

**Amendments to the
ISDA Credit Derivatives Determinations Committees Rules
with respect to Cleared Reference Entities**

1. DEFINED TERMS

Capitalized terms used but not defined herein shall have the meaning given to the relevant capitalized term in the Credit Derivatives Determinations Committees Rules (as amended from time to time, the **DC Rules**).

A **CCP** is a clearinghouse, clearing association, clearing corporation, or similar entity, facility, system, or organization (a **Clearing Entity**) that (a) enables each party to a Credit Derivative Transaction to substitute, through novation or otherwise, the credit of the Clearing Entity for the credit of its counterparty, (b) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from Credit Derivative Transactions executed by participants in the Clearing Entity or (c) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the Clearing Entity the credit risk arising from Credit Derivative Transactions executed by the participants. The term CCP does not include a Clearing Entity solely because it arranges or provides for (i) settlement, netting, or novation of obligations resulting from agreements, contracts, or transactions on a bilateral basis and without a central counterparty or (ii) settlement or netting of cash payments through an interbank payment system.

A **Cleared Reference Entity** is a Reference Entity for which there are one or more outstanding Relevant Transactions that (a) reference such Reference Entity and (b) are cleared by a CCP.

The **List of Eligible CCPs** means an up-to-date list compiled and maintained by the DC Secretary of each CCP that has executed and delivered to the DC Secretary a letter agreement substantially in the form of Exhibit 1 hereto or such other form substantially to the same effect as the DC Secretary may publish from time to time on its Website in replacement thereof (the **CCP Letter Agreement** and each CCP on such list, an **Eligible CCP**). On or prior to the New York Business Day on or immediately following March 1st of each year, each CCP on the List of Eligible CCPs shall provide written certification that, as of March 1st of the relevant year, such CCP continues to satisfy the criteria contained in the most recent version of the CCP Letter Agreement. Failure to provide such certification shall result in the removal of such Eligible CCP from the List of Eligible CCPs if such failure is not remedied within 10 calendar days after effective receipt of notice of such failure from the DC Secretary. An Eligible CCP shall also be removed from the List of Eligible CCPs if the relevant Committee resolves by Supermajority that such Eligible CCP has failed to comply with any of its obligations under the CCP Letter Agreement at any time and such failure is not remedied within 30 calendar days after effective receipt of notice of such failure from the DC Secretary. For the avoidance of doubt, the DC Secretary shall be under no obligation to actively monitor compliance by an Eligible CCP with any of its obligations under the CCP Letter Agreement.

An **Eligible Cleared Reference Entity** is, with respect to an Eligible CCP, a Reference Entity for which there are one or more outstanding Relevant Transactions that (a) reference such Reference Entity and (b) are cleared by such Eligible CCP.

In determining whether a Reference Entity is a Cleared Reference Entity and/or an Eligible Cleared Reference Entity, the DC Secretary will rely on information certified to the DC Secretary by the Eligible CCP submitting the relevant Potential DC Issue.

2. AMENDMENT FRAMEWORK

(a) **Deliberating a Submitted Question Relating to a Cleared Reference Entity.** With respect to a Potential DC Issue that (i) is submitted in accordance with Section 2.1(a) of the DC Rules by an Eligible

Market Participant that is an Eligible CCP, (ii) is not designated as a "General Interest Question" and (iii) relates to (A) an Eligible Cleared Reference Entity with respect to such Eligible CCP and (B) a matter subject to resolution under any of Section 3.1 (*Credit Event Resolutions*), 3.3 (*Deliverable Obligation Resolutions*), 3.5 (*Succession Event Resolutions*), 3.6 (*Substitute Reference Obligation Resolutions*) or 3.7 (*Merger of Reference Entity and Seller*) of the DC Rules (such Potential DC Issue, a **Qualifying CCP Question**), the DC Secretary will not be required to obtain the agreement of any Convened DC Voting Members to deliberate the Qualifying CCP Question and, instead, a meeting of the relevant Committee will always be convened in accordance with Section 2.4(b) of the DC Rules (subject to the provisions of paragraph (b) below).

