



NEWS RELEASE
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ISDA Comments on the European Parliament vote on the Markets in Financial Instruments Directive (MiFID)

LONDON, October 29, 2012 – The International Swaps and Derivatives Association, Inc. (ISDA) welcomes last Friday’s European Parliament vote on how to regulate financial markets in Europe from derivatives to government bonds*.

ISDA believes that many of the changes put forward by the Parliament support the ambitions behind the review of the existing ‘MiFID’ framework: a safer, sounder, more transparent and more responsible financial system, working for the economy and society; and more integrated, efficient and competitive EU financial markets.

In the interests of promoting transparency, MiFIR will for the first time require certain derivatives contracts – those that are both cleared through a central counterparty (CCP) and deemed sufficiently liquid – to trade on a ‘trading venue’**.

Helpfully, the Parliament has recognised the need to develop further this liquidity test: it acknowledges that large-in-scale transactions – block trades – are less likely to be liquid, and it has made sure that trading venues will be obliged to provide pre-trade price data only for liquid contracts. We believe that these changes are vital for OTC derivatives, which are not mass-produced for secondary-market turnover, which can be customized, and which typically trade infrequently. This also reflects the spirit of the G-20 commitment of September 2009, which stated that derivatives transactions should be brought onto platforms (i.e. trading venues) only “where appropriate” – liquidity is very clearly part of this.

ISDA is, however, concerned that the Parliament text simultaneously limits investor choice on how to negotiate such financial contracts.

For example, the Parliament is proposing limitations on when derivatives can be executed on an ‘Organised Trading Facility’, effectively pushing transactions towards other, more exchange-like categories of venue, and thereby reducing the diversity of available platforms in a manner contrary to the desire to promote systemic resilience. At the same time, the Parliament has defended a ban on the use of proprietary capital by operators of Organised Trading Facilities, crimping their ability to fulfil customers’ needs.

ISDA believes that maintaining an appropriate degree of investor choice over how and where trades are executed – and allowing dealers to serve their customers by making markets – is vital to ensuring safe and efficient OTC derivatives markets. Policymakers should proceed with caution to ensure that the ambitions of the MiFID project are not undermined by the promotion

of the equities exchange trading model, which is not a suitable template for reform of OTC derivatives markets.

Editors' notes

* The European Parliament voted on Friday, 26th October on proposed amendments to the Markets in Financial Instruments Directive (MiFID) and its accompanying regulation, MiFIR. This vote paves the way for the negotiations between the Parliament, Council and Commission, which will ultimately lead to the adoption of final MiFID/MiFIR rules, transforming the way in which financial markets are structured and regulated in Europe.

** 'Trading venues' are platforms – whether traditional exchanges or bank-operated trading systems – where financial instruments can be traded. They will be categorised under the new MIFID framework as 'regulated markets', 'Multilateral Trading Facilities' (MTFs) and 'Organised Trading Facilities' (OTFs), according to the way in which they operate. They will be subject to various rules on organisation, market surveillance and transparency.

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About ISDA

Since 1985, ISDA has worked to make the global over-the-counter (OTC) derivatives markets safer and more efficient. Today, ISDA is one of the world's largest global financial trade associations, with over 840 member institutions from 59 countries on six continents. These members include a broad range of OTC derivatives market participants: global, international and regional banks, asset managers, energy and commodities firms, government and supranational entities, insurers and diversified financial institutions, corporations, law firms, exchanges, clearinghouses and other service providers. Information about ISDA and its activities is available on the Association's web site: www.isda.org.

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