

**ISDA FX Definitions Market Participant Survey**

ISDA wishes to better understand if and how the 1998 FX and Currency Option Definitions and related documentation such as Annex A, supplements, additional provisions, forms of confirmations and template terms (together, the “FX Definitions”) might be improved and updated, taking into account developments and events in the FX market (e.g., currencies becoming non-deliverable) and the general evolution of foreign exchange trading since 1998.

To this end, ISDA has prepared the ISDA FX Definitions Market Participant Survey for your input, accessible [here](https://www.isda.org/2023/04/19/isda-fx-definitions-market-participant-survey/). **\*\*IMPORTANT\*\*** We would greatly appreciate if you would consolidate, or at a minimum coordinate, your firm’s submissions via the online survey response page. ISDA will accept responses to the survey until **May 19, 2023.**

ISDA will host webinars to discuss ISDA’s ongoing FX Market diligence work, provide an overview of the survey, demonstrate ISDA’s MyLibrary online documentation platform, and answer any questions you may have about the survey.

These will be held via Zoom on Monday April 24, 2023 at 10 am New York/3 pm London/10 pm Hong Kong (register [here](https://isda-org.zoom.us/webinar/register/WN_e5QgvJGGSXGfOxxSk4Fa9A)) and Tuesday April 25, 2023 at 8 am London/3 pm Hong Kong (register [here](https://isda-org.zoom.us/webinar/register/WN_CqTmx93ISjW8xq9cg25Iaw)).

If ISDA does move forward with updates and improvements to the FX Definitions, additional market outreach and coordination will be required. We expect to provide more information regarding survey responses and, if applicable, a strategy for next steps during the second half of 2023. ISDA plans to share an aggregated and anonymized summary of survey responses publicly but will not share names of respondents or individual responses outside of ISDA and EMTA staff.

A goal of ISDA is to ensure that any updates, consolidations, or changes to the FX Definitions would facilitate digitization of this documentation, along the lines of the digital publication of the ISDA 2021 Interest Rate Derivatives Definitions.

This survey includes questions regarding:

* The current landscape of market stakeholders
* Possible areas for change and improvement
* The potential effects on market participants and infrastructures of undertaking changes
* Suggestions on the best way to implement any agreed changes

By submitting the personal data requested under ‘Survey Respondent and Firm Information’ below, you acknowledge and consent to that data being used by ISDA for the purposes of conducting the survey (including sharing such data with EMTA and for conducting follow up discussions). Further information on ISDA's data protection policies is available [here](https://www.isda.org/general/isda-member-and-non-member-representative-privacy-notice/). Recipients of the survey agree not to use the process for any anti-competitive purpose.

**\*\*IMPORTANT\*\*** As noted above, we would greatly appreciate if you would consolidate, or at a minimum coordinate, your firm’s submissions via the online survey response page accessible [here](https://www.isda.org/2023/04/19/isda-fx-definitions-market-participant-survey/). ISDA will accept responses to the survey until **May 19, 2023.**

**SURVEY RESPONDENT AND FIRM INFORMATION**

1. First Name:
2. Last Name:
3. Email Address:
4. Job title?
5. What is your primary job area?
* Operations
* Legal
* Front office
* Risk
* IT/Technology
* Other

If ‘Other’, please provide further information below:

1. What is the name of the firm(s) you are responding to this survey on behalf of?
2. Is your firm an ISDA member?
* Yes
* No
* Don’t Know
1. Which descriptions below best describe your firm? (Choose all that apply)
	1. Corporation 🞏
	2. Investment manager 🞏
	3. Government /supranational entity 🞏
	4. Insurance company 🞏
	5. Energy or commodities firm 🞏
	6. International bank 🞏
	7. Regional bank 🞏
	8. Trading platform/broker 🞏
	9. Benchmark Administrator 🞏
	10. Exchange/Execution Venue 🞏
	11. Multi-bank platform 🞏
	12. Single-bank platform 🞏
	13. Liquidity Aggregator 🞏
	14. Settlement System 🞏
	15. Optimizer 🞏
	16. Derivatives intermediary 🞏
	17. Clearing house/repository 🞏
	18. Confirmation platform or settlement system that process derivatives transactions 🞏
	19. Law firm 🞏
	20. Accounting firm 🞏
	21. Other 🞏

