

# Charter for the Credit Derivatives Governance Committee

## Background and Mission Statement

The Credit Derivatives Determinations Committees (each, a "**DC**") are established pursuant to contractual arrangements, which currently include the 2014 ISDA Credit Derivatives Definitions published by the International Swaps and Derivatives Association, Inc. for the purpose of making market-wide determinations that impact Credit Derivatives Transactions. The structure and operation of each DC is governed by the Credit Derivatives Determinations Committees Rules (the "**DC Rules**").<sup>1</sup>

During the course of 2024, the International Swaps and Derivatives Association, Inc. ("**ISDA**") conducted a market-wide consultation (the "**Consultation**") reviewing the structure, function and governance of the DCs. The Consultation indicated that there is broad market support for the creation of a separate governance body with responsibility, among other things, for overseeing the operation of the DCs and making changes to the DC Rules from time to time.

Consistent with the mandate provided by the Consultation, a Credit Derivatives Governance Committee (the "**Governance Committee**") is hereby established, to act by and in accordance with this charter (this "**Charter**").

The objective of the Governance Committee is to provide senior leadership and commercial direction and governance of the DCs in order to facilitate the efficient operation of the credit derivatives market by developing and maintaining a framework for timely, accurate and uniform DC determinations that are relied upon and trusted by the credit derivatives market and for the efficient settlement of Credit Derivative Transactions. In contrast to the DCs, which act as arbitral bodies comprised mainly of legal representatives, it is intended that the Governance Committee be comprised of senior representatives of the credit derivatives market, including from such functions as operations, sales, trading, risk and other management positions.

## 1 Scope of Powers

**1.1** The powers of the Governance Committee and the DCs are separate.

**1.1.1** The DCs (or any successor determinations body/ies) have the power and responsibility, as determined by the DC Rules, to make certain determinations relating to Credit Derivative Transactions. Such determinations include, but are not limited to, the determinations related to (i) Successors, (ii) Credit Events, (iii) Deliverable Obligations and (iv) certain parameters relating to Auctions.

**1.1.2** The Governance Committee has the power to amend, modify or supplement the DC Rules, in accordance with Section 3 hereunder.

**1.2** The Governance Committee and GC Members (as defined below), when acting in such capacity, will not discuss, recommend, opine on or otherwise have any responsibility for, or take any action

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<sup>1</sup> Credit Derivatives Determinations Committees Rules – Non-Binding Consolidated Version (2023) (September 28, 2018 Version as amended by DC Decisions dated January 27, 2020, March 3, 2020, and October 3, 2020) (the "**DC Rules**"), published by DC Administrative Services, Inc. ("**DCAS**") on behalf of the International Swaps and Derivatives Association, Inc. Available online at: [Credit Derivatives Determinations Committee » DC Rules](#). Each capitalized term used but not defined herein has the meaning specified in the DC Rules.

related to, the resolution of any pending DC Question. Notwithstanding the foregoing, a GC Member may take actions in the ordinary course of its business that may relate to a pending DC question solely on behalf of such GC Member's respective institution and not on behalf of the Governance Committee.

- 1.3** The Governance Committee will have no responsibility or authority to update or amend any set of, including the 1999, 2003 or 2014, ISDA Credit Derivatives Definitions as published by ISDA.

## **2 Membership and Organization**

- 2.1** The Governance Committee will initially be comprised of one employee representative (each, a "**GC Member**") from each firm specified on Annex I hereto (each, a "**GC Member Firm**"), who will serve for the two-year period from, and including, September 1, 2025, to, and including, August 31, 2027 (such period, the "**First Term**").

- 2.2** After the First Term, for each one-year period from, and including, September 1 of each year to, and including, August 31 of the subsequent year (a "**Term**"), the membership of the Governance Committee for such Term will be determined by the then-serving GC Members by majority vote. For the avoidance of doubt, the GC Members during the First Term will determine which individuals will serve as GC Members during the Term immediately following the First Term.

