatives are derived from equity market indices and are generally utilised to simulate an exposure to the relevant market as a proxy for direct investment in

that market. By their nature, these transactions are likely to be cash-settled transactions and the points made above with regard to cash-settled transactions are equally relevant here.

The Consultation Paper discusses disclosure in respect of derivatives relating to single shares only. ISDA notes that, if a similar method is applied in respect of baskets of shares or index-linked transactions, the obligation to make the appropriate calculations for disclosure may prove even more onerous. This will particularly be the case if the performance of the derivative is partly calculated by reference to the best or worst performing of the shares in the basket.

Information in respect of index-linked and basket transactions, due to the non-specific nature of such products, should have no significant impact on the value of any one single stock component and such transactions cannot easily be used to manipulate the prices of individual component stocks. ISDA therefore believes that such transactions should be exempt from any disclosure obligations imposed on derivatives relating to single shares.

## **V. Structured Transactions**

To the extent that disclosure requirements are imposed with respect to cash-settled transactions, ISDA is also concerned that such disclosure requirements must be clear about how to calculate the economic interest in the underlying shares and must be consistent in the way different legal and economic structures are affected.

The majority of equity derivatives are relatively straight-forward. However, due to the fact that OTC derivatives are privately-negotiated transactions they allow financial institutions and end-users to package together or unbundle different risks to suit the needs of each counterparty. Some transactions can therefore be highly complex and it may be difficult to determine the value of the economic interest in the underlying.

For example, pay-outs under an OTC derivative may be subject to certain conditions. There may be a floor below which no payments would be made, or a cap above which no payments would be made. Such a barrier would 'knock-out' any obligation to make a payment which would otherwise have arisen if the movement in the underlying had not breached the barrier. In this case the underlying risks are a combination of any movement in the reference asset/risk (such as a share or index) and also the volatility of movement in the price or level of that underlying. The economic interest in the underlying equity will vary depending on the interaction of these two factors.

Although these may be the minority of transactions, any requirement in relation to cash-settled transactions must produce results that are consistent with the treatment of physically-settled transactions and the treatment of leveraged and more exotic products must also be consistent with the treatment of less structured products. In respect of the method of calculation of the economic interest in the underlying shares, it must be clear to market participants what criteria to apply to which transactions. ISDA notes that Specific Note 4 to the draft Form 2 (attached as Appendix 2 to the Consultation Paper) simply refers to the number of underlying shares to which a derivative relates. In summary, ISDA considers that it would be extremely complex and quite burdensome to require disclosure in respect of structured and exotic trades. Furthermore, given the complex nature of the disclosure that would have to be made in respect of such transactions, it seems very doubtful that disclosure would promote market transparency.

## **VI. Aggregation of Derivative Interests**

ISDA does not agree with any of the three options proposed by the SFC in relation to the aggregation of derivative interests (on page 45 of the Consultation Paper). ISDA supports Option 1 to the extent that no alternative is available. If the disclosure of economic interests is required, ISDA believes that a person with an economic interest in shares should be able to aggregate and net all such interests when calculating whether it is required to make any disclosure. ISDA notes that in relation to the position of a lender under a stock borrowing agreement the SFC appears to take the view that the appropriate interest for disclosure is the net interest.

If no netting is allowed, then different legal structures will be treated differently even though each structure may have the same or a similar economic effect. The disclosure of gross long and short positions held by an investor is both onerous and unnecessary, and does not represent any additional informational value which is not represented by a net position. It would be particularly onerous to impose an obligation on a large financial institution to disclose the gross positions taken by each trader: such information would prove cumbersome to manage and the provision of such information would necessitate systems changes at a time when financial institutions are already facing the substantial systems challenges presented by European monetary union and the millennium date change issues. The netting of long and short positions held by a financial institution is permitted for capital purposes and ISDA believes that a similar stance should be taken for disclosure purposes.

ISDA does not agree with the SFC's proposal that a net short position should be discloseable because it is not clear that disclosure of such a position is of informational value to the market.

## **VII. Disclosure of Changes in the Nature of a Derivative Interest**

The SFC has also proposed legislation to make clear that any change in the nature of a director's interest is required to be disclosed and also separately that this be extended to the interests of any substantial shareholder. Therefore, if a substantial shareholder purchases a physically-settled call option on shares, and then exercises that option to acquire those shares, this change in the nature of the substantial shareholder's interest would be discloseable. Because a change in the nature of a derivative interest, whether resulting from an exercise or expiry or otherwise, without a change in the percentage of share interest, does not represent a change in the economic interest, ISDA believes that the burden of such disclosure by any person (other than directors and chief executives) would greatly outweigh any possible benefit such disclosure may have on price adjustment in the market.