If ‘Other’, please provide further information below:

1. How does your firm participate in the FX market? (Choose all that apply)
	1. Engage directly in FX transactions with counterparties 🞏
	2. Engage in FX transactions through a third-party intermediary 🞏
	3. Act as an intermediary for FX transactions 🞏
	4. Act as a trading platform/broker for FX transactions 🞏
	5. Act as a clearinghouse for FX transactions 🞏
	6. Act as a confirmation or novation infrastructure provider for FX transactions 🞏
	7. Act as a repository for FX transactions 🞏
	8. Act as an external advisor to participants in FX transactions 🞏
	9. Provide other infrastructure and/or technology solutions to facilitate FX transactions 🞏
	10. Other 🞏

If ‘Other’, please specify:

1. What types of FX or currency option transactions does your firms participate in, either directly or indirectly? (Choose all that apply)
	1. FX spot 🞏
	2. FX forwards 🞏
	3. FX swaps 🞏
	4. FX options 🞏
	5. Non-Deliverable Forwards/Non-Deliverable Options 🞏
	6. Other FX derivatives 🞏
2. How does your firm utilize the FX Definitions in your documentation/rulebook/terms or other operational materials? (Choose all that apply)
	1. By reference wholesale 🞏
	2. By reference to certain terms/provisions 🞏
	3. By inclusion of certain terms/provisions 🞏
	4. By adaptation of certain terms/provisions 🞏
	5. Other 🞏
	6. Firm does not utilize FX Definitions 🞏
	7. Not sure 🞏

If you selected “Other”, please explain below:

1. Compared to other aspects of your business, how significant are FX transactions in your overall business? (1= very insignificant; 5= very significant):
* 1: Very insignificant
* 2: Slightly insignificant
* 3: Significant
* 4: Slightly significant
* 5: Very significant

**CURRENT FX DEFINITIONS DOCUMENTATION ARCHITECTURE**

ISDA’s 1998 Definitions were published to provide a framework for the confirmation of privately negotiated FX and currency option transactions. The main booklet of the FX Definitions includes:

* Article 1: Certain General Definitions
* Article 2: General Terms Related to FX Transactions
* Article 3: General Terms Related to Currency Option Transactions
* Article 4: Calculation of Rates for Certain Settlement Rate Options (inclusive of related Annex A)
* Article 5: Disruption Events
* Article 6: Terms Applicable to FX Volatility Swaps, FX Variance Swaps and FX Correlation Swaps (published in supplement form)
* Article 7: Terms Relating to Barrier Transactions (published in Supplement form)
* Article 8: Terms Applicable to Transactions that have Averaging Dates (published in Supplement form)
* Exhibit I: Sample Form of a Letter Agreement
* Exhibit II: Sample Forms of Specific Provisions for Different Types of Transactions
* Index of Terms

Related documentation (starting with Annex A) has been published over time by ISDA and/or the Emerging Markets Trade Association (EMTA) for use by parties to augment these provisions. This related documentation includes Additional Provisions and “Supplements”, which add additional “Articles” and provisions to the FX Definitions. Importantly, unlike “Supplements” for certain other asset classes, parties need to incorporate the Supplements into their transactions for them to apply. Transactions could be entered into pursuant to Master Confirmation Agreements or Transaction Confirmations incorporating or referencing the applicable documents. For a full list of Additional Provisions and descriptions of current and historical documentation, please see the [Guide to ISDA and EMTA FX Derivatives Documentation and Currency Provisions](https://www.isda.org/book/guide-to-isda-and-emta-fx-derivatives-documentation-and-currency-provisions/) (published April 19, 2023) in the ISDA Bookstore.