- 2.3** When determining the GC Members for the next Term, the Governance Committee will include GC Members from up to ten (10) firms that are dealers, up to ~~five (5)~~<sup>seven (7)</sup> firms that are non-dealers, up to three (3) firms that are CCPs or index providers that are specialized firms that create and/or calculate market indices, and up to two (2) firms that are in the business of providing the infrastructure for Credit Derivative Transactions.

- 2.3.1** Right of First Refusal: Each DC Member firm has the right (but not the obligation) to have one GC Member appointed from that firm to the Governance Committee which, if they choose to submit a candidate, shall be deemed automatically approved by the Governance Committee and such firm shall be deemed to be a GC Member Firm and be taken into account in determining the relevant number of firms selected for the next Term pursuant to this Section 2.3.

- 2.4** GC Member Firms will nominate individuals to the Governance Committee that are commercially-focused decision makers with appropriate seniority and that are sufficiently empowered by that GC Member Firm to vote and make decisions at meetings of the Governance Committee. The appropriateness of the individual shall be left to the reasonable discretion of the GC Member Firm nominating the individual. However, the individual should not be a GC Member Firm's primary representative on a DC or for sell-side institutions be within the reporting line of such representative.

- 2.5** When considering potential GC Member Firms and GC Members, each GC Member will use its reasonable business judgment and will take into account the experience and expertise of the proposed firm and individual, the goal of providing wide and inclusive representation of the credit derivatives market within the categories and subject to the limitations in Section 2.3 and the current needs of the Governance Committee in the context of the composition of the existing Governance Committee and the credit derivatives market.

## **2.6 Terms**

- 2.6.1** There will be no limit to the number of Terms for which a firm may be a GC Member Firm or an individual may act as a GC Member.
- 2.6.2** A GC Member may resign upon 30 days' prior written notice to the Chair.
- 2.6.3** The Governance Committee, by Supermajority vote (as defined below), may remove a GC Member from the Governance Committee. Notwithstanding anything to the contrary herein, the Quorum for a vote under this Clause 2.6.3 shall be 80% of the entire Governance Committee.
- 2.6.4** If a GC Member leaves the GC Member Firm that they represent on the Governance Committee, a GC Member resigns or a GC Member is removed, then the relevant GC Member Firm will have the option to replace such GC Member with an alternative individual to act as GC Member for the remainder of the Term.

## **2.7 Selection Process**

- 2.7.1** Three (3) months prior to the end of each Term, the Governance Committee will arrange for a notice to be published on the DC Website asking for nominations of new firms to act as GC Member Firms and new GC Members to be submitted prior to the final General Meeting (as defined in Section 4 below) of such Term.
- 2.7.2** At the final General Meeting of each Term, the GC Members will consider and review the nominations published to the DC Website and take into account the requirement of Section 2.3 and, by majority vote, determine the GC Member Firms and GC Members for the subsequent Term.

## **2.8 The Governance Committee will have one chairperson, as determined by a Governance Committee majority vote (the "Chair").**

- 2.8.1** The Chair will have the following responsibilities (which may be delegated):
  - (i) to conduct and prepare the agenda for any GC Meeting (as defined in Section 4 below);
  - (ii) to circulate a schedule of all General Meetings for the relevant Term to the GC Members; and
  - (iii) any other responsibility as determined by the Governance Committee by majority vote.
- 2.8.2** The Chair may be replaced by a Supermajority vote of the Governance Committee.
- 2.8.3** The Chair will rotate every year and the previous Chair will not be eligible to be re-elected Chair for at least one (1) year after his or her term ends, unless the Governance Committee by majority vote overrides such restriction.

## **2.9 Any vote required to be taken under Section 2, 3 or 4 requires a Quorum.**

## **2.10 A "Quorum" of the Governance Committee will be achieved at any GC Meeting if 80%, rounded down, or more of each of the buy-side GC Members and the sell-side GC Members, respectively, are in attendance at the relevant GC Meeting. Any GC Member recusing themselves from a vote**

will be counted as being absent from the GC Meeting for purposes of the vote in which he or she recuses himself or herself and not count towards the Quorum.

