

**Comparison of Creditor Protections**

<b>U.S. Stay Regulations (Citations to Final FRB Rule)</b>	<b>2018 ISDA Protocol</b>
<p><b>Scope of Compliance</b></p> <p>Compliance with the U.S. Stay Regulations is permitted on a group-by-group basis.</p>	<p><b>Scope of Compliance</b></p> <p>Compliance with the 2018 ISDA Protocol is on a universal basis with respect to adhering entities that are regulated entities under the U.S. Stay Regulations.</p> <p>Incorporating the text of the 2018 ISDA Protocol by reference into covered QFCs is a permitted means of complying with the rules only for entities that have previously adhered to the 2018 ISDA Protocol.</p>
<p><b>252.84(d)(1)</b></p> <p>Covered QFCs and covered affiliate credit enhancements<sup>1</sup> that support covered QFCs may provide for a default right where the <b>direct party to the covered QFC becomes subject to a receivership, insolvency, liquidation, resolution or similar proceeding</b>. (Note: “Similar proceeding” is not limited to U.S. proceeding.)</p>	<p><b>Section 2(b) of 2018 ISDA Protocol: Affiliate in U.S. Insolvency Proceedings (Not a Credit Enhancement Provider)</b></p> <p>If an affiliate of the direct party to a covered QFC becomes subject to U.S. insolvency proceedings,<sup>2</sup> and such affiliate is not a credit enhancement provider with respect to such covered QFC, then the counterparty to the direct party (i.e., the adhering party or the Section 2 Stayed Party) may <u>only</u> exercise Performance Default Rights or Unrelated Default Rights with respect to the covered QFC or such related credit enhancement.</p>
<p><b>252.84(d)(2)</b></p> <p>Covered QFCs and covered affiliate credit enhancements that support covered QFCs may provide for a default right where the <b>direct party to the covered QFC does not satisfy a payment or delivery obligation</b> pursuant to (1) the covered QFC <u>or</u> (2) another contract between the same parties that gives rise to a default right in the covered QFC.</p>	<p><u>Performance Default Rights</u> are default rights that arise as a result of:</p> <p>(1) the direct party entering receivership, insolvency, liquidation, resolution or similar proceedings;</p> <p>(2) the direct party’s failure to satisfy a payment or delivery obligation to the Section 2 Stayed Party pursuant to the covered QFC (including pursuant to a Credit Support Annex that forms a part of the covered QFC), credit enhancement or any related contract<sup>3</sup> between such parties; <u>or</u></p>
<p><b>252.84(d)(3)</b></p>	

<sup>1</sup> Creditor protections do not apply to affiliate credit enhancements if a covered entity, covered FSI or covered bank is not the obligor. Creditor protections do not apply if an affiliate of the direct party to a covered QFC is not a credit enhancement provider with respect to such covered QFC.

<sup>2</sup> U.S. Insolvency Proceeding means Chapter 7 Proceedings, Chapter 11 Proceedings, FDIA Proceedings and SIPA Proceedings.

<sup>3</sup> Related contracts means with respect to a direct party and a Section 2 Stayed Party, any contract under which the occurrence of a default, event of default or similar event gives rise to a default right in a covered QFC between such parties (including, for example, contracts identified in an ISDA Master Agreement as a “Specified Transaction” or “Specified Indebtedness”).

