ISDA Launches Swiss Module for ISDA Resolution Stay Jurisdictional Modular Protocol

NEW YORK, October 31, 2017 – The International Swaps and Derivatives Association, Inc. (ISDA) today announced the launch of a Swiss module to the ISDA Resolution Stay Jurisdictional Modular Protocol (JMP). The new module will allow market participants to comply with Swiss regulations that require contractual stays to be included into certain financial contracts not governed by Swiss law.

The launch of the ISDA Swiss Jurisdictional Module follows the publication of a Japanese module in January 2017, a German module in June 2016 and a UK module in May 2016. Additional jurisdictional modules will be launched in due course to meet other national regulations.

The JMP was launched on May 3, 2016, and was developed in response to regulatory changes. Under a framework established by the Financial Stability Board (FSB), various national regulators are introducing requirements for certain banks in their jurisdiction to obtain consent from their counterparties for statutory stays on early termination rights to apply to financial contracts between those parties, regardless of the governing law of the contract.

These stays are among the powers available to national resolution authorities to resolve failing banks as part of their jurisdiction's special resolution regime. While statutory stays would apply to all contracts with all counterparties governed under the law of that jurisdiction in the event a bank enters into resolution proceedings, there is some uncertainty over whether a stay would be enforceable on a cross-border basis if outstanding trades are governed by overseas law.

The Swiss module follows requirements contained in the Banking Ordinance of the Swiss Federal Council of April 30, 2014, and a related Ordinance of the Swiss Financial Market Supervisory Authority, regarding contractual stays in financial contracts that are subject to foreign law or that explicitly identify a place of jurisdiction outside Switzerland.

The rules take effect from April 1, 2018 if one party to, or beneficiary of, an agreement is a regulated entity and the other party, or beneficiary, is either a bank or securities dealer, or would be a bank or securities dealer if it was domiciled in Switzerland. Otherwise, the rules take effect from October 1, 2018.

The JMP and each jurisdictional module is developed by a working group of buy- and sell-side firms and other trade associations, in close cooperation with the FSB and national regulators.

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Please visit the Protocol Management section of the ISDA website to read the protocol, updates to the list of adhering firms and frequently-asked-questions documents.

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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 875 member institutions from 68 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.