



International Swaps and Derivatives Association, Inc.

DRAFT

Guidelines for Implementation of the ISDA 2009 Collateral Dispute Resolution Procedure

ISDA Collateral Committee - September 30, 2009

Table of Contents

1	Executive Summary	3
1.1	Purpose of this document	3
1.2	Background information	3
1.3	Historical context	3
1.4	Summary of changes to market practice.....	4
1.5	High Level Summary of the DR Procedure	5
1.6	Implementation of the DR Procedure.....	6
2	Timeline	7
3	Implementation Considerations	8
4	Summary of Capabilities	10
5	Detailed Firm Capabilities	11
5.1	Firm Capability #F1: Portfolio Reconciliations	11
5.2	Firm Capability #F2: Internal Firm ‘Consultation’ Process	12
5.3	Firm Capability #F3: Dispute Resolution Tracking	13
5.4	Firm Capability #F4: Provision of Market Maker Quotes and Reference Quotes	14
5.5	Firm Capability #F5: Application of Dispute Resolution Results	15
5.6	Firm Capability #F6: Policy Changes	16
5.7	Firm Capability #F7: Governance	17
6	Detailed Market Capabilities	18
6.1	Market Capability #M1: Portfolio Reconciliations.....	18
6.2	Market Capability #M2: External ‘Consultation’	19
6.3	Market Capability #M3: Dispute Resolution Tracking	20
6.4	Market Capability #M4: Provision of Market Maker Quotes and Reference Quotes	21
6.5	Market Capability #M5: Application of Dispute Resolution Results	22
6.6	Market Capability #M6: Policy Changes	22
6.7	Market Capability #M7: Governance.....	23

© 2009 by International Swaps and Derivatives Association

A non-transferable, cancellable license is hereby granted for use of this material provided that the source is cited. An appropriate citation would be: “Guidelines for Implementation of the ISDA 2009 Collateral Dispute Resolution Procedure” (ISDA 2009)

1 Executive Summary

1.1 Purpose of this document

- This document provides non-binding guidance for firms implementing the ISDA 2009 Collateral Dispute Resolution Procedure (the “DR Procedure”), including:
 - Industry context and background
 - Changes to market practice
 - Implementation timeframes
 - Considerations for implementation, both market-wide and for individual firms (for example, policy, governance, infrastructure, process change, etc)

1.2 Background information

- At the direction of ISDA’s Board of Directors, the ISDA Collateral Committee in consultation with the ISDA Product Steering Committees, other industry associations and financial industry regulators has developed the DR Procedure.
- The DR Procedure was published on September 30, 2009 following extensive industry consultation and a public comment period.
- The DR Procedure provides an agreed standard industry approach for dealing with disputed OTC derivative collateral calls that:
 - Achieves timely identification of the root causes of disputed collateral calls
 - Ensures the prompt movement of as much collateral as the parties can mutually agree
 - Provides the parties with a flexible range of methods to narrow and/or resolve their dispute to be consistent with their risk tolerance
 - Creates consistent and predictable process, timing and behavior in case of disputes across the market
 - Eliminates present uncertainties and delays that increase risk for the parties, and ensures there is an ultimate method for resolution of differences

1.3 Historical context

- Historically, the OTC derivative market has primarily used the suite of ISDA credit support documentation¹ as the contractual and mechanical basis for collateralization of counterparty credit risk. The scale of collateralization in the market reached USD 4 trillion at the end of 2008², having risen consistently for the past decade.
- A collateral dispute arises when one party makes a margin call (or recall) demand on its counterparty, but the counterparty disagrees the validity or amount of the demand.
- Collateral calls are disputed in the ordinary course of business for a variety of legitimate reasons, and are not necessarily indicative of a significant issue between the parties. For example, differences in the time at which the parties record a new trade in their systems can give rise to transient discrepancies; differences in market rates and calculation methodologies used in each firm’s internal valuation process can also lead to disputes; there are several other possible causes of difference between the parties. In general, most collateral disputes are short-lived and not significant in size in context of the exposure and risk appetite between the counterparties.
- The market has developed a sophisticated set of approaches to detect and address disputed margin calls, including documentation, process and technology tools.
- The ISDA credit support documents all contain a Dispute Resolution section, the main provisions of which are : (a) movement of the undisputed collateral amount, (b) consultation between the parties, and (c) a poll of dealers to ascertain market pricing.

¹ The suite comprises the 1994 ISDA Credit Support Annex (New York law), the 1995 Credit Support Annex (English law), the 1995 ISDA Credit Support Deed (English law), the 1995/2008 Credit Support Annexes (Japanese law) and the 2001 ISDA Margin Provisions.

