

ISDA Board Statement on Narrowly Tailored Credit Events

NEW YORK, April 11, 2018 – The International Swaps and Derivatives Association, Inc. (ISDA) today published a statement from its Board of Directors on reported instances of narrowly tailored credit events and a process to consider improvements to the efficiency of the credit derivatives market.

“The ISDA Board of Directors has noted recent press reports of instances of credit default swap (CDS) market participants entering into arrangements with corporations that are narrowly tailored to trigger a credit event for CDS contracts while minimizing the impact on the corporation, in order to increase payment to the buyers of CDS protection.

“The ISDA Board notes that the Dodd-Frank Act in the US and other similar legislation elsewhere created a new regulatory framework for the credit derivatives market. In addition, swap market participants remain subject to relevant anti-manipulation and anti-fraud laws.

“Whether any specific narrowly tailored arrangements meet the definition of a credit event under the ISDA Credit Derivatives Definitions will be determined by one of five regional Credit Derivatives Determinations Committees (DCs), each of which comprises 10 sell-side and five buy-side market participants. Under the DC rules, a determination can only be made based on publicly available information submitted to the DC. This information is then analyzed against the criteria for credit events within the ISDA Credit Derivatives Definitions to determine whether a credit event has occurred. The credit event determination process does not allow the DC to make subjective decisions, or to consider the intent or good faith of the parties that put in place the arrangements leading to a potential credit event. This ensures the process is objective and predictable, and decisions can be made quickly.

“We believe that narrowly tailored defaults, those that are designed to result in CDS payments that do not reflect the creditworthiness of the underlying corporate borrower (the reference entity in the CDS), could negatively impact the efficiency, reliability and fairness of the overall CDS market. We have therefore instructed the ISDA staff, as part of its ongoing dialogue with the market, to consult with market participants and advise the Board on whether further amendments to the ISDA Credit Derivatives Definitions should be considered.”

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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 875 member institutions from 68 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. Twitter: @ISDA

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