ISDA Annual Legal Forum
London, February 11, 2026
Opening Remarks
Katherine Tew Darras
ISDA General Counsel

Good morning and welcome to ISDA's Annual Legal Forum. Thank you for joining us today and thanks to our platinum sponsors – Cleary Gottlieb and CMS – for making the event possible.

When I gave these remarks at the same event last year, ISDA was just embarking on its 40th anniversary celebration. I laid out our story from small beginnings in 1985, and our history of providing legal and technical solutions that have since helped the derivatives market grow from strength to strength.

This work continues into 2026, with a host of new technologies and market practices that will bring their own legal issues. I want to take this opportunity to focus on perhaps the most consequential of these – tokenization – and explain what ISDA is doing to bring legal certainty to this exciting new development.

Tokenization provides an effective solution to several key challenges. There's no doubt that the mandatory margin requirements introduced for non-cleared derivatives in recent years have achieved their goal of reducing counterparty credit risk. But, at the same time, there is concern that they have left the financial system as a whole more vulnerable to liquidity squeezes in times of severe market stress.

This dynamic has played out a couple of times already this decade. The 'dash for cash' at the height of the COVID pandemic in 2020. The Russian invasion of Ukraine in 2022. The UK gilts crisis later that year. On each occasion, these external shocks produced heightened volatility, requiring market participants to suddenly source large volumes of cash to meet variation margin calls. This, in turn, introduced further drains on liquidity, destabilizing the system and prompting central banks to intervene.

These events have led to a push for a wider range of assets to be used as margin. The data shows this is already happening for non-cleared derivatives. Although cash is still king for variation margin, its dominance is starting to slip, with government securities and other high-quality assets taking an increasing share of the total.

Unfortunately, this evolution is limited by various economic, capital and workflow issues. For example, money market funds offer a potentially stable source of collateral, but the current workflow means they cannot simply be posted from one party to another. Instead, the adjusted collateral value of the money market fund must be posted as cash and then transformed by the custodian, which is complex, resource-intensive and can lead to increased liquidity and operational risks in times of market stress.

This could all change with tokenization. Once represented as a tokenized asset on a shared ledger, which can be verified by all parties, assets like money market funds or gold can be posted instantaneously to a counterparty anywhere in the world. This broadens the potential universe of eligible collateral, improves liquidity management, reduces the cost of funding and cuts operational errors. More broadly, it also lowers the risk of another systemic liquidity crunch in the future.

ISDA is supporting the development of tokenization in a variety of ways. For example, we've taken part in industry work to demonstrate the potential of tokenization to eliminate settlement delays. We're promoting interoperability with the Common Domain Model (CDM), and we're advocating for appropriate capital treatment for digital assets.

And, of course, we're helping to develop the clear and consistent legal and regulatory frameworks that will bring certainty, enable cross-border deployment and accelerate industry adoption

As ISDA's history shows, technology in our markets is always changing, but the need for robust documentation and legal opinions remains constant. Tokenization offers a perfect example of this. Market participants must be able to use these assets with the same confidence, safety and efficiency as traditional instruments. Firms will also need regulatory certainty that tokenized assets will be permitted as collateral under the margin rules for non-cleared derivatives.

On the legal and documentation front, we published tokenized collateral model provisions in 2023 for inclusion in the 2016 credit support annexes (CSAs) for variation margin. This effectively updates the transfer mechanisms in the CSA to cover the posting of tokenized collateral.

In 2024, we followed up with a guidance note that sets out how firms may approach a legal opinion on the enforceability of collateral arrangements using ISDA documentation and tokenized collateral.

To speed up practical adoption, we're now co-sponsoring a working group with Global Digital Finance to explore appropriate legal and regulatory structures, specifically using US tokenized money market funds as collateral for a variety of products.

Meanwhile, there have been important developments in the US with the Genius and Clarity Acts, which set a new framework for digital assets. The Commody Futures Trading Commission (CFTC) also recently launched guidance on the use of tokenized assets as collateral for derivatives, which clarifies that CFTC regulations are technology neutral.