² Source : ISDA 2009 Margin Survey

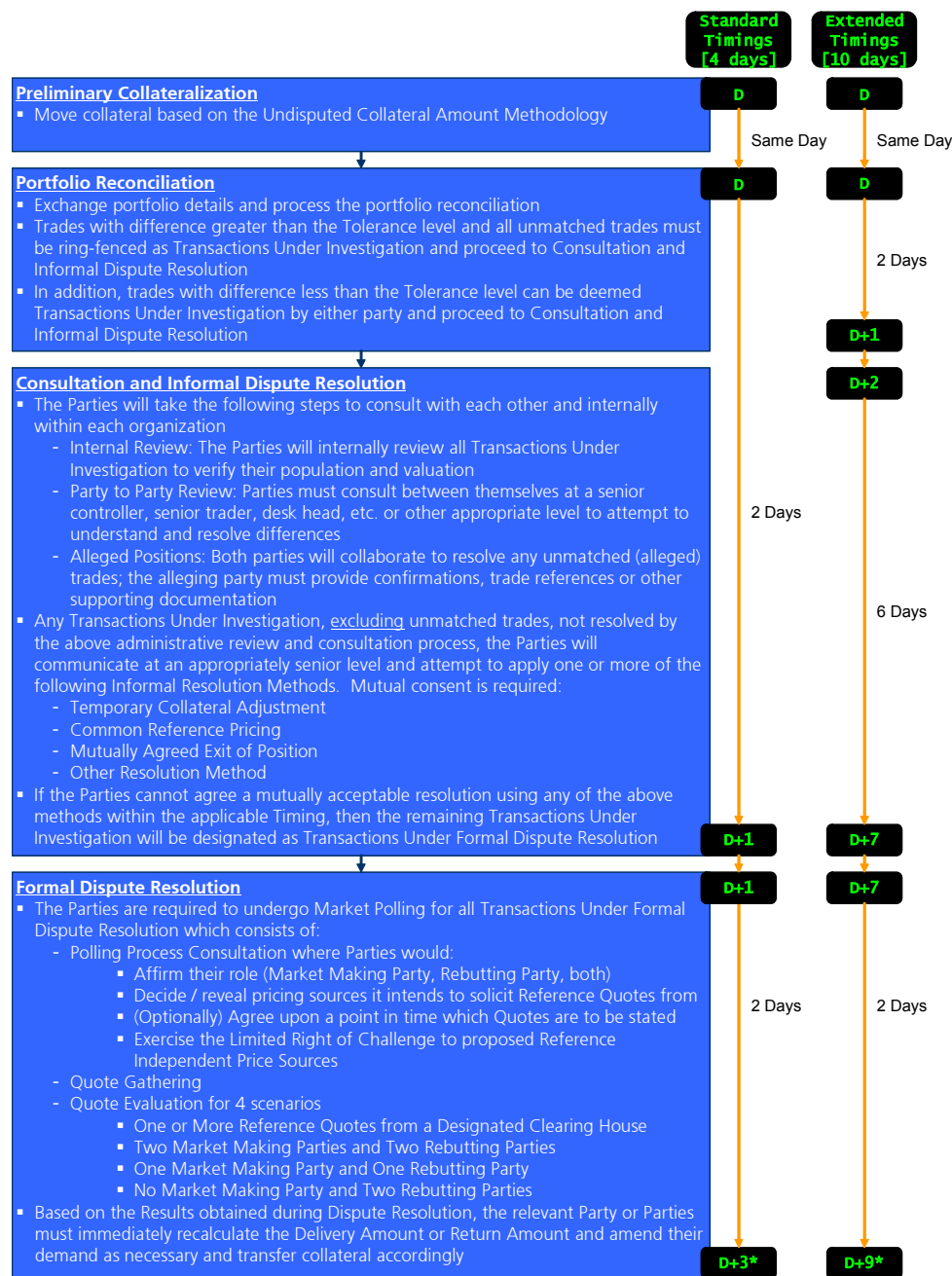
- During the credit market stress of 2008 and 2009, the incidence of disputed margin calls increased dramatically both in terms of frequency of occurrence and size of difference. This was primarily due to volatility in markets, but also in the case of certain derivatives was caused in part by the disappearance of transparency of key market parameters - notably in the asset backed derivative markets. As a consequence, there was sharply increased focus on collateral disputes from both firm managements and international regulators.
- Prior to the recent period of market stress, the Dispute Resolution section of collateral agreements was formally invoked only on very rare occasions - generally, counterparties took informal steps to resolve issues between them. During recent stressed conditions, firms attempting to use the existing Dispute Resolution provisions discovered several deficiencies, including:
 - No requirement on the parties to exchange portfolio information
 - Lack of structure and consistent market practice regarding "Consultation"
 - Failure of many attempted Dealer Polls due to limited definition of process and lack of participation in the polling process by third party market makers.
 - No "longevity" to the results of dispute resolution, meaning a counter-dispute could occur the following day and necessitate a repeat of the process.
- One of the conclusions widely agreed by industry practitioners and regulators has been that disputed collateral calls require a more structured and comprehensive process, hence the development of the DR Procedure.

1.4 Summary of changes to market practice

- The DR Procedure provides a comprehensive structure for the resolution of disputed collateral calls. It is designed to address both benign differences that arise in the ordinary course of business and present little immediate counterparty risk and also differences that arise during stressed conditions with clear and present counterparty risk.
- Some key features include:
 - Defined timelines (standard timing is 3 days to resolution, with extension where appropriate)
 - Obligation to investigate portfolio differences, including via portfolio reconciliation
 - Obligation and specific structure to permit consultation between the parties to resolve apparent differences
 - Procedures to ring-fence trades contributing to a margin dispute
 - Enforcement of a Preliminary Collateralization phase to ensure quick settlement of as much collateral as can be agreed between the parties, providing a measure of credit protection while the parties proceed through the resolution process
 - Range of alternative methods the parties may adopt for resolution of trade differences not resolved through consultation, including the solutions most commonly used in practice by the market.
 - Establishes a definitive fallback to a market polling procedure, in case the parties cannot mutually agree which resolution method to use
- There are several key implications of the DR Procedure which will affect current market practice, including:
 - The exchange of portfolio information becomes mandatory during the early stages of dispute resolution.
 - While the parties retain the freedom to agree any resolution between them (the DR Procedure provides for the full range of mutual, consensual resolutions the parties may wish to adopt), parties who fail to agree on such a solution within a defined time period are mandated to perform Market Polling.
 - The highest informational weight is accorded to quotes that are two-way, firm and executable. Indicative quotes are only used where no two-way, firm, executable quotes are available.
 - The parties to the dispute are thus encouraged to make a two-way, firm, executable market if they are willing and able to do so. This promotes the making of active markets, pricing discovery, and marking diligence.

