

ISDA Launches New Consultation on Pre-cessation Fallbacks

NEW YORK, February 25, 2019 – The International Swaps and Derivatives Association, Inc. (ISDA) has launched a new consultation on how to implement pre-cessation fallbacks for derivatives.

ISDA announced its decision to consult on pre-cessation issues on February 5, following statements from the UK Financial Conduct Authority (FCA), ICE Benchmark Administration (IBA) and LCH that provided additional information to the market on this topic. The statements and this new consultation follow a 2019 consultation that was unable to find market consensus on how to implement pre-cessation fallbacks in derivatives contracts.

The new consultation asks whether the 2006 ISDA Definitions should be amended to include fallbacks that would apply to all covered derivatives following the permanent cessation of an interbank offered rate (IBOR) or a ‘non-representative’ pre-cessation event, whichever occurs first. Under this scenario, a single protocol would also be launched to allow participants to include both pre-cessation and permanent cessation fallbacks within their legacy derivatives trades.

The new consultation is open until March 25, 2020.

ISDA aims to publish the results of this consultation, alongside information on next steps, in late April or early May.

The new consultation is available here.

Background

- ISDA has been working on an initiative at the request of the Financial Stability Board’s Official Sector Steering Group (FSB OSSG) since 2016 to identify robust fallbacks for derivatives contracts that reference certain key IBORs. That request covered fallbacks that would take effect if an IBOR is permanently discontinued.
- ISDA conducted several industry consultations in 2018 and 2019 to finalize the methodology for fallbacks that take effect following the permanent cessation of a key IBOR, in line with the FSB OSSG’s request.
- In March 2019, the FSB OSSG subsequently asked ISDA to conduct a further consultation on pre-cessation issues.
- ISDA issued a consultation on pre-cessation fallbacks in May 2019. That consultation found market participants would generally not want to continue referencing LIBOR in existing or new derivatives contracts following a statement from a supervisor that it is no longer representative of the underlying market.

- However, there was no consensus on how to implement pre-cessation fallbacks, including whether the permanent cessation fallback rates should apply following a non-representativeness determination.
- In November 2019, the [FSB OSSG](#) sent a letter to [ISDA](#) expressing its view that pre-cessation triggers should be included alongside permanent cessation triggers as standard language in the amended 2006 ISDA Definitions and in a single protocol.
- In [response to the FSB OSSG letter](#), ISDA stated in December that it will continue its work to finalize fallbacks that take effect following a permanent cessation of an IBOR. Simultaneously, ISDA will work with regulators and the industry to increase market understanding of the implications of a non-representative IBOR, and attempt to build a consensus on how to implement pre-cessation fallbacks.
- In that letter, ISDA noted that further clarity on two points would help to increase market understanding of a non-representative LIBOR scenario – the ‘reasonable period’ during which a non-representative LIBOR would be published, and the specific action central counterparties would take if the UK FCA determines that LIBOR is non-representative.
- On January 24, [ISDA published letters](#) from the UK FCA and IBA that provided additional information on the length of time a non-representative LIBOR would be published. The launch of a [consultation by LCH](#) on proposed rule book changes to implement pre-cessation fallbacks on January 27 has also provided further information to the market on pre-cessation issues.

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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 900 member institutions from 73 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:

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