ISDA® Safe, Efficient Markets

ISDA Board Statement on Adherence to the IBOR Fallback Protocol

NEW YORK, July 29, 2020 – The International Swaps and Derivatives Association, Inc. (ISDA) today published a statement from its Board of Directors on adherence to the forthcoming IBOR Fallback Protocol.

"Since 2016, ISDA has been working with the Financial Stability Board Official Sector Steering Group on updates to its standard documentation for interest rate derivatives to implement more robust fallbacks for LIBOR and other key interbank offered rates (IBORs). These fallbacks will be critical to ensure that derivatives contracts continue to reference clear, transparent and consistent rates if the IBOR they currently reference is discontinued or, in the case of LIBOR, becomes non-representative. The new fallbacks are based on adjusted versions of the risk-free rates identified as alternatives to LIBOR and other IBORs in the relevant jurisdictions.

"As part of its work, ISDA will soon publish the IBOR Fallback Protocol to facilitate inclusion of the new fallbacks in existing non-cleared IBOR derivatives transactions between counterparties that both adhere to the protocol. Members of the ISDA Board of Directors strongly support broad adherence to the IBOR Fallback Protocol among all market participants globally that have non-cleared derivatives exposure to LIBOR and other IBORs.

"The fallbacks and related triggers that will be implemented in legacy non-cleared derivatives contracts via the IBOR Fallback Protocol are based on a series of open consultations over the past two years that resulted in broad market consensus. The IBOR Fallback Protocol is the most efficient way for participants in the vast majority of non-cleared derivatives markets to mitigate against the risks associated with the discontinuation of a key IBOR, and is a critical part of addressing both individual firm risks and systemic risks associated with the expected discontinuation and/or non-representativeness of LIBOR in particular. Central counterparties that clear derivatives referencing key IBORs have already stated they will use the powers in their respective rule books to implement the new fallbacks across all new and legacy over-the-counter transactions they clear."

Background

ISDA will soon amend certain 'rate options' in the 2006 ISDA Definitions to include fallbacks that would apply upon the permanent discontinuation of LIBOR and other key IBORs and upon a 'non-representative' determination for LIBOR. ISDA is also amending certain floating rate options that use US dollar LIBOR as an input to include fallbacks that would apply if US dollar LIBOR is permanently discontinued. As it has done from time to time, ISDA will amend the 2006 ISDA Definitions by publishing a supplement (the IBOR Fallback Supplement).

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Upon the effectiveness of the supplement for the relevant IBOR, transactions incorporating the 2006 ISDA Definitions that are entered into on or after the date of the supplement (ie, the date that the 2006 ISDA Definitions are amended) will include the amended floating rate option (ie, the floating rate option with the fallback). Transactions entered into prior to the date of the supplement (so-called legacy derivatives contracts) will continue to be based on the 2006 ISDA Definitions as they existed before they were amended pursuant to the supplement, and therefore will not include the amended floating rate option with the fallback.

ISDA also expects to publish a protocol (the IBOR Fallback Protocol) to facilitate multilateral amendments to include the amended floating rate options, and therefore the fallbacks, in legacy derivatives contracts. By adhering to the protocol, market participants agree that their legacy derivatives contracts with other adherents will include the amended floating rate option for the relevant IBOR and will therefore include the fallback. As always, any such protocol will be completely voluntary and will amend contracts only between two adhering parties (ie, it will not amend contracts between an adhering party and a non-adhering party or between two non-adhering parties). ISDA will also publish bilateral forms of amendment that market participants could use to amend their legacy derivatives contracts.

The fallbacks will take effect in new contracts via the IBOR Fallback Supplement and in legacy contracts that are amended by the IBOR Fallback Protocol (or bilaterally) on a set date approximately three to four months after the upcoming launch.

For additional information from ISDA relating to financial benchmark reform, including the implementation of new derivatives fallbacks, visit the ISDA website.

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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 925 member institutions from 75 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.