

BNY Mellon Publishes Custody Documents for Negotiation on ISDA Create

NEW YORK, November 24 – The International Swaps and Derivatives Association, Inc. (ISDA) and Linklaters have announced that Bank of New York Mellon (BNY Mellon) has published key custodial documentation on ISDA Create, a move that will bring greater efficiency to the negotiation of custody agreements as firms prepare for phase six of the regulatory initial margin (IM) requirements for non-cleared derivatives in September 2022.

Market participants are now able to access BNY Mellon’s triparty and third-party account control agreements (ACAs) via the ISDA Create platform, enabling firms to negotiate and agree those documents online with full digital capture of the resulting legal data. Having both BNY Mellon’s ACAs – which govern the terms of collateral segregation and management between a custodian and two trading counterparties – and ISDA’s credit support documents available on ISDA Create means BNY Mellon clients have the opportunity to complete the legal documentation required for regulatory IM on a single platform, simplifying compliance efforts.

“Phase six of the initial margin requirements will bring several hundred small entities into scope of the rules, many of which lack the resources to conduct lengthy bilateral negotiations of legal agreements with all their counterparties and custodians. Having both custody and regulatory IM documentation available on the ISDA Create online platform will bring significant efficiencies to the negotiation process and help phase-six firms to meet the September 2022 compliance date,” said Katherine Tew Darras, ISDA’s General Counsel.

“Phase six will undoubtedly be a challenge for our entire industry, so we applaud BNY Mellon for deciding to leverage the capabilities of ISDA Create to negotiate all of its phase-six ACAs. This commitment will benefit both its clients and the industry more broadly. Among other things, by negotiating on ISDA Create, BNY Mellon will significantly reduce the administrative burden on phase-six firms and simultaneously give them the ability to operationalize their collateral data with no additional effort,” said Doug Donahue, Partner at Linklaters.

“BNY Mellon is pleased to publish and negotiate our regulatory initial margin triparty and third-party ACAs on ISDA Create, which gives us and our clients the opportunity to complete the legal documentation required for margin segregation service on a common platform. This places our firm in a better position to service clients during phase six, saves our clients time, simplifies compliance efforts while also giving all participants a complete digital repository of the resulting legal data,” said Ted Leveroni, Head of Margin Services, BNY Mellon Markets.

ISDA Create was launched in 2019 to help firms negotiate [IM documentation](#) to comply with new margin rules. The platform has since [expanded to include](#) the ISDA Master Agreement, generic amendment agreements to ISDA published documents and an interest rate reform bilateral template package to facilitate the transition to risk-free rates. ISDA Create also includes multi-fund management umbrella functionality and incorporates the ISDA Clause Library, which provides standardized drafting options for certain provisions within the ISDA Master Agreement and ISDA's [collateral documentation](#).

ISDA Create is an online solution built by Linklaters' internal technology start-up Nakhoda and is available to ISDA members and non-members. Additional information relating to ISDA Create, including fact sheets, webinars/videos and presentations, is available on the [ISDA Create InfoHub](#). To schedule an online demo of the ISDA Create platform, please contact isdacreate@isda.org.

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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 960 member institutions from 78 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](#).

ISDA® is a registered trademark of the International Swaps and Derivatives Association, Inc.

About Linklaters

Linklaters is a leading global law firm, supporting and investing in the future of our clients wherever they do business. We combine legal expertise with a collaborative and innovative approach to help clients navigate constantly evolving markets and regulatory environments, pursuing opportunities and managing risk worldwide. Our 5,200 people, of which almost half are lawyers, are located across 31 offices in 21 countries. In order to offer our clients, the highest quality advice, our lawyers across three divisions, Corporate, Dispute Resolution and Finance, specialize in industry sectors as well as practice areas.

About Nakhoda

Nakhoda is Linklaters' internal tech start-up, which brings together a cross-functional group of lawyers, designers and software engineers working closely together to build technology and automation solutions for its clients globally.