That means tokenized versions of already-eligible collateral retain their margin eligibility so long as they meet existing regulatory requirements.

We welcome this much-needed clarity on the use of tokenized assets as collateral and agree with the CFTC's emphasis on the importance of appropriate risk management to ensure current standards are maintained. We look forward to working closely with regulators to encourage consistent regulatory treatment as far as possible around the globe, as well as working to promote strong risk management standards and educating market participants on the benefits and risks of this technology.

This is exciting work, with the prospect of a tokenized collateral system just around the corner. It shows that ISDA remains at the cutting edge of developments in the derivatives market, with a crucial role to play in enabling its continued growth.

While we tackle the challenges of the future, we're certainly not neglecting the bread-and-butter issues that have kept us busy for over four decades.

In response to industry feedback, we embarked on an update of the 1998 FX and Currency Option Definitions in early 2024. Of course, the contractual terms applicable to FX derivatives have evolved with the addition of supplemental publications. But it was widely recognized that a review and consolidation would be helpful to reflect the evolution of this market, which has seen a sixfold increase in average daily turnover since those definitions were written.

I'm pleased to say that, after a lot of hard work, the 2026 FX Definitions will be published next month, giving about two years for the market to implement them before they are rolled out at the end of 2027. This ensures we stay in line with Swift's annual update schedule.

Throughout the update process, we have endeavored to preserve the many parts of the definitions that still function well, while streamlining and rationalizing other aspects that need revision. This includes updates to disruption events for deliverable transactions and alignment on the calculation agent standard. This has been a great example of cross-industry cooperation, and I'd like to thank the Global Financial Markets Association's foreign exchange division and the Trade Association for the Emerging Markets for their valued assistance throughout this project.

I'd like to touch on a few other areas of important work for our legal team. Firstly, the Credit Derivatives Determinations Committees (DCs). These play a critical role in the safety and efficiency of the market by providing a single determination on whether a credit event has occurred, enabling credit derivatives to be cleared.

Last year, the DCs voted to form a governance committee under a charter developed by ISDA's Credit Steering Committee and published by ISDA. This will be responsible for overseeing the operation of the DCs and for making changes to the DC rules where necessary.

In November, an invitation to tender was issued for an independent regulated entity to serve as the administrator for the DCs, which includes assuming the role of DC secretary. The submissions deadline was last week, and we expect a successful bid to be announced before the end of March.

Last year, we also made significant progress on expanding our suite of digital products. We launched the new ISDA Notices Hub, a vital step in modernizing the outdated close-out process for derivatives trades. It's a secure online tool that enables fast delivery and receipt of termination notices, reducing delays that can sometimes cost counterparties millions of dollars. Available on the S&P Global Market Intelligence Counterparty Manager platform, the ISDA Notices Hub is free for buy-side firms and dealers benefit from a discounted rate for the first two years of operation.

The Notices Hub was launched in July, and I'm pleased to say that nearly 160 buy- and sell-side entities have so far adhered to the ISDA 2025 Notices Hub Protocol, which provides the legal framework to allow delivery of notices via the platform. If you'd like to join this growing universe of adopters, our team is available to help you with the onboarding process.

Finally, ISDA once again proved its ability to forge consensus in reaction to fast-moving market events late last year. The US government shutdown in October left inflation-linked swaps dealers with a major headache: how should they determine an initial value for new trades without consumer price inflation (CPI) data published by the Bureau of Labor Statistics.

ISDA quickly worked with market participants to find a recommended solution – using the fallback methodology applicable for Treasury inflation-protected securities to determine a substitute CPI level for October – that reduced disruption and allowed the market to operate safely and efficiently. The solution wasn't without its technical challenges, but it showed the critical role we play in helping the market respond to critical problems.

I hope that's given you a flavor of the work we're doing at ISDA to bring legal certainty for participants in our market, and our commitment to tackling present and future challenges. Of course, there's much more to say, but I know you're keen for our fantastic panels and presentations to start. I hope you enjoy the event, and please don't hesitate to get in touch if you'd like to contribute to any of the issues discussed today.