Other documentation that is related to (but not directly a part of) the FX Definitions include the EMTA Template Terms and the EMTA/SFEMC Template Terms, which were prepared specifically as recommended best practices for non-deliverable FX and currency option transactions (incorporating many of the FX Definitions), Protocols (such as the ISDA Master FX Novation and Cancellation Protocol) and Multilateral and Bilateral Amendment Agreements. In this survey, we refer to the collection of all these documents, as well as user guides, market practice documents and guidance notices published by ISDA and/or EMTA, as the ‘FX Market Documentation’. Transactions in scope may also include references to or incorporate FX Market Documentation in addition to other product definitions, such as the 2021 ISDA Interest Rate Derivatives Definitions or the ISDA Digital Asset Definitions.

The following diagram represents the pieces that make up the FX Market Documentation that will be addressed in this survey. Please note that many of the questions in this survey generally reference the ‘FX Definitions’. However, we encourage you to consider interdependent components of the broader FX Market Documentation described above when responding. Please note that the diagram does not show all the components that make up the FX Market Documentation. Please refer to the above-mentioned guide for a more comprehensive list of documents.

**The FX Market Documentation**

*\*The May 2022 Barrier Event Supplement is expected to be available electronically via the SWIFT confirmation platform in the fall of 2023 following SWIFT’s approval and implementation period.*

**PART 1: YOUR FIRM’S USE OF THE FX DEFINITIONS**

*For ease of reading, many of the questions generally reference the FX Definitions. However, please consider interdependent components of the broader FX Market Documentation when responding.*

1. Do the FX Definitions provide necessary and complete standardized terms necessary to document transactions with your counterparties clearly and effectively?
* Yes
* No
* No Opinion
1. If ‘No’, please provide further information/examples of bespoke amendments you include:
2. When referencing the FX Definitions, what provisions do you find you typically need to amend and/or negotiate and where in the documentation architecture do you make these changes (ie, in the Master Agreement Schedule, in Master Confirmation Agreements, in Transaction Confirmations)?
3. The online survey will allow you to upload model amendments/playbooks on a confidential basis. The file size limit is 16MB. If your file size is larger, please contact isdalegal@isda.org.

1. Do the other components of the FX Market Documentation adequately and clearly align with the FX Definitions (see the description of the FX documentation architecture)?
* Yes
* No
* No Opinion
1. If ‘No’, please provide an example:

1. Which (if any) of the following do you find challenging or problematic (from any of the legal certainty, clarity or operational perspectives) when documenting FX or currency option transactions?

|  |  |  |  |
| --- | --- | --- | --- |
|  | Challenging/Problematic | Not Challenging/Problematic | No Opinion |
| Understanding what specific definitions and provisions apply to my transaction |  |  |  |
| Managing the potential legal risks that could arise between similar transactions that apply different Supplements to the FX Definitions |  |  |  |
| Finding that the FX Definitions are out of date with current market practice |  |  |  |
| Other |  |  |  |

If you selected “Other”, please explain below:

1. Do you incorporate the FX Definitions in non-FX/currency option transactions?
* Yes
* No
* Don’t Know
1. If ‘Yes’, what types of transactions?

**PART 2A: SUPPORT FOR AND GOALS OF CHANGES TO FX DEFINITIONS**

*For ease of reading, many of the questions generally reference the FX Definitions. However, please consider interdependent components of the broader FX Market Documentation when responding.*

1. Is your firm supportive of updating the FX Definitions at this time?
* Yes
* No
1. Why is your firm supportive/not supportive?
2. If your answer to Q22 is ‘Yes’, please answer the following. What core principles or goals should guide any updates (eg, maximizing clarity regarding the terms that apply to a specific transaction, rationalizing defined terms, consolidation, preserving certain terms, reflecting current market practice)?
3. In your view, what time frame would be appropriate for updating and implementing changes to the FX Definitions? Are there specific milestones or phases to consider?

INSTRUCTION: If you would like to provide feedback on specific potential issues and possible improvements to the FX Definitions, please proceed to **Part 2B**. Otherwise, continue to **Part 3**.