### **3 DC Rule Amendments and other Governance Committee Actions**

#### **3.1 DC Rule Amendments**

**3.1.1** At each General Meeting, the Governance Committee will consider any detailed submission made to the Governance Committee with respect to a change or amendment to the DC Rules made to the Governance Committee by an Eligible Market Participant, an industry trade association or the DC Secretary (a **"Market Submission"**). The Governance Committee will arrange for any Eligible Market Participant that submits a Market Submission to be informed if the Governance Committee determines such Market Submission is appropriate for consideration.

**3.1.2** When considering a Market Submission, the Governance Committee may take the following actions:

- (i) establish a Technical Forum (as defined below) to review the Market Submission and provide recommendations to the Governance Committee;
- (ii) arrange for the publication of the Market Submission and any Draft DC Rule Amendment (as defined below), as appropriate, on the DC Website for review and comment;
- (iii) arrange for the preparation (whether by a Technical Forum or otherwise) of a draft of proposed changes to the DC Rules incorporating and/or addressing any comments received during the period for public comment, as the Governance Committee deems necessary (such draft, a **"Draft DC Rule Amendment"**). For the avoidance of doubt, there may be multiple Draft DC Rule Amendments prepared and made public for review and comment in connection with a single Market Submission, and a single Draft DC Rule Amendment may incorporate and/or address multiple Market Submissions; and
- (iv) arrange for the vote of the Governance Committee on a Draft DC Rule Amendment at a General Meeting,

**3.1.3** Prior to a vote of the Governance Committee to approve a Draft DC Rule Amendment pursuant to Section 3.1.4 below, the Draft DC Rule Amendment shall be published on the DC Website for public review and comment of no less than 30 days' time (the **"Public Comment Period"**).

**3.1.4** Upon the expiration of the Public Comment Period, if two-thirds (2/3), rounded down, of a Quorum present of each of the buy-side GC Members, the sell-side GC Members and infrastructure GC Members, respectively, (a **"Supermajority"**) approves a Draft DC Rule Amendment, then the Chair of the Governance Committee will arrange for the publication of the Draft DC Rule Amendment to the DC Website and approved changes made to the DC Rules (a **"DC Rule Amendment"**).

- 3.1.5 The Governance Committee may resolve, by majority vote, to pause or recommence the review and consideration of any Market Submission or Draft DC Rule Amendment at any time.
- 3.1.6 Any DC Rule Amendment shall be in force and applicable at the time the Governance Committee determines by majority vote; however if there is a question that satisfies the conditions to be considered by the DCs existing at the time that such DC Rule Amendment becomes effective (a “**Live DC Issue**”), then any DC Rule Amendment that impacts such Live DC Issue will not apply to such Live DC Issue and the DC Rules in force prior to the effectiveness of such DC Rule Amendment will continue to apply to such Live DC Issue.
- 3.2 The Governance Committee may at any time resolve to solicit information, advice or commentary from third parties by establishing a group of Eligible Market Participants, advisers, external experts or other participants with relevant expertise, as determined by the Governance Committee, for the purpose of providing advice or commentary to the Governance Committee and/or reviewing and considering a Market Submission, or any other topic that the Governance Committee may determine to be of value (such group, a “**Technical Forum**”).
- 3.3 The Governance Committee may at any time resolve any decision relating to a DC Rule Amendment, amendment to the Charter or any other decision or action taken on behalf of the Governance Committee by consent of all the members of the Governance Committee in either written or electronic format.