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<p>Covered QFCs and covered affiliate credit enhancements that support covered QFCs may provide for a default right where the covered <b>affiliate support provider or transferee does not satisfy a payment or delivery obligation</b> pursuant to a covered affiliate credit enhancement that supports the covered QFC at issue.</p>	<p>(3) the failure by a credit enhancement provider under the covered QFC, or any successor thereto, to satisfy a payment or delivery obligation to the Section 2 Stayed Party pursuant to the credit enhancement of such covered QFC.</p>
<p><b>252.84(f)(1)</b></p> <p>After the stay period, covered QFCs and covered affiliate credit enhancements that support covered QFCs may permit the exercise of a default right that is (directly or indirectly) related to the covered affiliate support provider becoming subject to a receivership, insolvency, liquidation, resolution or similar proceeding if the covered <b>affiliate support provider that remains obligated under the covered affiliate credit enhancement becomes subject to a receivership, insolvency, liquidation, resolution or similar proceeding other than a Chapter 11 proceeding.</b> (Note: “Similar proceeding” is not limited to U.S. proceeding.)</p>	<p><u>Unrelated Default Rights</u> include:</p> <p>(1) any default right that is not solely based on an affiliate of the direct party becoming subject to U.S. insolvency proceedings <u>and</u> that can be shown, by clear and convincing evidence, to be <u>not</u> related (directly or indirectly)</p> <ul style="list-style-type: none"> <li>• To an affiliate of the direct party becoming subject to U.S. insolvency proceedings;</li> <li>• To any transfers to a transferee contemplated by a transfer motion; or</li> <li>• To a DIP motion</li> </ul> <p>AND</p> <p>(2) if a U.S. Parent of such direct party is not a party in U.S. insolvency proceedings, any default right that is based solely on an affiliate of the direct party becoming subject to insolvency or resolution proceedings other than U.S. insolvency proceedings.</p>
<p><b>252.84(f)(2)</b></p> <p>After the stay period, covered QFCs and covered affiliate credit enhancements that support covered QFCs may permit the exercise of a default right that is (directly or indirectly) related to the covered affiliate support provider becoming subject to a receivership, insolvency, liquidation, resolution or similar proceeding if a <b>transferee of the covered affiliate credit enhancement becomes subject to a receivership, insolvency, liquidation, resolution or similar proceeding.</b> (Note: “Similar proceeding” is not limited to U.S. proceeding.)</p>	<p><b>Section 2(c) of ISDA 2018 Protocol: Credit Enhancement Provider in Chapter 11 Proceedings.</b></p> <p>If an affiliate of the direct party to a covered QFC becomes subject to a U.S. insolvency proceeding and such affiliate is a credit enhancement provider with respect to the covered QFC and is subject to Chapter 11 Proceedings, then the counterparty to the direct party (i.e., the adhering party or the Section 2 Stayed Party) may <u>only</u> exercise Performance Default Rights or Unrelated Default Rights with respect to the covered QFC or the related credit enhancement.</p>
<p><b>252.84(f)(3)</b></p> <p>After the stay period, covered QFCs and covered affiliate credit enhancements that support covered QFCs may permit the exercise of a default right that is (directly or indirectly) related to the covered affiliate</p>	<p>These above limitations on the exercise of the default rights are applicable during the stay period. These limitations will only apply <u>after</u> the stay period if such affiliate files either a “Transfer Motion” or a “DIP motion” before the expiration of the stay period, and only for so long as the specific “Transfer Conditions” or “DIP Conditions” are met.</p>

