



INTERNATIONAL SWAPS AND DERIVATIVES ASSOCIATION, INC.

NEWS RELEASE

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ISDA Welcomes Fourth Circuit's Decision on US Netting Expansion

NEW YORK, Thursday, February 12, 2009 – The International Swaps and Derivatives Association, Inc. (ISDA) said today that it welcomed the decision of the United States Court of Appeals for the Fourth Circuit that ruled that a forward contract for physically-delivered gas between an intermediary and an industrial end-user could be a "commodity forward agreement" and within the recently expanded definition of "swap agreement" in the US Bankruptcy Code.

According to the Fourth Circuit opinion, the earlier lower court ruling had incorrectly assumed that a physically-delivered gas contract with an end-user, not of a type traded on financial markets, could not be within the scope of protection of "financial" instruments that the safe-harbors were, decades ago, originally devised to protect. The Fourth Circuit noted that the revised definition of "swap agreement" was intended by Congress to serve an expanded concept of a "marketplace (that) is creative, designing instruments to fit the needs of the moment."

The Fourth Circuit ruling recognizes the broad concept of "markets" linked by contracts from end-users through intermediaries and on to traders that Congress wished to protect in creating and expanding the safe-harbor definitions.

On January 30, 2008, ISDA jointly filed a Brief of Amicus Curiae with Allen & Overy LLP supporting safe-harbor rights for swap agreements under the Code. The brief is available on ISDA's website, www.isda.org.

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.

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