- A concept of longevity is applied to any result obtained through the DR Procedure, which is intended to prevent the need to repeat the DR Procedure daily on sustained disputes, instead allowing the parties to carry forward a result until further relevant information develops.
- Dealers who are subscribers to the DR Procedure but not party to a particular dispute have an obligation to assist the disputing parties by providing Reference Quotes (subject to commercial reasonableness and other protective caveats). This is designed to address one of the key issues with existing Dealer Poll language which is the lack of market participation.

1.5 High Level Summary of the DR Procedure



*If the geographic locations of the parties and/or the relevant markets in which prices for the trade(s) in question are trans-continentially dispersed, the time allowed for Quote Gathering is extended by eight (8) additional Local Business Hours (e.g. Under Standard Timings, Formal Dispute Resolution will complete on D+4 instead of D+3)

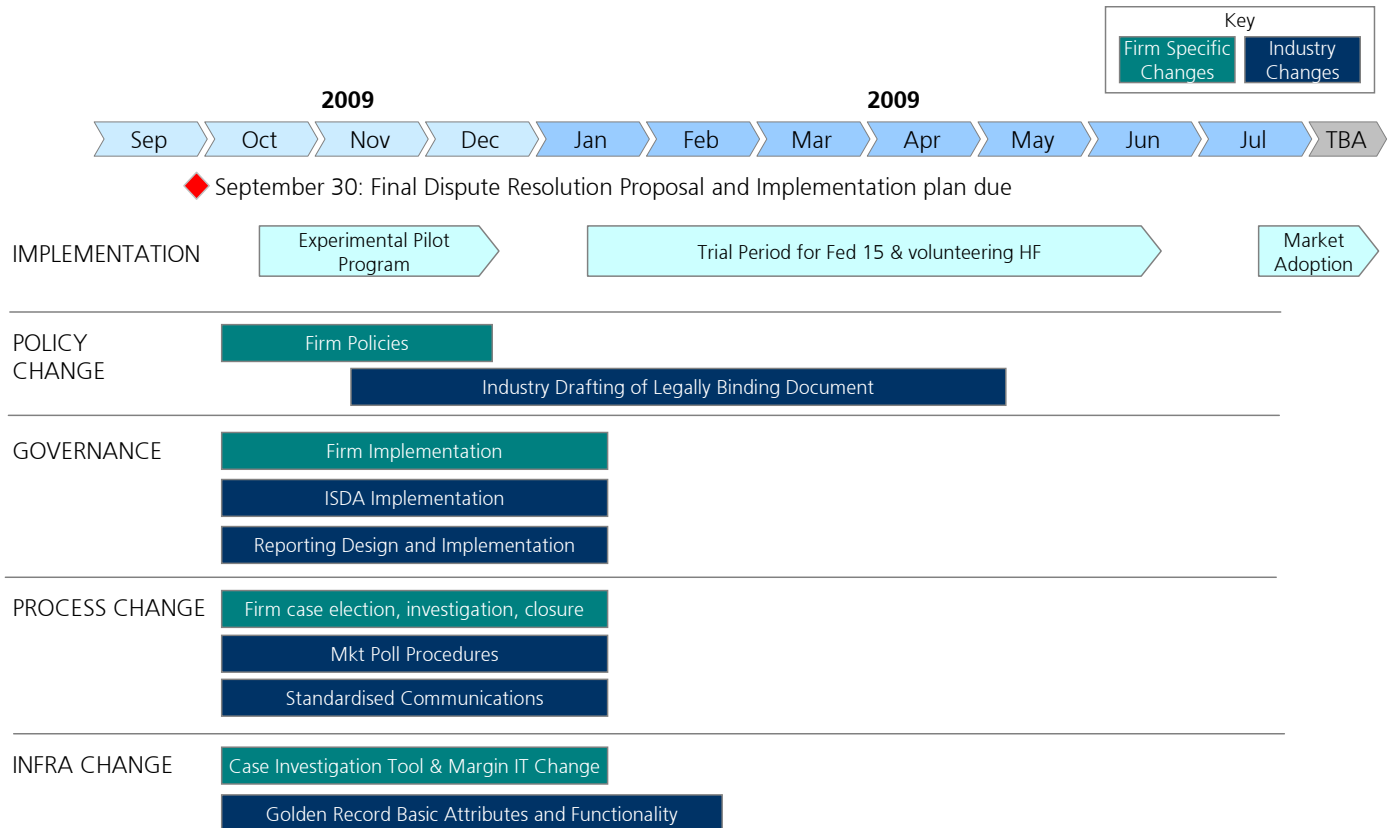
1.6 Implementation of the DR Procedure

- The DR Procedure will be implemented in accordance with the timeframe outlined below, which has been developed by industry practitioners in consultation with regulators.
 - Implementation will become the subject of a future industry commitment letter to the Federal Reserve Bank of New York and other regulators.
 - The DR Procedure is a complicated document that deals with a highly complex, cross-disciplinary and sensitive part of market practice. Therefore implementation will occur by stages:
- I. Experimental Pilot Program (October 15 – December 15, 2009)
 - A brief test program conducted by a small number of volunteer firms that will apply the DR Procedure in parallel with actual disputes (and possibly also to hypothetical test cases) in order to detect and correct any obvious deficiencies with the procedure.
 - The purpose of the Experimental Pilot Program is to prepare the way for smooth operation of the Trial Period, and also to help inform the creation of any necessary market or firm-specific infrastructure necessary to operate the DR Procedure securely.
 - The Experimental Pilot Program is scheduled to take place from October 15 to December 15, 2009. During this stage the volunteer firms will focus on:
 - Establishing templates and standardized processes for exchanging notices (e.g. Transactions Under Investigation, Transactions Under Dispute Resolution, request of Reference Quotes, etc.).
 - Validating and adjusting the Implementation Guidelines for the Trial Period.
 - Making recommendations on necessary market or firm-specific infrastructure for industry roll-out of the DR Procedure.
 - Collecting high level statistics amongst the volunteer firms to better gauge potentially volumes in preparation for the Trial Period.
 - Detecting any deficiencies with the procedure / validating the steps of the procedure.
 - Identifying amendments that are needed to the DR Procedure and start converting into a legally binding document.
 - II. Trial Period (January 15 – June 15, 2010)
 - An extended trial of the DR Procedure conducted on a mandatory basis by the Fed 15 firms (the “major dealers”), with voluntary participation by other firms. During the Trial Period, the DR Procedure replaces existing dispute resolution procedures but in a non-exclusive manner - in the event of problems with the new procedure, the parties may fall back to their existing contractual documentation.
 - The purpose of the Trial Period is to acclimate the market to regular use of the new procedure and to identify any residual issues with the DR Procedure.
 - The Trial Period is scheduled to take place from January 15 to June 15, 2010. During this stage the volunteer firms will focus on:
 - Utilizing the Implementation Guideline and allowing firms to put in place robust internal processes for handling disputes in accordance with the DR Procedure (e.g. processing portfolio reconciliations, investigating portfolio differences, etc.).
 - Testing and formalizing the Market Polling process of gathering and evaluating quotes; including analysis on Quote Gathering performance in the industry.
 - Establishing proper reporting that regulators require and MIS for senior management; including statistics on firm performance against the DR Procedure.
 - Identifying any further necessary amendments.
 - III. Market Adoption (July 15, 2010 onwards)
 - The formal adoption of the DR Procedure on an exclusive basis by market participants.
 - Exact details of this stage of implementation will be developed based upon the experience of the earlier stages and is anticipated to start from July 15, 2010 onwards.
 - Formal adoption will commence with the Fed 15 on a mandatory basis and any other firms voluntarily.
 - The process for mandatory adoption across the market will need to be worked out prior to commencement of this phase.