## 4 Governance Committee Meetings

- 4.1 A meeting of the Governance Committee at which a Quorum exists will be held at least two times a year, in each of April and October, at which the Governance Committee will consider any Market Submissions, Draft DC Rule Amendments and any other business relevant to the Governance Committee (each such meeting, a “**General Meeting**”).
- 4.2 The Chair may call a special meeting to discuss any items if at least two GC Members have notified the Chair that they determine such a meeting to be necessary (a “**Special Meeting**” and together with each General Meeting, a “**GC Meeting**”).
- 4.3 At the beginning of each Term, the Chair will establish the dates for the General Meetings during such Term.
- 4.4 GC Meetings will be held via either teleconference, video call or in person, at the time, and if relevant, location, established by the Chair. For the avoidance of doubt, the GC Meetings will always be accessible to GC Members through a teleconference or video call option.
- 4.5 At least three (3) business days in both London and New York prior to each GC Meeting, the Chair will provide GC Members with an agenda of items to be considered, including any Draft DC Rule Amendments, Market Submissions, presentations from Technical Forums or any other relevant items as the Chair determines appropriate for consideration by the Governance Committee, in his or her sole discretion.
- 4.6 The agenda, including potential matters for a vote, of each GC Meeting will be promptly published on the DC Website.

- 4.7** The Governance Committee may, by majority vote, invite such external third parties to attend any GC Meeting as the Governance Committee deems appropriate, including technical experts or legal advisers.
- 4.8** The Governance Committee may, by majority vote, allow GC Members to invite such colleagues from GC Member Firms to attend any GC Meeting as the Governance Committee deems appropriate.
- 4.9** GC Meetings will not be open to the general public.
- 4.10** A GC Member Firm may send a delegate for its GC Member to represent the GC Member Firm at a GC Meeting, provided that such delegate is sufficiently briefed and empowered to vote and make decisions on behalf of the GC Member Firm.
- 4.11** If a Quorum is not present at the official start time of any GC Meeting, or within 20 minutes after the official start time, the Chair will not convene the GC Meeting and will reschedule until a date when a Quorum is present.
- 4.12** The Governance Committee may, by majority vote, instruct the DC Secretary to modify the DC Website or publish the minutes or other publication of the Governance Committee on the DC Website, or take such other action as authorized by this Charter.
- 4.13** The Governance Committee will have a legal representative from the DC Secretary present at all meetings, who will advise on procedural issues or any competition or other legal issues. The Governance Committee, by majority vote, may authorize the DC Secretary to provide counsel of the Governance Committee's choosing.

## **5 Amendments to the Charter**

- 5.1** Any amendment to this Charter must be approved by a Supermajority vote of GC Members.
- 5.2** Prior to the vote by the GC Members on any amendment to this Charter, the Governance Committee will arrange for the proposed amendment to be published to the DC Website and allow a 2 month period to receive comments and input from any Eligible Market Participant, DC Member or other interested party.

## **6 Miscellaneous**

### **6.1 Disclaimer of Liability**

- 6.1.1** No GC Member, GC Member Firm and no legal counsel or third-party professional hired by the Governance Committee or by any GC Member or GC Member Firm shall be liable, whether for negligence or otherwise, to any DC Party, Eligible Market Participant or other party for any form of damages, whether direct, indirect, special, consequential or otherwise that might arise in connection with any actions taken under this Charter, or any advice given by legal counsel or any other third-party professional hired by the Governance Committee, the DC Secretary or by any GC Member or GC Member Firm under this Charter, except in the case of gross negligence, fraud or willful misconduct on the part of the relevant GC Member, DC Secretary, GC Member Firm, legal counsel or third-party professional, as applicable.

## **6.2 Conflicts of Interest**

- 6.2.1** If a GC Member becomes aware of a conflict of interest, that is applicable to, and would impair the objectivity of, such GC Member during any Term in which such GC Member is serving, such GC Member must, promptly upon becoming aware of such conflict of interest, disclose the existence of the conflict of interest to the Governance Committee. Each GC Member agrees to recuse itself in connection with any issue, decision or action to be taken by the Governance Committee for which it is subject to a conflict of interest. The GC Member will leave the meeting and not be included in deliberations or communications regarding the subject for which such GC Member is recusing himself or herself. For the avoidance of doubt, the GC Member should not specify the details of the conflict of interest.<sup>2</sup>
- 6.2.2** If the Governance Committee is made aware of a conflict of interest relating to any GC Member, the Governance Committee may, by majority vote, exclude such GC Member from deliberations and communications in connection with any matter on which such GC Member is conflicted.