**PART 2B: VIEWS ON SPECIFIC POTENTIAL IMPROVEMENTS TO THE FX DEFINITIONS**

*For ease of reading, many of the questions generally reference the FX Definitions. However, please consider interdependent components of the broader FX Market Documentation when responding.*

1. Would your firm wish to see improvements to and of the following provisions of the FX Definitions (where applicable)? Please note that questions related to Disruption Events and Fallbacks are discussed in later questions.

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | No Opinion |
| Article 1: Should updates be made to the terms ‘Business Day’ or ‘Business Day Convention’ (taking into account differences in Supplements and market practices)? |  |  |  |
| Should the FX Definitions include the concept of ‘Publication Calendar Day’? |  |  |  |
| Should updates be made to the concept of “Settlement Date”, taking into consideration factors such as payment versus payment mechanisms? |  |  |  |
| Should updates be made to the other defined terms (such as ‘Spot Rate’), particularly where the same or similar terms are defined in currently published documentation differently (taking into account differences in Supplements and market practices)? |  |  |  |
| Article 3: Should updates be made to Sections 3.5(g) (Notice of Exercise), 3.6(a) (Exercise), 3.6(c) (Automatic Exercise), 3.7(a) (Deliverable Currency Option Transaction)? |  |  |  |
| Should FX Supplements be consolidated and rationalized into the main FX Definitions such that they are automatically applicable to all transactions referencing the FX Definitions?  |  |  |  |
| Should new provisions and/or valuation methodologies for early terminations and close-outs under the FX Definitions be developed? (See also questions related to netting and discharge/novation below.) |  |  |  |
| Should the Additional Provisions published since 1998 be consolidated and rationalized (including those that are standalone publications such as the Additional Provisions for Cash-Settled FX Forwards and Currency Options and Developed Markets Currency Matrix published on November 22, 2021, as well as those included as Exhibits to Supplements such as the May 2022 Barrier Event Supplement)? This could include developing a confirmations template library based on the standard sample confirmations and Additional Provisions currently published.  |  |  |  |
| Should the FX Definitions contain certain definitions currently included in the EMTA Template Terms that are uniform and generally used in the FX market (eg, Unscheduled Holidays, Valuation Postponement for Price Source Disruption and Cumulative Events)?  |  |  |  |
| Should ISDA and EMTA publish and maintain a consolidated index of terms across the FX Market Documentation?  |  |  |  |
| Should the Currency/Business Day Matrix of the 2021 ISDA Interest Rate Derivatives Definitions (with adjustments as appropriate) be applied to the FX Definitions (effectively replacing sections 4.3 and 4.4 of Annex A)? |  |  |  |
| Should Annex A be restructured into a matrix/table format akin to the Floating Rate Matrix in the 2021 ISDA Interest Rate Derivatives Definitions and/or separated into: (1) a portion for settlement rate options (section 4.5 of Annex A); and (2) a portion for substantive provisions related to non-deliverable currencies? For reference, see information about the Floating Rate Matrix starting on page 15 of ISDA’s [*Key Changes in the 2021 Interest Rate Derivatives Definitions*](https://www.isda.org/a/BNEgE/Key-Changes-in-the-2021-ISDA-Interest-Rate-Derivatives-Definitions-June-2021.pdf).  |  |  |  |
| Should updates be made to provisions regarding corrections to published and displayed rates (section 4.1 of the FX Definitions and section 4.7 of Annex A)? |  |  |  |
| With respect to deliverable currencies, should Calculation Agent provisions be included in the FX Definitions (eg, incorporating dispute mechanisms or joint Calculation Agent wording)? Such inclusion could account for interaction with EMTA-developed joint Calculation Agent provisions and the Calculation Agent standards in the 2021 ISDA Interest Rate Derivatives Definitions. |  |  |  |
| With respect to non-deliverable currencies, should Calculation Agent provisions be included in the FX Definitions (eg, incorporating dispute mechanisms or joint Calculation Agent wording)? Such inclusion could account for interaction with EMTA-developed joint Calculation Agent provisions and the Calculation Agent standards in the 2021 ISDA Interest Rate Derivatives Definitions. |  |  |  |
| Should standardized terms for certain other common transaction types be developed (eg, deal-contingent transactions)? |  |  |  |
| Should terms that anticipate the development of central bank digital currencies be considered for inclusion in the FX Definitions? |  |  |  |
| Should the process of novations and collapses of FX transactions currently addressed via the ISDA Master FX Novation and Cancellation Protocol be simplified and/or incorporated into the FX Definitions? |  |  |  |
| Should the process of ‘Novation netting provisions’ be incorporated into the FX Definitions? |  |  |  |
| Should an updated User’s Guide to the FX Market Documentation be developed?  |  |  |  |
| Should the FX Definitions be published in separate modules that can be specified to apply to other transactions/asset classes? |  |  |  |
| Should fallback provisions (RE: Benchmarks Supplement) be included? |  |  |  |
| Should consideration be given to adjusting the ‘Rounding’ conventions (eg, in context of Cross Currency Settlement Rates)? |  |  |  |

