

ISDA Publishes DC Review and Launches Market Consultation

NEW YORK, May 13, 2024 – The International Swaps and Derivatives Association, Inc. (ISDA) has published an independent review on the structure and governance of the Credit Derivatives Determinations Committees (DCs) and launched a market-wide consultation on its recommendations.

The [review was conducted by Linklaters LLP](#) and covers the composition, functioning, governance and membership of the DCs. The report makes several recommendations on possible changes that could be made to improve the structure of the DCs, which are now [available on the ISDA website for public consultation](#). Boston Consulting Group has been appointed to oversee the consultation process, which will remain open until July 26, 2024.

“A robust, standardized settlement process for credit default swaps (CDS) that is binding on all market participants is absolutely critical for central clearing, which, in turn, significantly reduces risk in the financial system. While the DCs have functioned well for 15 years, we think it’s appropriate for the industry to consider whether any changes could be made to improve the structure and governance of the process. We look forward to receiving industry comments on the changes proposed by Linklaters as part of its independent review,” said Scott O’Malia, ISDA’s Chief Executive.

The proposals for consultation include:

Conflicts of interest

- Should the DC rules provide for the appointment of up to three independent members of the DCs (with one acting as DC chairperson)?
- Should the rules enhance the minimum requirements on DC members’ compliance procedures?
- Should DCs be permitted, by a simple majority, to refer DC questions to an independent panel for a decision?

DC composition

- Should the number of dealer members of the DCs be reduced to eight and the number of non-dealer members be reduced to four (in addition to central counterparties and any independent members)?
- Should the eligibility threshold to serve as a non-dealer DC member be reduced from the current \$1 billion in CDS notional outstanding referencing a single reference entity?
- Should a non-dealer be able to volunteer for membership of individual DCs, rather than having to join all the DCs?

- Should the provisions relating to consultative dealer and non-dealer members be removed?

Governance

- Should a separate governance body be established, with responsibility for overseeing the operation of the DCs (including reporting to market participants and obtaining feedback from them) and making changes to the DC rules from time to time (in lieu of the DCs)?
- Should the governance body be able to appoint independent auditors to audit DC members' compliance procedures under the DC rules?

Representation and transparency

- Should eligible market participants be entitled to present statements of case within certain parameters?
- Should any material step taken in the DC process (including any request to convene a DC, any statement of case submitted and any public information provided or obtained by the DC in connection with a DC question) be disclosed on the DC website as soon as is reasonably practical?
- Should the DCs and the DC secretary be required to provide adequate reasons (stated on the DC website) for all material decisions they take?
- Market participants are also asked to comment on whether any statement of case may be provided in the name of a particular lawyer or law firm without disclosing the eligible market participants that the lawyer or law firm represents.

Funding

- Do market participants support a fee being applied to each CDS transaction (excluding trades for novations and compression) to fund the operations of the DCs and the other solutions for addressing the other recommended changes?

[ISDA announced in December 2023](#) that it had launched an independent review of the DC process to determine if any changes are necessary to maintain the integrity of the DCs in changing economic and market conditions.

Following the results of the consultation, ISDA will work with members to propose specific changes to implement any of the measures that receive broad public support. ISDA will then recommend these solutions to the DCs, which are solely responsible for agreeing and implementing any changes.

The DCs were introduced in 2009 as a centralized decision-making body to enable a standardized auction settlement process and ensure central clearing could be implemented for CDS. Although ISDA does not control the DC rules and is not involved in the decision-making process or administration of the committees, ISDA has an interest as a global trade association for over-the-counter derivatives in ensuring the DCs continue to function robustly.

The DCs are industry committees currently comprising up to 10 sell-side and five buy-side voting firms. More information about the DCs and the decision-making process is available on the [DC website](#).

On January 26, the [DCs announced](#) they are considering whether certain changes should be made to the DC rules. This initiative is separate from ISDA's independent review of the DCs.

The Linklaters review is available [here](#).

Information on the consultation is available [here](#).

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About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 77 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on [LinkedIn](#) and [YouTube](#).