## **6.3 Confidential Information**

- 6.3.1** If any GC Member obtains any information that is not publicly available when acting in its capacity as a GC Member, such GC Member will be responsible for preserving such information as confidential.
- 6.3.2** Each GC Member that obtains any confidential information while serving in such capacity will use such confidential information solely in connection with its role on the Governance Committee.
- 6.3.3** Any confidential information to be provided to the Governance Committee should be submitted to the DC Secretary first to be reviewed by legal counsel prior to dissemination to the Governance Committee.
- 6.3.4** Prior to the DC Secretary disseminating Confidential Information to the GC Members, it will offer to allow a GC Members' professional advisers and compliance personnel to also review the Confidential Information to make a determination if the GC Member can receive such information.

## **6.4 Independence and Antitrust Acknowledgement**

- 6.4.1** Each GC Member and GC Member Firm will act independently in the market and will use its own independent judgment with respect to its own business operations. No information regarding trading activities or business strategy will be exchanged or discussed during any GC Meeting or meeting of any Technical Forum. No GC Member or GC Member Firms will use any information obtained as a result of acting in its capacity as a GC Member or GC Member Firm for any anticompetitive purpose.

## **6.5 This Charter shall be governed by, and interpreted in accordance with, the laws of the State of New York, without regard to the conflicts of law provisions thereof.**

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<sup>2</sup> Note that this requirement is provided to address Material Non-Public Information issues.





## Annex I

### Initial Governance Committee Membership

GC Member Firm	Firm Type
Citadel Americas LLC	Buy-side
D. E. Shaw & Co., L.P.	Buy-side
Elliott Investment Management L.P.	Buy-side
Pacific Investment Management Company LLC	Buy-side
Rokos Capital Management (RCM)	Buy-side
Barclays Bank plc	Sell-side
Bank of America, N.A.	Sell-side
BNP Paribas	Sell-side
Citigroup	Sell-side
Deutsche Bank AG	Sell-side
Goldman Sachs	Sell-side
JP Morgan	Sell-side
Morgan Stanley	Sell-side
RBC Capital Markets	Sell-side
Wells Fargo	Sell-side
ICE Clear Credit LLC	Infrastructure
LCH S.A.	Infrastructure
S&P Global	Infrastructure

## **Annex II**

### **Compliance with Antitrust Law**

The Governance Committee is committed to fully complying with the letter and spirit of all laws that apply to its conduct, including antitrust and competition laws. The goal of antitrust laws is to ensure a competitive marketplace. The consequences of non-compliance with antitrust laws are severe, including potential criminal and civil penalties.

All GC Members must at all times be mindful of and comply with their responsibilities under all applicable antitrust laws. It is the responsibility of each GC Member attending any Governance Committee meeting to ensure that at all times they understand and fully comply with such legal responsibilities.

Moreover, regardless of whether required by law, the following guidelines shall govern the conduct of each GC Member and GC Member Firm:

- Each GC Member and each GC Member Firm must act independently in the market and use its own independent judgment with respect to its own business operations.
- GC Members may not discuss or disclose at any GC Meeting, event, or forum any non-public, competitively sensitive information (including but not limited to details of prices, sales volumes, trading strategy, internal business policies and processes, client lists and details, and employee compensation information).
- Governance Committee meetings should be limited to the topics on the meeting agenda, and GC Members should be mindful and focused on the Governance Committee's objective to facilitate the efficient operation of the credit derivatives market by developing and maintaining a framework for timely, accurate and uniform DC determinations.

If any GC Member has any concern about the propriety of any discussion between GC Members, that GC Member should immediately report the concern to a legal representative from the DC Secretary and the GC Member Firm's legal advisor.