1. For each change that you responded ‘Yes’ to regarding any of the potential improvements listed in the table in question 26 above, please comment as to whether you anticipate it would be difficult for your firm to approve and/or implement changes to the FX Definitions. Among other considerations, please address operational issues and resulting changes in regulatory treatment (if any).
2. For each change that you responded ‘Yes’ to regarding any of the potential improvements listed in the table in question 26 above, please comment on what could be done to facilitate adaptation to/implementation of the change.
3. With respect to potential updates to Article 5 (Disruption Events), what are you interested in examining (and, if applicable, what should be avoided in any updates or revisions)? Choose ‘Yes’, ‘No’ or ‘Other’ for each below and provide any other comments you wish in the box provided.

Deliverable Currencies

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Other |
| Consolidating/incorporating the provisions for offshore deliverable CNY and RUB Deliverable Currency Disruption Events |  |  |  |
| Developing standard Disruption Events/Fallbacks for additional deliverable currencies in specific currency terms or generic terms that could apply to any currency or currencies in a published matrix |  |  |  |

If you selected ‘Other’ above, please explain:

1. Non-Deliverable Currencies

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Other |
| Expanding Non-Deliverable Currency Disruption Events for additional currencies in specific currency terms or generic terms that could apply to any currency or currencies in a published matrix |  |  |  |

If you selected ‘Other’ above, please explain:

1. Additional Considerations

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Other |
| Amending current Disruption Events/Fallbacks |  |  |  |
| Adding additional Disruption Events/Fallbacks |  |  |  |
| Developing different consequences for different (including potentially additional) Disruption Events |  |  |  |

If you selected ‘Other’ above, please explain:

1. Should there be changes to the way updates are made to the FX Definitions (such as automatic updates of FX Definitions for specific terms (eg, Disruption Events and specific Disruption Fallbacks) that could be subject to an opt-in/opt-out election, delayed effective dates, etc.?
2. Understanding that the EMTA Template Terms and the EMTA/SFEMC Template Terms are published as best practice recommendations, do you have any suggestions for improving the compatibility of these documents with the FX Definitions and/or other FX Market Documentation while preserving their utility?
3. What other specific improvements to the FX Definitions should be considered? Are there specific sections or provisions you are most interested in reviewing?

**PART 3: CONSIDERATION OF ARCHITECTURE AND ROLLOUT OF POTENTIAL UPDATES TO THE FX DEFINITIONS**

*Consider three possible approaches to updated FX Definitions, which are intended to prompt feedback regarding the pros, cons of variations on different approaches.*

**Approach A: No changes to current documentation architecture or process for substantive updates**

No changes are made to the current architecture of the FX Definitions or broader FX Market Documentation. Components applicable to a particular transaction would potentially remain in several different documents. Current Supplements and EMTA Template Terms would remain separate as well. Key market updates validated by the market for improvement would be addressed in a similar manner to the way they are today (for example, Disruption Events could be addressed in a Supplement that parties would then make applicable to their transactions on an individual basis).

