

ISDA Publishes Results of DC Review Consultation

NEW YORK, September 19, 2024 – The International Swaps and Derivatives Association, Inc. (ISDA) has published the results of a market-wide consultation on proposed changes to the structure and governance of the Credit Derivatives Determinations Committees (DCs).

The [consultation, conducted by Boston Consulting Group \(BCG\)](#), was based on [recommendations proposed by Linklaters LLP](#) as part of an independent review on the composition, functioning, governance and membership of the DCs. This is the latest in a series of steps to identify amendments that could be made to improve the structure of the DCs and maintain their integrity in changing economic and market conditions.

The consultation indicates there is broad market support to implement many of the recommendations, including establishing a separate governance body, implementing certain transparency proposals relating to the publication of DC decisions and appointing up to three independent members of the DCs. Some of the proposals received a significant minority of objections, indicating that more industry input would be required to address the concerns raised. ISDA will work with its members to identify a package of practical changes that can be made to the DC rules and will present them to the DCs, which are solely responsible for agreeing and implementing any amendments.

The measures that were consulted on include:

- Establish a separate governance body, with responsibility for overseeing the operation of the DCs (including reporting to market participants and obtaining feedback from them) and making changes to the DC rules from time to time (in lieu of the DCs).
- Allow the governance body to appoint independent auditors to audit DC members' compliance procedures under the DC rules.
- Reduce the number of dealer members of the DCs to eight and the number of non-dealer members to four (in addition to central counterparties and any independent members).
- Reduce the eligibility threshold to serve as a non-dealer DC member from the current \$1 billion in credit default swap (CDS) notional outstanding referencing a single reference entity.
- Allow non-dealers to volunteer for membership of individual DCs, rather than having to join all the DCs.
- Remove the provisions relating to consultative dealer and non-dealer members.
- Allow eligible market participants to present statements of case within certain parameters.

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- Require the DCs and the DC secretary to provide adequate reasons (stated on the DC website) for all material decisions they take.
- Disclose any material step taken in the DC process (including any request to convene a DC, any statement of case submitted, and any public information provided or obtained by the DC in connection with a DC question) on the DC website as soon as is reasonably practical.
- Appoint up to three independent members of the DCs (with one acting as DC chairperson).
- Enhance the minimum requirements on DC members' compliance procedures.
- Enable the DCs, by a simple majority, to refer DC questions to an independent panel for a decision.
- Develop a new model to adequately fund the operations of the DCs and the other solutions for addressing the other recommended changes.

“The consultation showed there is broad market support for key changes that will improve the governance, efficiency and transparency of the DC process. The DCs are a critical part of the CDS markets and making these changes will ensure they continue to function robustly. ISDA will now work with industry participants and policymakers over the next year to put flesh on the bones of these proposals to show how they can be implemented in practice, before presenting these solutions to the DCs,” said Scott O’Malia, ISDA’s Chief Executive.

The DCs were introduced in 2009 as a centralized decision-making body to enable a standardized auction settlement process and ensure central clearing could be implemented for CDS. Although ISDA does not control the DC rules and is not involved in the decision-making process or administration of the committees, ISDA has an interest as a global trade association for over-the-counter derivatives in ensuring the DCs continue to function robustly.

The DCs are industry committees currently comprising up to 10 sell-side and five buy-side voting firms. More information about the DCs and the decision-making process is available on the [DC website](#).

The consultation response by BCG is [available here](#).

The Linklaters review is available [here](#).

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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 77 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 [LinkedIn](#) and [YouTube](#).