## **VIII. Information to be Disclosed**

ISDA notes that disclosure requirements require the parties to place proprietary and often confidential information in the public domain. ISDA believes that any such requirement must therefore take into account the balance between the need to protect markets and investors and the rights of individual market participants.

The SFC is proposing that substantial shareholders disclose the consideration paid or received by them when dealing in interests in shares and the terms of any off-exchange agreement. ISDA is particularly concerned that the requirements relating to the disclosure of consideration and agreements will have a significant impact on the competitive position of individual market participants, if these requirements extend to cash-settled derivatives. Only a limited number of

jurisdictions have a requirement that consideration and the terms of any agreement be disclosed, and none of those jurisdictions require such disclosure in respect of cash-settled derivative transactions.

ISDA also believes that in many instances it may be difficult for a substantial shareholder to disclose the amount of such consideration. A financial institution entering into an OTC derivative transaction with a professional market participant will not (and is not otherwise required to) disclose to a counterparty the profits and commissions that are made from entering into that transaction. Such a requirement would be inappropriate in what are effectively wholesale financial markets. By imposing a requirement to disclose consideration paid or received in relation to equity derivatives the SFC will fundamentally alter the commercial relationship between the counterparties.

ISDA also notes that by requiring a financial institution to put information relating to the terms of agreements into the public domain, the SFC is effectively requiring the disclosure of such information to competitors and also to future counterparties. It is clearly a concern that the potential commercial disadvantages of having to publicise information of this nature may discourage on and off-shore financial institutions from buying or selling exposure to Hong Kong shares.

Any disclosure requirement should take into account the way in which such information is used by the market. ISDA notes that, even if current proposals are adopted, information about the trading activities of substantial shareholders will not be disclosed to the market until two days later.

## **IX. Disclosure of Share Pledges**

ISDA supports the current position that banks are exempt from the disclosure requirements if shares are provided to them as security for a loan. ISDA proposes that a similar exemption be given to parties holding equity securities as security for an OTC derivative transaction or where title is transferred under another structure giving protection against the risk of a counterparty's default (such as ISDA's published form of English law Credit Support Annex).

## **X. Form 2**

ISDA is pleased to comment on the sample draft notification form. ISDA supports the use of plain language by the SFC and believes that the draft Form 2 is relatively easy to use. However ISDA suggests that Paragraph 2(iii) be amended to reflect the fact that an off-exchange transaction may take the form of a bilateral agreement rather than the "acquisition" of an asset or an interest in shares. ISDA suggests that the term "transaction" is used.

ISDA also suggests that Paragraph 4 be amended. Paragraph 4 contains a list of different types of off-exchange transactions. However this list is not comprehensive and focuses mainly on different types of option. For example, there is no mention of swaps. ISDA suggests that the elections in Paragraph 4 be amended to focus on whether a derivative product gives a synthetic long or a synthetic short position without distinguishing between different legal forms.

## **XI. Conclusion**

ISDA fully supports the objectives of the Consultation Paper, the prevention of market manipulation and insider dealing, and greater transparency for the equity markets. However ISDA wishes to highlight some of the issues which exist in respect of the imposition of a disclosure regime on OTC

equity derivatives and which have not been fully addressed in the Consultation Paper. These are particularly acute in relation to cash-settled derivatives where it is considered that the potential for market manipulation is reduced and the calculations involved are likely to be complex. ISDA believes that the SFC should limit the scope of any reforms, taking into account practices in other jurisdictions.

A broad-based disclosure requirement will be difficult to administer. This will impose significant costs. In addition regulators and companies may find themselves overwhelmed with “information” that will be difficult to understand or interpret meaningfully. In ISDA’s view disclosure requirements cannot be justified in the abstract, merely for reporting’s sake alone. Parties to privately-negotiated transactions should not be required to divulge confidential proprietary information unless there are clear public policy reasons for doing so. ISDA does not believe there are such reasons.

ISDA is grateful for the opportunity to comment on the proposed amendments to the Ordinance and would be pleased to discuss the issues addressed above further or otherwise to assist in any way that the SFC may deem appropriate.

Yours sincerely,

**Quentin Hills**  
Co-Chair of Hong Kong and  
South East Asia Regional Committee  
International Swaps and  
Derivatives Association, Inc.

