

Preliminary Results of ISDA

Consultation on Pre-Cessation Issues for LIBOR and Certain Other Interbank Offered Rates (IBORs)

ISDA received responses from 89 entities to the [*Consultation on Pre-Cessation Issues for LIBOR and Certain Other Interbank Offered Rates \(IBORs\)*](#). A variety of market participants including banks and broker-dealers, insurance companies, asset managers, government/federal entities and central counterparties (CCPs).

Respondents expressed a wide variety of views regarding whether and how to implement a pre-cessation trigger related to “non-representativeness” for derivatives. In general, the respondents fell into three categories, **without a clear majority in any one category**:

1. Those who supported adding a pre-cessation trigger to the permanent cessation triggers in the “hard wired” amendment to the 2006 ISDA Definitions and related protocol.¹
2. Those who supported use of the pre-cessation trigger provided that it was implemented with optionality and flexibility (or indicated that their support for the trigger depended on a number of factors).
3. Those who opposed the pre-cessation trigger.

Respondents also expressed a number of issues for consideration related to the potential pre-cessation trigger itself and how to implement such a trigger.

In September 2019, ISDA hopes to publish an anonymized and aggregated summary of the feedback received. At the same time, ISDA hopes to **consult on a proposed documentation solution** for derivatives that allows for efficient incorporation of a pre-cessation fallback trigger in a manner that attempts to account for and mitigate against the concerns expressed by respondents to the recent consultation (to the extent such concerns can be addressed by documentation for derivatives). Among other things, the proposed solution will seek to avoid unnecessary complication and optionality, or anything that could jeopardize broad market adoption of the permanent cessation fallbacks. The consultation period for ISDA’s proposed solution will allow market participants to indicate whether the proposal addresses their concerns and raise any additional concerns they may have. ISDA will also continue to work with market participants and regulators to determine how best to address concerns regarding “non-representative” benchmarks and implementation of pre-cessation fallbacks for derivatives.

ISDA will continue to seek advice from its independent advisors and feedback from government and regulatory agencies, and any decision or action by ISDA remains subject to the advice and feedback it receives from its advisors and government and regulatory agencies.

¹ For the permanent cessation fallbacks, ISDA is amending the relevant provisions of the 2006 ISDA Definitions via “supplement” so that the amendments apply to all transactions entered on or after the effective date of the supplement and offering a protocol for market participants to agree that the terms of the supplement apply to transactions entered prior to the effective date.