2 Timeline

The diagram below summarizes the implementation plan for the DR Procedure, including some of the high level activities that firms may wish to undertake in preparation for each phase.

2.1 High level phased implementation plan



3 Implementation Considerations

In Section 3, 4 and 5 we set out several key considerations and capabilities for firms implementing the DR Procedure. It should be stressed that this is a general treatment and each firm should develop its own implementation plan tailored to its portfolio, capability and infrastructure - nothing in these sections is a requirement for firms.

Implementation considerations are generally categorized as those applying to individual firms or those with a broader market impact. Sections 4 and 5 of this document go into further detail of capabilities that firms may consider developing in preparation for implementation of the DR Procedure.

ISDA anticipates that it will sponsor a series of implementation working group meetings for the market, so that practitioners may consult, share experience of implementation issues and collaborate as necessary across the market to ensure a smooth implementation.

3.1 Policy change

Firms may find it beneficial to have the following internal agreements / processes in place:

- Elect internally which disputing trades will be implemented through the procedure at counterparty and individual disputing trade levels.
- Agree internally the process of dispute investigation across departments front to back.
- Agree firm and individual responsibilities in the Dispute Resolution step for the firm's provision of Market Maker Quotes and Reference Quotes.
- Agree the policy governing Temporary Collateral Adjustments - including size, duration and method of adjustment.
- Agree the process that will be used to determine if and how the Dispute Resolution outcome may be used to adjust firm books and records.

Across the industry, the Procedure will be reviewed and legally drafted for mandatory binding implementation.

3.2 Governance change

Within each firm, review of appropriate governance mechanism may be undertaken to:

- Ensure focus is retained on specific disputing items such that they are progressed through the DR Procedure within agreed timelines.
- Ensure the overall process is effective.
- Ensure all items in 'Agree to Disagree' status are reviewed and actions are deemed appropriate.

Across the industry there will be scheduled reviews by ISDA of the DR Procedure and its implementation. An industry working group will convene as needed to review working level enhancements and increase the effectiveness of the DR Procedure.

Additionally any reporting that might be required will be developed as the DR Procedure is used.

3.3 Process change

Within each firm, the following processes may facilitate progress through the DR Procedure:

- Selection of disputing trades for investigation within the Procedure.
- Investigation of disputing trades to confirm a firm's mark or position.
- Bilateral engagement with the counterparty to resolve the dispute(s).
- Reporting of internal progress of dispute resolution to ensure progress is achieved within agreed timelines.

- Ability to provide and approve market maker quotes and reference quotes.
- Application of the agreed result of the DR Procedure to the margin call.

Each of these may be a complex process that requires tracking tools, specialized resourcing and the implementation of internal “service level agreements” to govern the responses between different departments involved in the process.

Across the industry, new common processes may be necessary to ensure the effective implementation of the coordination and administration of market maker quotes and reference quotes. In particular, ensuring that trading desks are aware of the importance of responding to requests relating to dispute resolution, including requests for price quotes, is likely to be an important implementation step.

Additionally standardised communications may need to be developed for:

- Election of a trade dispute to be pursued under the Procedure.
- Notification of required market maker quotations.
- Notification of the outcome of the market maker / reference quotation process.
- Agreement of the implementation of the outcome of the DR Procedure (e.g. by adjustment to margin call by either party)

3.4 Infrastructure change

Within each firm, it is highly recommended to have the following capabilities, manual or automated:

- Manage, control and provide transparency on the intra and inter firm investigation of trade disputes.
- Capture all relevant trade details, dispute details and investigation progress.
- Routing to the relevant owner for investigation.
- Implement any agreed Temporary Collateral Adjustment.
- Provide an internal audit trail of agreed outcomes and implementation.