**Appendix B**

**A Recent List Of ISDA's Members**

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## ISDA PRIMARY MEMBERS

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ABAXBANK S.p.A.	Banca Commerciale Italiana
Abbey National Financial Products	Banca del Gottardo
ABN AMRO Bank N.V.	Banca Del Salento - Credito Popolare Salentino S.p.A.
ABSA Bank Ltd.	Banca di Napoli
Accord Energy Limited	Banca di Roma S.p.A.
Ace Guaranty Re Inc.	Banca d'Intermediazione Mobiliare IMI S.p.A.
African Merchant Bank Limited	Banca Intesa SpA
AIG Financial Products Corp.	Banca Monte Dei Paschi Di Siena SpA
Allied Irish Banks, plc	Banca Nazionale del Lavoro
Alpha Credit Bank	Banco Bilbao Vizcaya, S.A.
American Express Company	Banco Comercial Portugues S.A.
Aozora Bank	Banco Espanol de Credito, S.A. (BANESTO)
Arab Banking Corporation (B.S.C.)	Banco Espirito Santo e Comercial de Lisboa, S.A.
Arab-Malaysian Merchant Bank Berhad	Banco Inversion, S.A.
Artesia Banking Corporation nv/sa	Banco Itau S/A
Asahi Bank, Ltd.	Banco Nacional de Mexico, S.A.
Australia and New Zealand Banking Group, Ltd.	Banco Portugues de Investimento S.A.
Baden-Wuerttembergische Bank AG	Banco Santander Central Hispano, S.A.
Banca Akros Spa	Bank Brussels Lambert

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## ISDA PRIMARY MEMBERS

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Bank Handlowy w Warszawie S.A.	Bayerische Hypo-und Vereinsbank AG
Bank Hapoalim B.M.	Bayerische Landesbank Girozentrale
Bank Julius Baer & Co. Ltd.	Bear, Stearns & Co. Inc.
Bank Labouchere N.V.	BFG Bank, AG
Bank of America N.A.	BG Bank A/S
Bank of China	BHF Bank (Berliner Handels-und Frankfurter)
Bank of Ireland Treasury	BSN Commerical Bank (Malaysia) Berhad
Bank of Montreal	Caboto Holding SIM S.p.A.
Bank of New York	Caixa Geral de Depositos, SA.
Bank of Nova Scotia	Caja de Ahorros Y Monte de Piedad de Madrid
Bank of Scotland Treasury Services plc	Cargill Financial Services Corporation
Bank of Tokyo-Mitsubishi, Ltd.	CDC IXIS Capital Markets
Bank One, NA	Ceskoslovenska Obchodni Banka, A.S.
Bank Rozwoju Exportu	Chase Manhattan Bank
Bankgesellschaft Berlin AG	CIBC World Markets
Banque CPR	Citigroup
Banque Degroof SA	Commerce International Merchant Bankers Berhad
Banque Nationale de Paris	Commercial Bank of Greece
Barclays	Commerzbank AG
BAWAG, Bank Fur Arbeit und Wirtschaft	Commonwealth Bank of Australia

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## ISDA PRIMARY MEMBERS

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Confederacion Espanola de Caja de Ahorros

Constellation Power Source

Coral Energy, L.P.

Corpcapital Bank Limited

Credit Agricole Indosuez

Credit Commercial de France

Credit Industriel et Commercial (CIC)

Credit Lyonnais

Credit Suisse First Boston International

Dai-Ichi Kangyo Bank, Ltd.

Daiwa Europe Bank Plc

Daiwa Securities SMBC Europe Limited

Danske Bank A/S

DBS Bank (The Development Bank of Singapore Ltd)

Den Norske Bank ASA (DnB)

Depfa-Bank Europe plc

Deutsche Bank AG

Dexia Bank Belgium S.A.

DG Bank Deutsche Genossenschaftsbank AG

Dresdner Bank AG

Duke Energy Services

Dynegy Inc.

EFG Eurobank S.A.

El Paso Energy Corporation

Elf Trading S.A.

Enron Corporation

Erste Bank der Osterreichischen Sparkassen AG

F. van Lanschot Bankiers N.V.

First Union National Bank

FirstRand Bank Limited

FleetBoston Financial Corporation

Fortis Bank NV/SA

Fuji Bank Ltd.

Fuji Capital Markets Corp.

General Re Financial Products Corp.

Generali SGR S.p.A.

Goldman Sachs & Co.