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<p>support provider becoming subject to a receivership, insolvency, liquidation, resolution or similar proceeding if <b>the covered affiliate support provider does not remain obligated, or a transferee does not become obligated, to the same or substantially similar extent as the covered affiliate support provider was obligated</b> immediately prior to entering the receivership, insolvency, liquidation, resolution or similar proceeding with respect to:</p> <p>(1) the covered affiliate credit enhancement;</p> <p>(2) all other covered affiliate credit enhancements provided by the covered affiliate support provider in support of other covered direct QFCs between the direct party and supported party; and</p> <p>(3) all covered affiliate credit enhancements provided by the covered affiliate support provider in support of other covered direct QFCs between the direct party and affiliates of the supported party. (Note: “Similar proceeding” is not limited to U.S. proceeding.)</p>	<p><u>Transfer Conditions.</u> These conditions apply when the affiliate in Chapter 11 proceedings will be resolved by transferring substantially all of its assets (including subsidiaries), and only certain liabilities (but not capital liabilities), to another entity that will continue operations.</p> <ul style="list-style-type: none"> <li>• The transferee is either a specially created “bridge company” (as described under the Protocol) or an unaffiliated third party that would be required to satisfy any ratings conditions or other financial covenants applicable to the credit enhancement provider under the contract.</li> <li>• During the stay period, the transferee continues to satisfy its material payment and delivery obligations to each of its creditors and is not subject to insolvency or resolution proceedings.</li> <li>• Upon the expiration of the stay period: <ul style="list-style-type: none"> <li>○ A court order has been entered transferring, as soon as practicably possible, all or substantially all of the assets of the affiliate in Chapter 11 proceedings, excluding any assets retained for the costs and expenses of administration, to the transferee;</li> <li>○ All of the direct or indirect ownership interests held by the affiliate in Chapter 11 proceedings in the direct party to a covered QFC are transferred to the transferee by the end of the stay period; and</li> <li>○ All credit enhancements provided by the affiliate in Chapter 11 proceedings in respect of covered QFCs between the Section 2 Stayed Party and the direct party and between the Section 2 Stayed Party’s affiliates and the direct party are transferred to the transferee.</li> </ul> </li> <li>• Following the stay period: <ul style="list-style-type: none"> <li>○ The direct party of the Section 2 Stayed Party remains registered with and licensed by its primary regulator(s) to continue its business;</li> </ul> </li> </ul>
<p><b>252.84(f)(4)</b></p> <p>Covered QFCs and covered affiliate credit enhancements that support covered QFCs may permit the exercise of a default right after the stay period that is (directly or indirectly) related to the covered affiliate support provider becoming subject to a receivership, insolvency, liquidation, resolution or similar proceeding if, in the case of a transfer of the covered affiliate credit enhancement to a transferee,</p> <p>(1) all of the <b>ownership interests of the direct party directly or indirectly held by the affiliate support provider are <u>not</u> transferred to the transferee; or</b></p> <p>(2) <b>reasonable assurance has <u>not</u> been provided</b> that all or substantially all of the assets of the covered affiliate support provider or net proceeds of such assets will be transferred or sold to the transferee in a timely manner (excluding any assets reserved for the payment of costs and expenses of administration in the receivership, insolvency, liquidation, resolution or similar proceeding). (Note: “Similar proceeding” is not limited to U.S. proceeding.)</p>	

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	<ul style="list-style-type: none"> <li>○ Only if the transferee is a third party (not a bridge company), the third-party transferee continues to satisfy any financial covenants in the relevant covered QFC that were applicable to the party in Chapter 11 proceedings; and</li> <li>○ If the transferred credit enhancements are secured, the transferee continues to comply with all provisions regarding attachment, enforceability, perfection and priority of the security interest.</li> </ul> <p><u>DIP Conditions.</u> These conditions apply when the affiliate in Chapter 11 proceedings will be resolved by continuing operations as a “debtor in possession” while its capital liabilities are restructured.</p> <ul style="list-style-type: none"> <li>● The affiliate in Chapter 11 proceedings must be the top-most parent entity in the United States (a U.S. Parent).</li> <li>● By the end of the stay period, a court order has been entered under which the U.S. Parent remains obligated to the same extent as it was obligated immediately prior to becoming a party in Chapter 11 proceedings, with respect to:             <ul style="list-style-type: none"> <li>○ All credit enhancements it provides in support of covered QFCs between a direct party (its subsidiary) and a Section 2 Stayed Party; and</li> <li>○ All credit enhancements it provides in support of covered QFCs between the direct party and each affiliate of such Section 2 Stayed Party (<i>i.e.</i>, no “cherry-picking” between affiliates in a counterparty group).</li> </ul> </li> <li>● By the end of the Stay Period, a “Creditor Protection Order” with respect to each credit enhancement above has been entered by the court for the benefit of the applicable Section 2 Stayed Parties that provides that:             <ul style="list-style-type: none"> <li>○ Claims under the credit enhancement are granted administrative priority status;</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"> <li>○ A Section 2 Stayed Party may terminate covered QFCs immediately and without seeking court approval if (i) the direct party fails to meet any of its material obligations under covered QFCs or (ii) the U.S. Parent fails to meet any of its material obligations under applicable credit enhancements; and</li> <li>○ A Section 2 Stayed Party may terminate covered QFCs immediately and without seeking court approval if (i) the direct party fails to pay or deliver a close-out amount under covered QFCs between the direct party and another stayed counterparty or (ii) the U.S. Parent fails to satisfy its obligations when due under credit enhancements in respect of such covered QFCs.</li> <li>● Following the stay period, the direct party of the Section 2 Stayed Party remains registered with and licensed by its primary regulator(s) to continue its business.</li> </ul> <p><b>Section 2(d) of 2018 ISDA Protocol: Exercise of Default Rights Based on Payment Failure of U.S. Parent Credit Enhancement Provider to Other Section 2 Stayed Parties.</b></p> <p>With respect to a U.S. Parent that is subject to Chapter 11 Proceedings and has filed a DIP motion, and if a Section 2 Stayed Party’s ability to exercise default rights has been stayed pursuant to Transfer Conditions or DIP Conditions, the Section 2 Stayed Party can nevertheless exercise such default rights if:</p> <ul style="list-style-type: none"> <li>(1) the direct party fails to pay or deliver any close-out amount when due, in accordance with the terms of any covered QFC between such direct party and any other Section 2 Stayed Party; and</li> <li>(2) the U.S. Parent in Chapter 11 proceedings fails to satisfy its obligations, when due, in accordance with the terms of any credit enhancement that supports the covered QFC.</li> </ul>
252.84(h)(1)	