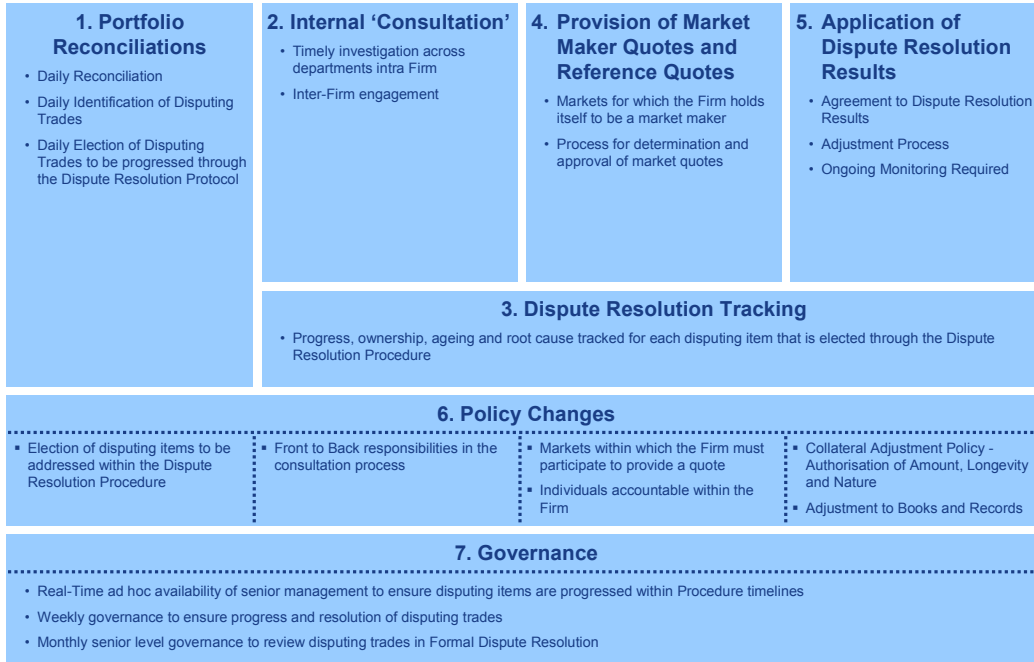
The industry may also consider adoption of consistent methods to control how the disputed set of trades is maintained, tracked, resolved and reported.

- Possible alternatives (agreed approach to be determined through pilot implementation phases) would include:
 - Bilateral maintenance of disputing trade set and subsequent reporting to regulators.
 - Simplistic centralised spreadsheet or database-type solution.
 - Centralised dispute tracking tool with ability to manage disputing trade sets across market and produce consolidated reporting.
- Functionality that will need to be addressed as part of the decision on what method to use:
 - Provide a golden record of trade dispute attributes, which are linked to the underlying reconciliation engine(s).
 - Provide a clear record of the time a trade dispute was initiated under the Procedure and the aging of that item.
 - Provide a clear record of investigation status and any agreed outcomes.
 - Allow counterparties equally to view these records.
 - Provide industry-wide reporting to regulators.

4 Summary of Capabilities

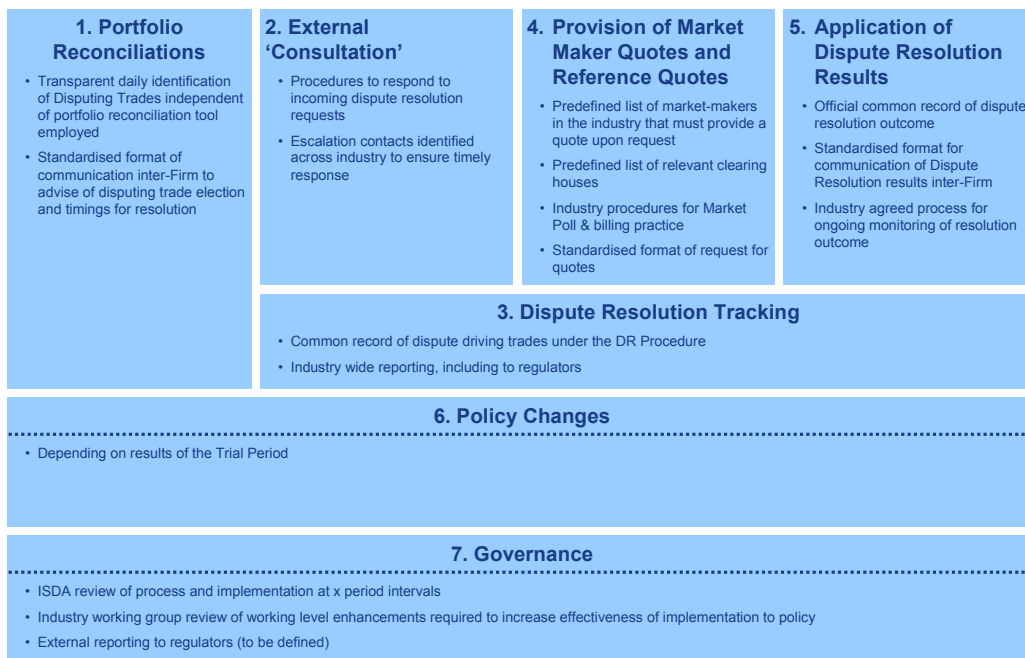
Each firm should consider key capabilities in order to effectively implement the DR Procedure:

Figure 4.1 - Summary firm capabilities



The industry should consider key capabilities in order to effectively implement the DR Procedure:

Figure 4.2 - Summary market capabilities



5 Detailed Firm Capabilities

5.1 Firm Capability #F1: Portfolio Reconciliations

Firm Capability #F1	Portfolio Reconciliations
Considerations	<ul style="list-style-type: none"> ▪ All trade portfolios within the scope of the DR Procedure should be reconciled daily ▪ All disputing trades within those portfolios should be readily identifiable ▪ There is an internal election process to determine which disputing trades will be subject to the DR Procedure
Detail	<ul style="list-style-type: none"> ▪ Daily portfolio reconciliation process with Fed 15 counterparties <ul style="list-style-type: none"> – Already in place for all Fed 15 ▪ Daily portfolio reconciliation process beyond Fed 15 counterparties <ul style="list-style-type: none"> – Identify counterparties in scope by reference to those signed up to the DR Procedure – Determine tool for reconciliation (triResolve is preferred choice for Fed 15 broker dealers, but other tools may be used for buy-side firms) – Agree and implement upload process with counterparty ▪ Identification of population of eligible disputing trades that could be processed through the DR Procedure <ul style="list-style-type: none"> – Already in place wrt Fed 15 counterparties. – However requires ability to flag specific trades to be processed through the DR Procedure (see Market Requirement #M1) ▪ Election of disputing trades to be processed through the DR Procedure <ul style="list-style-type: none"> – Agree policy to (i) determine which counterparty portfolios should be addressed by the DR Procedure (ii) which disputing trade within those portfolios should be flagged for investigation through the DR Procedure (iii) the timeline with which the disputing items are to be addressed – Implement roles and responsibilities consistent with policy – Design process for timely election decisions to occur no later than date of margin dispute (T) – Communication format of election results with counterparty (see Market Requirement #M2)
Intra Firm Engagement	<ul style="list-style-type: none"> ▪ Portfolio Reconciliations Function

5.2 Firm Capability #F2: Internal Firm 'Consultation' Process

Firm Capability #F2	Internal Firm 'Consultation' Process
Considerations	<ul style="list-style-type: none"> ▪ All disputing trades to be addressed within the DR Procedure should be investigated in a timely manner ▪ The investigations must include within a T+2 timeframe: <ul style="list-style-type: none"> – Confirmation of a firm's mark (for valuations differences) – Confirmation of a firm's position (for population differences) ▪ Investigation should require inter-firm engagement if both parties believe they are correct
Detail	<ul style="list-style-type: none"> ▪ Roles and Responsibilities agreed Front to Back to investigate valuation and population differences ▪ Case Investigation Tool to manage intra-Firm communication in a controlled and efficient manner ▪ Industry wide contacts confirmed and published for escalation on specific disputing items 'stuck' in the process ▪ Weekly governance established to review progress of investigation of disputing items and effectiveness of process ▪ Senior monthly governance established to review disputing items in the Formal Dispute Resolution step for progress and resolution
Intra Firm Engagement	<ul style="list-style-type: none"> ▪ Portfolio Reconciliations Function, Front Office, Middle Office Operations, Finance, Confirmations, Credit Risk Operations

5.3 Firm Capability #F3: Dispute Resolution Tracking

Firm Capability #F3	Dispute Resolution Tracking
Considerations	<ul style="list-style-type: none"> ▪ All disputing items to be addressed within the DR Procedure are tracked such that it is transparent in real time: <ul style="list-style-type: none"> – Current ownership of trade investigation – History of investigation to date – Age of disputing trades overall and at each step in the investigation – Root cause of the disputing item
Detail	<ul style="list-style-type: none"> ▪ Capture of items elected for DR Procedure in real time from the reconciliation tool ▪ Capture of all relevant trade details, dispute details, investigation progress ▪ Automated routing in place to direct trades to relevant owner for investigation ▪ Training and implementation for case investigation tool across multiple internal departments ▪ Automated monitoring in place to <ul style="list-style-type: none"> – Alert for new disputing trades – Alert for disputing trades approaching or exceeding agreed investigation timelines ▪ Reporting functionality to view overall pipeline of disputing items progressed through the DR Procedure, their investigation to date and resolution ▪ Roles and responsibilities to review alerts and reporting to ensure adherence to DR Procedure is effective
Intra Firm Engagement	<ul style="list-style-type: none"> ▪ Portfolio Reconciliations Function, Front Office, Middle Office Operations, Finance, Confirmations, Credit Risk Operations

5.4 Firm Capability #F4: Provision of Market Maker Quotes and Reference Quotes

Firm Capability #F4	Provision of Market Maker Quotes and Reference Quotes
Considerations	<ul style="list-style-type: none"> ▪ List of contacts (senior traders) who are responsible for providing Reference Quotes per function / product type that the firm holds itself to be a market-maker ▪ Sufficient resourcing to respond to Market Poll requests
Detail	<ul style="list-style-type: none"> ▪ Identify all products that the firm is currently a market-maker for ▪ Establish an internal process for requesting and providing Reference Quotes including: <ul style="list-style-type: none"> – Reporting for audit purposes – Escalation process – Approval process – Appropriate contacts to liaise intra firm
Intra Firm Engagement	<ul style="list-style-type: none"> ▪ Function responsible for accepting and providing Reference Quotes (may vary between firms)

5.5 Firm Capability #F5: Application of Dispute Resolution Results

Firm Capability #F5	Application of Dispute Resolution Results
Considerations	<ul style="list-style-type: none"> ▪ Defined authority to agree to adjustments to the margin call and the duration of the adjustment. ▪ Defined process for adjusting the margin call and underpinning technology enablement. ▪ Defined process to monitor adjustments ongoing.
Detail	<ul style="list-style-type: none"> ▪ Authority to agree adjustments. <ul style="list-style-type: none"> – Define roles and responsibilities across the firm to agree to the outcome of the DR Procedure and thereby approve any adjustment to margin call. ▪ Adjustment process. <ul style="list-style-type: none"> – Define daily procedures to implement the agreed adjustment, including relevant record in the margin system and adjustment logs for control and audit purposes. – Define process to review if the adjustment should be applied to Firm Books and Records in addition to application to the margin call records. ▪ Define any internal process to assess the risk of disputed margin calls and any methodology to charge Businesses to reflect such risks. ▪ Monitoring process. <ul style="list-style-type: none"> – Define process to ensure each adjustment is reviewed at the end of the adjustment period. – Define ongoing review of risk inherent in disputed margin call to determine if adjustment remains sufficient to address the risk of if adjustment level requires reassessment.
Intra Firm Engagement	<ul style="list-style-type: none"> ▪ Portfolio Reconciliations Function, Front Office, Middle Office Operations, Finance, Confirmations, Credit Risk Operations