Gulf International Bank (UK) Limited

Halifax Group Treasury and Wholesale Banking

Hamburgische Landesbank Girozentrale

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## ISDA PRIMARY MEMBERS

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HSBC Midland	Macquarie Bank Ltd
HSBC Trinkaus & Burkhardt KGaA	Malayan Banking BHD
IKB Deutsche Industriebank AG	Maple Bank GmbH
Industrial Bank of Japan, Limited	Mellon Bank, N.A.
ING Bank N.V.	Merrill Lynch & Co., Inc.
Investec Bank Limited	Mitsubishi Trust and Banking Corp.
Irish Life & Permanent plc	Mitsui Trust & Banking Co. Ltd.
J.P. Morgan	Mizuho International plc.
Jyske Bank A/S	Morgan Stanley & Co. Inc.
KBC Bank	Moscow Narodny Bank Limited
Keppel TatLee Bank Ltd.	Natexis Banques Populaires
Keybank National Association	National Australia Bank Limited
Landesbank Baden-Wuerttemberg	National Bank of Canada
Landesbank Hessen - Thueringen Girozentrale	National Bank of Greece
Landesbank Rheinland-Pfalz Girozentrale	Nedcor Bank Limited
Landesbank Sachsen Girozentrale	NIB CAPITAL Bank N.V.
Landesbank Schleswig-Holstein Girozentrale	Nikko Salomon Smith Barney Limited
Lazard Bank Limited	Nikko Securities Co., Ltd.
Lehman Brothers	Nomura Global Financial Products Inc.
Lloyds TSB Bank plc	Norddeutsche Landesbank Girozentrale

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## ISDA PRIMARY MEMBERS

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Nordea AB

Norinchukin Bank

Nykredit Bank A/S

Osterreichische Postsparkasse Aktiengesellschaft

Osterreichische Volksbanken-Aktiengesellschaft

Oversea-Chinese Banking Corporation Limited

Overseas Union Bank Limited

PNC Bank, N.A.

Prudential Global Funding Inc.

PSEG Energy Resources & Trade LLC

Rabobank Nederland

Raiffeisen Zentralbank Austria AG

Refco Capital Markets, Ltd.

Reliant Energy Services, Inc.

Royal Bank of Canada

Royal Bank of Scotland plc

RWE Trading GmbH

Sakura Global Capital

Sal. Oppenheim jr. & Cie KGaA

Sampo Bank plc.

SANPAOLO-IMI SPA

Sanwa Bank Limited

Sanwa International PLC

Shinko Securities Co., Ltd.

Shinsei Bank, Limited

Shoko Chukin Bank

Skandinaviska Enskilda Banken

Societe Generale

St. George Bank Ltd

Standard Chartered Bank

Standard Corporate and Merchant Bank

State Street Bank & Trust Company

Sudwestdeutsche Genossenschafts-Zentralbank AG

Sumitomo Bank Capital Markets, Inc.

Sumitomo Trust and Banking Co., Ltd.

Suntrust Capital Markets, Inc.

Svenska Handelsbanken (Handelsbanken Markets)

SwedBank

Swiss Re Financial Products

Sydbank A/S

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## ISDA PRIMARY MEMBERS

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The Daiwa Bank, Ltd.

The Sumitomo Mitsui Banking Corporation

Tokai Bank Ltd.

Tokyo-Mitsubishi International Plc

Toronto Dominion Bank

Toyo Trust and Banking Company, Limited

UBS AG

Ulster Bank Limited

UniCredit Banca Mobillare S.p.A.

United Overseas Bank Limited

Westdeutsche Genossenschafts-Zentralbank eG

Westdeutsche Landesbank Girozentrale

Westpac Banking Corporation

Yasuda Trust & Banking Co., Ltd.

Zurcher Kantonalbank

Zurich Capital Markets

**TOTAL PRIMARY MEMBERS: 214**

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## ISDA ASSOCIATE MEMBERS

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Advokatfirman Vinge KB

Algorithmics, Inc.

Allen & Gledhill

Allen & Overy

Allen Allen & Hemsley

American Management Systems Inc. (AMS)

Anderson Mori

Arcordia LLC

Arthur Andersen & Co.

Arthur Cox Solicitors

Ashurst Morris Crisp

Australian Financial Markets Association

Baker & McKenzie

Bell Gully

Binder, Grosswang & Partner

Bingham Dana LLP

Bloomberg Financial Markets

Brown & Wood

Cadwalader, Wickersham & Taft

Cameron McKenna

Caminus Corporation

Cantor Fitzgerald International

CapClear Limited

Capital Market Risk Advisors, Inc.

Chicago Mercantile Exchange, Inc.

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Creditex, Inc.

CreditTrade

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Export Development Corp.	Inter-American Development Bank
Exxon Mobil Corporation	International Finance Corporation
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Nationwide Building Society	SAFECO Corporation
New South Wales Treasury Corporation	Shidler Investment Corporation
New Zealand Debt Management Office	Siemens Aktiengesellschaft
Nordic Investment Bank	Sigma Finance Corporation
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**TOTAL SUBSCRIBER MEMBERS: 148**

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**ISDA SUBSCRIBER MEMBERS**

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**TOTAL ISDA MEMBERS: 525**