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<p>Covered QFCs and covered affiliate credit enhancements may permit the exercise of a default right that is related (directly or indirectly) to the <b>covered affiliate support provider becoming subject to FDI Act proceedings, after the FDI Act stay period, if the covered affiliate credit enhancement is not transferred</b> pursuant to 12 U.S.C. 1821(e)(9)-(e)(10) and any regulations promulgated thereunder.</p>	<p><b>Section 2(e) of 2018 ISDA Protocol: Credit Enhancement Provider in FDIA Proceedings</b></p> <p>If an affiliate to a direct party that is a credit enhancement provider becomes subject to FDIA Proceedings, the Section 2 Stayed Party shall be entitled to exercise Performance Default Rights or Unrelated Default Rights <u>only</u>.</p> <p>These limitations on the exercise of default rights are applicable during the FDIA stay period (which lasts until 5 PM Eastern Time on the business day following the affiliate’s entry into receivership under the FDIA). These limitations will be applicable after the stay period only if the credit enhancement (and any interest and obligation in or under, and any property security, such credit enhancement) between the credit enhancement provider and the Section 2 Stayed Party (or provided by the credit enhancement provider in respect of such covered QFC) has been transferred by the FDIC in accordance with the FDIA QFC Transfer Provisions.</p> <p>Further, during such FDIA Proceedings, the Section 2 Stayed Party may exercise <u>any</u> contractual rights to suspend performance with respect to its obligations under the covered QFC to same extent it would be entitled to do if the covered QFC were a QFC with the credit enhancement provider and were treated in the same manner as the credit enhancement.</p>
<p><b>252.84(h)(2)</b></p> <p>Covered QFCs and covered affiliate credit enhancements may permit the exercise of a default right that is related (directly or indirectly) to the covered affiliate support provider becoming subject to FDI Act proceedings, during the FDI Act stay period, if the default right may only be exercised so as to permit the supported party under the covered affiliate credit enhancement to suspend performance of its obligations under the covered QFC to the same extent as the supported party would be entitled to do if the covered QFC were with the covered affiliate support provider and were treated in the same manner as the covered affiliate credit enhancement.</p>	<p><b>Burden of Proof</b></p> <p>The Section 2 Stayed Party bears the burden of establishing that a Default Right may be exercised. With respect to “Unrelated Default Rights” (but not “Performance Default Rights”), the Section 2 Stayed Party must show by clear and convincing evidence that a Default Right is not related, directly or indirectly, to an affiliate of the direct party becoming a party in U.S. proceedings, to transfers under a Transfer Motion or to a DIP motion.</p>
<p><b>Burden of Proof</b></p> <p>The party seeking to exercise a default right in respect of a covered QFC must demonstrate by clear and convincing evidence or a similar or higher burden of proof that its right to exercise such default right is permitted under the rules.</p>	<p><b>Burden of Proof</b></p> <p>The Section 2 Stayed Party bears the burden of establishing that a Default Right may be exercised. With respect to “Unrelated Default Rights” (but not “Performance Default Rights”), the Section 2 Stayed Party must show by clear and convincing evidence that a Default Right is not related, directly or indirectly, to an affiliate of the direct party becoming a party in U.S. proceedings, to transfers under a Transfer Motion or to a DIP motion.</p>