5.6 Firm Capability #F6: Policy Changes

Firm Capability #F6	Policy Changes.
Considerations	<ul style="list-style-type: none"> ▪ Policies should be in place to ensure adherence to the DR Procedure.
Detail	<ul style="list-style-type: none"> ▪ Policies should be in place to: <ul style="list-style-type: none"> – Elect internally which disputing trades will be implemented through the policy (see capability #1) at the counterparty and individual disputing trade level. – Agree internally the process of dispute investigation across departments front to back (see capabilities #2,3). – Agree firm and individual responsibilities in the Formal Dispute Resolution step for the firm’s provision of Market Maker Quotes and Reference Quotes. – Agree Temporary Collateral Adjustments, including size, duration and method of adjustment – Agree the process that will be used to determine if and how the Dispute Resolution outcome may be used to adjust firm books and records.
Intra Firm Engagement	<ul style="list-style-type: none"> ▪ Portfolio Reconciliations Function, Front Office, Middle Office Operations, Finance, Confirmations, Credit Risk Operations

5.7 Firm Capability #F7: Governance

Firm Capability #F7	Governance
Considerations	<ul style="list-style-type: none"> ▪ Governance should be in place to <ul style="list-style-type: none"> – Ensure focus is retained on specific disputing items such that they are progressed through the DR Procedure to agreed timelines – Ensure the overall process is effective – Ensure all items in the Formal Dispute Resolution step are reviewed and actions are deemed appropriate
Detail	<ul style="list-style-type: none"> ▪ Terms of Reference for governance forums are established as follows: <ul style="list-style-type: none"> – Weekly governance forum, objective to review progress of resolution of disputing trade items, ensuring resolution within the Procedure agreed timelines. To be attended by representatives from the portfolio reconciliations function, confirmations team, middle office or front office. The forum will discuss both individual dispute driving trades and high level trends in disputes, remediation of root causes and any key bottlenecks in the process – Ad hoc senior governance forum, convened to discuss significant disputing items in the Formal Dispute Resolution step of the Procedure. Objective to agree the approach to formal dispute resolution and the firm's participation therein – Monthly senior governance forum, to review monthly progress of items in the Formal Dispute Resolution step of the Procedure and to review overall effectiveness of front to back adherence to the DR Procedure
Intra Firm Engagement	<ul style="list-style-type: none"> ▪ Portfolio Reconciliations Function, Front Office, Middle Office Operations, Finance, Confirmations, Credit Risk Operations

6 Detailed Market Capabilities

6.1 Market Capability #M1: Portfolio Reconciliations

Market Capability #M1	Portfolio Reconciliations
Considerations	<ul style="list-style-type: none"> ▪ All participants to the DR Procedure must be able to upload and reconcile trade portfolios ▪ The reconciliation data set must be standard and agreed by parties ▪ Identification of disputing trades elected under the DR Procedure should be transparent to both parties
Detail	<ul style="list-style-type: none"> ▪ Upload and reconciliation of trade portfolios <ul style="list-style-type: none"> – On margin dispute date – In formats conducive to STP processing – On automated reconciliation platform, not manually. – Reconciliation data set should equal the margin trade population – Golden matches included where appropriate (DTCC/Swapswire/ICE) ▪ Data Standards <ul style="list-style-type: none"> – Common data standards for all trade attributes to ensure matching like-for-like ▪ Transparent identification of disputing trades <ul style="list-style-type: none"> – Process to elect a ‘dispute driving trade’ within the tool(s) – Common thresholds for election of dispute driving trades – Visible to both parties real time – Ability to deconstruct portfolio level adjustments to individual trade level differences ▪ Standardised election communication <ul style="list-style-type: none"> – Secure File Transfer Protocol (SFTP) to electronic matching engine preferable
Industry Engagement	<ul style="list-style-type: none"> ▪ Access to required reconciliation tool(s) ▪ Agreement to Industry Wide Data Standards ▪ Agreement to common record of elected disputing trades (see also Capability #3)

6.2 Market Capability #M2: External 'Consultation'

Market Capability #M2	External 'Consultation'
Considerations	<ul style="list-style-type: none"> ▪ Standardised communication for invocation of the DR Procedure between parties. ▪ Each party to ensure a prompt and relevant response to another Party's election of disputing trades to be under the DR Procedure ▪ Timely and relevant inter-firm engagement where both parties believe they are correct.
Detail	<ul style="list-style-type: none"> ▪ Disputing trades elected under the DR Procedure should be transparent to both parties <ul style="list-style-type: none"> – Method for extension and contraction of the resolution period between parties is defined and standardised – Process should be scalable ▪ To ensure a prompt and relevant response to an elected disputed trade <ul style="list-style-type: none"> – Each firm should respond/resolve within prescribed timeframes. – Each firm should be resourced appropriately ▪ Escalation contacts and process should be in place to resolve disputing trades which are not progressing in required timescales. Cross-industry Lock Ins will facilitate discussion of material issues ▪ For trades where the disputed amount is due to FX differences, each party should be capable of clarifying the FX impact
Industry Engagement	<ul style="list-style-type: none"> ▪ Agreement to standardised communication for election of dispute driving trades ▪ Agreement to standardised method for common extension and contraction of resolution period. ▪ Creation of industry-wide contacts list for Collateral, Portfolio Integrity, MO's and FO's to facilitate smoother communication and for escalation

