



ISDA Launches Standard Definitions for Digital Asset Derivatives

NEW YORK, January 26, 2023 – The International Swaps and Derivatives Association, Inc. (ISDA) has published new standard documentation for the trading of digital asset derivatives, alongside a whitepaper that addresses some of the legal issues raised by the recent bankruptcies of major crypto exchanges and market participants.

The ISDA Digital Asset Derivatives Definitions are intended to bring greater clarity to this nascent asset class by creating an unambiguous contractual framework for digital asset derivatives under the umbrella of the ISDA Master Agreement, reducing credit and market risk by setting clear provisions for execution and settlement.

The definitions initially cover non-deliverable forwards and options on Bitcoin and Ether, but could be expanded in future to cover additional product types, including tokenized securities and other digital assets executed on distributed ledger technology (DLT). Importantly, the definitions have been drafted using a controlled language structure to define the processes contained in the document, facilitating integration with the Common Domain Model and automation within smart contracts.

The accompanying whitepaper is the first of two publications that explore legal questions raised by the collapse of FTX and others, including ownership and intermediation of customer assets in the crypto space. The first paper focuses on the importance of close-out netting and collateral arrangements for derivatives referencing digital assets and identifies several areas of focus for policymakers and market participants to ensure greater certainty. This includes use of standardized contractual frameworks like the ISDA Digital Asset Derivatives Definitions and further legal clarity from national authorities on the property status of digital assets. The second paper, due for publication later in the first quarter of 2023, will focus on issues related to customer assets held with intermediaries.

“Recent failures in the crypto market have emphasized the importance of having a clear, consistent contractual framework that spells out the rights and obligations of both parties following a default. All customers, whether retail or institutional, should know their assets are protected and understand their rights in the event of a default. This latest work to establish legal definitions and recommend improved customer protection in bankruptcy through the application of a consistent set of global contractual standards adds to the extensive work ISDA has already published to bring greater legal and operational certainty to digital assets executed on both centralized and decentralized platforms,” said Scott O’Malia, ISDA’s Chief Executive.

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“The new definitions address the unique nature of digital assets settled on DLT and have been designed to be expandable over time. This work will be relevant to a wide range of digital assets executed on DLT, including tokenized securities, which potentially have wide utility across the financial system. The innovative drafting style, which uses conditional statements that can be translated into code, means the definitions can be used more easily in DLT-based applications, creating significant efficiencies for market participants,” said Katherine Tew Darras, General Counsel at ISDA.

The ISDA Digital Asset Derivatives Definitions are available on ISDA’s MyLibrary electronic documentation platform, enabling ISDA to seamlessly revise the documents in full each time updates are required.

The definitions are available [here](#).

The first ISDA whitepaper, *Navigating Bankruptcy in Digital Asset Markets: Netting and Collateral Enforceability*, is available [here](#).

ISDA has published a variety of other papers that look at the legal issues associated with DLT and smart contracts:

- [*Smart Contracts and Distributed Ledger – A Legal Perspective*](#)
- [*Smart Derivatives Contracts: From Concept to Construction*](#)
- [*Legal Guidelines for Smart Derivatives Contracts: Introduction*](#)
- [*Legal Guidelines for Smart Derivatives Contracts: The ISDA Master Agreement*](#)
- [*Legal Guidelines for Smart Derivatives Contracts: Collateral*](#)
- [*Legal Guidelines for Smart Derivatives Contracts: Equities*](#)
- [*Legal Guidelines for Smart Derivatives Contracts: Interest Rate Derivatives*](#)
- [*Legal Guidelines for Smart Derivatives Contracts: Credit Derivatives*](#)
- [*Legal Guidelines for Smart Derivatives Contracts: Foreign Exchange Derivatives*](#)
- [*Private International Law Aspects of Smart Derivatives Contracts Utilizing Distributed Ledger Technology*](#)
- [*Private International Law Aspects of Smart Derivatives Contracts Utilizing Distributed Ledger Technology: French Law*](#)
- [*Private International Law Aspects of Smart Derivatives Contracts Utilizing Distributed Ledger Technology: Irish Law*](#)
- [*Private International Law Aspects of Smart Derivatives Contracts Utilizing Distributed Ledger Technology: Japanese Law*](#)
- [*Private International Law Aspects of Smart Derivatives Contracts Utilizing Distributed Ledger Technology: New York Law*](#)

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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 79 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 [Twitter](#), [LinkedIn](#), [Facebook](#) and [YouTube](#).

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