**Approach B: Reissued FX Definitions with consolidated documentation architecture including substantive updates**

The FX Definitions are updated and reissued in their entirety, consolidating existing Additional Provisions and Supplements, as well as other interdependent FX Market Documentation, and providing for versioning so that going forward amendments can be made to the FX Definitions more easily. This approach is very similar to the approach taken in connection with publication of the 2021 ISDA Interest Rate Derivatives Definitions as a successor to the 2006 ISDA Definitions. However, the scope of substantive updates could vary from minimal to extensive based on feedback from market participants and infrastructure providers. Under this approach, timing and strategy required for market participants and infrastructure providers to implement the new FX Definitions would need to be considered and determined. However, notwithstanding the timing and strategy for implementation, at some point ISDA would only support the new FX Definitions and the (1998) FX Definitions would not be updated or otherwise supported.

**Approach C: Reissued FX Definitions with consolidated documentation architecture and phased substantive updates**

The FX Definitions are updated solely to allow for updates via re-versioning and to consolidate all existing Additional Provisions and Supplements, as well as interdependent FX Market Documentation. After the market begins using the updated FX Definitions for new transactions, discrete areas of change (including substantive updates) could be implemented via subsequent versions that could, if necessary, have Effective Dates different to their respective Publication Dates and/or temporary or permanent opt-out provisions to allow time for the market to implement any changes required for the new versions. A variation on this Approach would include additional changes in the first version of the updated FX Definitions, including potentially substantive changes, to incentivize use of the updated FX Definitions before additional versions are published. This approach would require analysis of the appropriate balance with respect to the volume and type of updates in the first version of the updated FX Definitions.

**INSTRUCTION:** For questions 35-37, please consider: What are the advantages and disadvantages to each approach in your view? Is one preferable to the others, and if so, why? Among other things, please consider the impact on legacy non-cleared transactions that may continue to reference the existing FX Market Documentation.

1. Approach A:
2. Approach B:
3. Approach C:
4. Are any of these approaches more or less preferable in connection with improvements to the FX Definitions that you support? Please explain.
5. What timing would be required for implementation of each of these approaches? What factors affect this timing? Consider challenges and opportunities both from an internal systems and external providers’ perspective.

Approach A

Approach B

Approach C

**PART 4: OTHER QUESTIONS**

*For ease of reading, many of the questions generally reference the FX Definitions. However, please consider interdependent components of the broader FX Market Documentation when responding.*

1. When considering updates or changes to the FX Definitions, are there specific considerations that should be taken into account with respect to the following?
	1. Clearinghouses that clear FX transactions:
	2. Market participants’ internal platforms systems:
	3. Confirmation platforms or settlement systems that process FX transactions:
	4. Other infrastructure providers:
2. What are the regional differences or transaction type differences that should be considered in any update of the FX Definitions?
3. In your view, do the FX Definitions reflect general market practices for “foreign exchange” (beyond derivatives)? Are there any principals in the FX Global Code which need to be reflected in any update project of the FX Definitions?
4. Do the FX Definitions facilitate efficient implementation of derivatives technology solutions?
* Yes
* No
* No Opinion
1. What kinds of improvements to FX Market Documentation would most acutely motivate your firm to spend resources to adopt changes?
2. Should a system be facilitated through ISDA’s MyLibrary platform where a user could select the parameters of a transaction type and currency to generate a template that matches those parameters for unofficial reference (leveraging the FX Definitions and the various published Additional Provisions/Exhibit Templates where choice is involved)? More information on ISDA’s MyLibrary is available [here](https://assets.isda.org/media/00f6ffa2/5aba0996-pdf/).
* Yes
* No
* No Opinion

Please include additional comments below:

1. Do you have any other feedback to provide on the topics discussed in this survey not already covered in the previous questions?
2. If any of the text box spaces in this survey were not sufficient for you to provide your responses, or you would like to provide any other information or supporting documentation related to your responses, the online survey will allow you to upload a file. The file size limit is 16MB. If your file size is larger, or you have any other questions, please feel free to contact isdalegal@isda.org.