6.3 Market Capability #M3: Dispute Resolution Tracking

Market Capability #M3	Dispute Resolution Tracking
Considerations	<ul style="list-style-type: none"> ▪ There should be a common ‘golden’ record of dispute driving trades under the Procedure ▪ Key details of progress and outcome of investigation should be recorded against this golden record ▪ Reporting to industry participants and regulators should be designed and implemented to satisfy adherence to the Procedure and mitigation of risk
Detail	<ul style="list-style-type: none"> ▪ Possible approaches (agreed approach to be determined through pilot implementation phases) <ul style="list-style-type: none"> – Bilateral maintenance of disputing trade set and subsequent reporting to regulators – Simplistic centralised spreadsheet or database type solution – Centralised dispute tracking tool with ability to manage disputing trade sets across market and produce consolidated reporting ▪ Common record attributes <ul style="list-style-type: none"> – Linked to reconciliation engine(s) providing underlying matching detail – Clear identification of the step of the Procedure that the trade is in – Audit trail of actions taken to date – Record of next action owners, error party, root cause, outcome and the elected timeline for resolution – Linked to other industry matching platforms such as DTCC, Swapswire and ICE ▪ Key processes established <ul style="list-style-type: none"> – Agreed process to start, stop, reset the ‘clock ticking’ which determines adherence within agreed Procedure timelines – Agreed process for opening and closing disputing items – Alerts for new disputing trades (default vs thresholds or manually elected by other party), or disputing trades approaching and exceeding agreed thresholds of materiality or age. ▪ Reporting requirements (see also section 7) <ul style="list-style-type: none"> – Overall volumes and values within each Procedure step, through to the Formal Dispute Resolution step – Specific trade reporting for disputes in the Formal Dispute Resolution step or outside of agreed timelines – Other reporting to be advised by the regulatory community
Industry Engagement	<ul style="list-style-type: none"> ▪ Agreement on method of dispute tracking and reporting ▪ Agreement to attributes required for ‘golden’ record of dispute driving trades ▪ Agreement to processes which establish common timekeeping, alert mechanisms and opening/ closure processes ▪ Agreement to industry wide report design

6.4 Market Capability #M4: Provision of Market Maker Quotes and Reference Quotes

Market Capability #M4	Provision of Market Maker Quotes and Reference Quotes
Considerations	<ul style="list-style-type: none"> ▪ A predefined list of market-makers and their relevant product scope who will provide a quote on request ▪ Detailed procedures for the conduct of a market poll ▪ Standardised format for communication of the market poll requests for quotes and output of results
Detail	<ul style="list-style-type: none"> ▪ Detailed procedures for conducting a market poll <ul style="list-style-type: none"> – Roles and responsibilities of each firm (see firm requirement F4) – Roles and responsibilities for ISDA administration of the process – Development of standardised requests for participation in market poll procedures, standardised submission of market quotations and standardised publication of results – Procedures for maintenance of the predefined list of market makers and their relevant product scope including required notifications whenever firms or individuals within firms require to change their market maker status
Industry Engagement	<ul style="list-style-type: none"> ▪ Agreement on procedures for conducting a market poll

6.5 Market Capability #M5: Application of Dispute Resolution Results

Market Capability #M5	Application of Dispute Resolution Results
Considerations	<ul style="list-style-type: none"> ▪ Official common record of dispute resolution outcome ▪ Standardised format for communication of dispute resolution results inter-firm ▪ Industry agreed process for ongoing monitoring of resolution outcome
Detail	<ul style="list-style-type: none"> ▪ Transparency that dispute resolution results have been applied by one or other or both parties <ul style="list-style-type: none"> – Temporary collateral adjustments are agreed and confirmed for implementation – Timeline within which the dispute resolution outcome will apply is transparent upfront ▪ Active monitoring to alert when temporary collateral adjustment period is about to/ has expired ▪ The overall margin call dispute level is reviewed to determine if the outcome of the dispute resolution process ‘plugs the gap’ or if further disputing items require investigation
Industry Engagement	<ul style="list-style-type: none"> ▪ Agreement between firms that results of Procedure are binding, prior to legally binding status. ▪ Standardised format of communication of dispute resolution output ▪ Agreement to the time period in which dispute resolution results should begin to be applied and at which time period they expire

6.6 Market Capability #M6: Policy Changes

Market Capability #M6	Policy Changes
Considerations	<ul style="list-style-type: none"> ▪ Implementation of common, legally binding document governing dispute resolution – governed by ISDA and monitored by Regulators – to replace/override relevant paragraphs of the CSA (to be agreed)
Detail	<ul style="list-style-type: none"> ▪ To be agreed
Industry Engagement	<ul style="list-style-type: none"> ▪ To be agreed

6.7 Market Capability #M7: Governance

Market Capability #M7	Governance
Considerations	<ul style="list-style-type: none"> ▪ ISDA review of process and implementation at intervals of x months/years ▪ Industry working group review of working level enhancements required to increase effectiveness of implementation to policy ▪ External reporting to regulators ▪ Regular, scheduled reviews at ISDA sub-committee level of the product-level threshold matrix. Method of agreeing changes and implementation through industry.
Detail	<ul style="list-style-type: none"> ▪ CIWG regular scheduled reviews of thresholds with structure for agreement of changes and (re)implementation. ▪ Reporting – needs to be clear what numbers go in to and out of each step, with transactional level detail for trades falling outside of predefined materiality or ageing thresholds and those in the Informal and Formal Dispute Resolution steps.
Industry Engagement	<ul style="list-style-type: none"> ▪ Agreement on common format and method for collection, presentation and communication of reporting