

# IOSCO STATEMENT



International Organization of Securities Commissions  
Organisation internationale des commissions de valeurs  
Organização Internacional das Comissões de Valores  
Organización Internacional de Comisiones de Valores  
المنظمة الدولية لهيئات الأوراق المالية

## THE BOARD OF THE INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS

### Statement on the ISDA Credit Derivatives Determinations Committees and CDS auction processes

10 October 2017

The International Organization of Securities Commissions (IOSCO) is today issuing this statement about the research of the IOSCO Task Force on OTC Derivatives Regulation (Task Force) regarding the functioning of the ISDA Credit Derivatives Determinations Committee (DC) and credit default swap (CDS) auction processes. IOSCO may perform further work in this area.

#### *Background of the research:*

The Task Force's research was based on a review of publicly available documents (such as the DC rules and auction terms published by ISDA, as well as published auction decisions) and select academic literature. The Task Force also considered confidential survey inputs from buy-side and sell-side market participants in various regions, as well as from ISDA and the Auction Administrators (IHS Markit and Creditex). This research allowed the Task Force to gain an understanding of the functioning and some of the potential limitations of the DC and CDS auction processes. The survey responses represent a range of market participants' perspectives on the functioning of the DC and CDS auction processes and their views on potential avenues for improvement.

#### *Recent Changes - Conflicts of Interest:*

The Task Force notes that the current rule framework governing the DC and CDS auction processes includes provisions aiming to address potential conflicts of interest and guard against potential opportunistic behaviour, which include:

- the balance between buy-side and sell-side participants in the DC together with the supermajority requirement;

- the 2016 DC Rules Amendments<sup>1</sup> regarding the management of conflicts of interest;
- the publication on the ISDA website of the vote of each participant;
- the publication on the Creditex website of the dealers' physical settlement requests, initial market submissions, and limit orders; and
- the financial penalties for outlier submissions to an auction.

#### *Recent Changes – Appointment of DC Secretary:*

Another development affecting the DC and CDS auction processes is the recent appointment of ICE Benchmark Administration (IBA) as the DC secretary, which has not yet been finalised though the transition was expected to occur in mid-2017. IOSCO will continue to engage with the relevant participants in the DC and CDS auction processes to monitor on-going changes and their impact.

#### *General Summary of Survey Responses:*

The market participants' survey responses do not suggest that they have identified a need for significant changes with respect to the composition and functioning of the DC or the management of conflicts of interest. However, the participants provided a number of suggestions for improvement that focused on the transparency of the process, including suggestions to increase disclosure of potential conflicts of interest, to create a panel of independent representatives to vote on material DC decisions, to clarify DC rules regarding governance and conduct, and to expand the participation to external observers. Some participants also made suggestions to potentially improve the external review process.

In general, responses to the survey questions regarding the functioning of the DC and CDS auction processes focused on the potential for increased buy-side participation, operational and rule adjustments to improve clarity of the process, and improvements to transparency, such as making internal policies of DC member firms publicly available to market participants to address key governance issues.

#### *Next Steps:*

This project was designed to give IOSCO a better understanding of the DC and CDS auction processes. Further work may be warranted to monitor recent changes to the DC and CDS auction processes and to consider any additional matters identified by IOSCO.

---

<sup>1</sup> <http://www2.isda.org/news/isda-determinations-committees-vote-to-change-dc-rules>