The Convened DC Voting Members will not be able to defer the first meeting to deliberate a Qualifying CCP Question pursuant to Section 2.4(b) of the DC Rules for more than 3 Relevant City Business Days. In addition, the current requirement in Section 2.5(a) of the DC Rules that requires new information or analysis in order to re-submit a General Interest Question that has been rejected by a Committee will be disappplied for an Eligible CCP wishing to re-submit such question as a Qualifying CCP Question, provided that such Eligible CCP did not originally submit such General Interest Question.

With respect to any Potential DC Issue relating to a Cleared Reference Entity that is not a Qualifying CCP Question, the current process that requires the approval of Convened DC Voting Members in order to deliberate such Potential DC Issue will remain the same.

- (b) **Dismissing a Qualifying CCP Question.** A Committee may only dismiss a Qualifying CCP Question by Supermajority pursuant to Section 2.4(c)(ii) of the DC Rules in circumstances where the Committee Resolves that such dismissal is due to (i) a lack of available information necessary to answer the relevant question or (ii) the premature nature of the question (as indicated by the Convened DC and published by the DC Secretary). Any such dismissal should not, for purposes of a CCP's rules, constitute a refusal to consider the question or a dismissal or rejection of the question or give rise to any other right of a CCP to convene a "fallback DC" or resolve the question unilaterally.

A Qualifying CCP Question that is dismissed pursuant to Section 2.4(c)(ii) of the DC Rules in accordance with the provisions of this paragraph (b) may not be re-submitted to the DC Secretary by an Eligible CCP unless there is new information or analysis with respect to such Qualifying CCP Question that was not previously presented to the Committee so that such Qualifying CCP Question may reasonably be considered to no longer be subject to a lack of available information or be premature.

EXHIBIT 1

Form of Eligible CCP Certification Letter

[Letterhead of CCP]

International Swaps and Derivatives Association, Inc.

[Date]

Send to: DCSecretary@isda.org

Dear Sirs,

We write to inform you that we wish to be an "Eligible CCP", as described in the Credit Derivatives Determinations Committees Rules, as amended from time to time in accordance with the terms thereof and as published by the International Swaps and Derivatives Association, Inc. (**ISDA**) (the **DC Rules**). Capitalized terms used but not otherwise defined in this letter shall have the meanings given to them in (a) the 2003 ISDA Credit Derivatives Definitions as supplemented by the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions published on July 14, 2009 (each as published by ISDA) (as supplemented, the **Definitions**) or (b) the DC Rules, as applicable.

By signing and sending this letter to you, we represent, as of the date of this letter, which representation will be deemed repeated on each date on which we submit a Potential DC Issue to the DC Secretary, that:

- (a) we are a clearinghouse, clearing association, clearing corporation, or similar entity, facility, system, or organization (a **Clearing Entity**) that (i) enables each party to a Credit Derivative Transaction to substitute, through novation or otherwise, the credit of the Clearing Entity for the credit of its counterparty, (ii) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from Credit Derivative Transactions executed by participants in the Clearing Entity or (iii) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the Clearing Entity the credit risk arising from Credit Derivative Transactions executed by the participants. We are a Clearing Entity that satisfies clause (i), (ii) or (iii) above other than solely due to the provision or the arranging of (A) settlement, netting, or novation of obligations resulting from agreements, contracts, or transactions on a bilateral basis and without a central counterparty or (B) settlement or netting of cash payments through an interbank payment system;
- (b) each credit default swap contract cleared by us constitutes a Credit Derivative Transaction (each, a **Cleared Contract**) and incorporates the Definitions without amendment or, to the extent that the Definitions are amended in respect of a Cleared Contract, such amendments neither (i) affect the applicability to such Cleared Contract of a DC Resolution that would otherwise be applicable to such Cleared Contract, or to a substantially equivalent non-cleared credit default swap contract nor (ii) provide for any entity, group, committee or other body (including us or any committee established pursuant to our rules for making determinations and resolving disputes) other than a Credit Derivatives Determinations Committee (any such body, an **Alternative Body**) to affect the applicability of such DC Resolution to such Cleared Contract;
- (c) with respect to a matter subject to resolution under any of Section 3.1 (*Credit Event Resolutions*), 3.3 (*Deliverable Obligation Resolutions*), 3.5 (*Succession Event Resolutions*), 3.6 (*Substitute Reference Obligation Resolutions*) or 3.7 (*Merger of Reference Entity and Seller*) of the DC Rules:

- (i) our rules do not permit a determination to be made in respect of such matter by an Alternative Body; and
 - (ii) to the extent that a DC Resolution in relation to such matter is applicable to a Cleared Contract, such DC Resolution will, pursuant to our rules or the terms of such Cleared Contract, as applicable, and subject to Section 9.1(c)(iii) of the Definitions, be binding on such Cleared Contract; and
- (d) either:
- (i) with respect to a matter subject to resolution under Section 3.8(b) (*Other Determinations Relating to the Overall Market*) of the DC Rules:
 - (A) our rules do not permit a determination that would be binding on any party to a Cleared Contract to be made in respect of such matter by an Alternative Body other than an arbitrator or arbitration panel (each, an **Arbitrator**) pursuant to an arbitration proceeding (howsoever described) (I) between two or more parties (other than us), at least one of which shall be a clearing member (any such party, a **Relevant Party**), (II) which shall not be initiated by us other than at the request of a Relevant Party and (III) which shall be in respect of one or more specifically identified Cleared Contracts with respect to which a Relevant Party is a party (each, a **Relevant Cleared Contract**) (any such arbitration proceeding, an **Arbitration Proceeding**);
 - (B) with respect to a determination in respect of such matter by an Arbitrator pursuant to an Arbitration Proceeding, our rules do not permit a determination that would be binding on any party to a Cleared Contract to be made in respect of such matter by an Arbitrator pursuant to an Arbitration Proceeding unless such determination is reached on or after the twentieth calendar day following receipt by all Relevant Parties (other than the Relevant Party delivering the notice) of the last notice of claim (howsoever described, including without limitation a notice asserting a counterclaim or cross-claim) in respect of such Arbitration Proceeding, in which case such determination will only be binding on a Relevant Party to a Relevant Cleared Contract (any such determination of such matter by an Arbitrator pursuant to an Arbitration Proceeding on or after such date, an **Arbitrator Determination**); and
 - (C) notwithstanding (d)(i)(A) and (B) above, to the extent that a DC Resolution in relation to such matter is applicable to a Cleared Contract, such DC Resolution will, pursuant to our rules or the terms of such Cleared Contract, as applicable, be binding on such Cleared Contract and will override any prior Arbitrator Determination in respect of such matter, subject to Section 9.1(c)(iii) of the Definitions. For the avoidance of doubt, Section 9.1(c)(iii) of the Definitions shall be interpreted as if any prior Arbitrator Determination in respect of such matter constituted a prior determination by the Calculation Agent with respect to the relevant Cleared Contract; or
 - (ii) with respect to a matter subject to resolution under Section 3.8(b) (*Other Determinations Relating to the Overall Market*) of the DC Rules that relates to a matter of contractual interpretation relevant to the credit derivatives market generally involving the Definitions or any confirmations, supplements, annexes or other market standard documents published by ISDA that are incorporated into the terms of a Cleared Contract (which, for the avoidance of doubt, excludes matters related to margin requirements, default management processes, clearing

member and customer portability, clearinghouse disciplinary procedures and financial safeguards):

- (A) our rules do not permit a determination to be made in respect of such matter by any entity, group, committee or other body (including us or any committee established pursuant to our rules for making determinations and resolving disputes) other than a Credit Derivatives Determinations Committee unless made (x) by a risk committee that is part of our governance structure or a supervisory committee that is part of our governance structure that acts in consultation with a risk committee that is also part of our governance structure (a **Qualifying Supervisory Body**) or (y) pursuant to arbitration, disciplinary or judicial proceedings or other third-party expert determination, and, in either case, only if:
 - I. such question has been previously submitted to the DC Secretary by an Eligible CCP (other than as a General Interest Question);
 - II. the DC Secretary has publicly announced that the relevant Credit Derivatives Determinations Committee has resolved to dismiss such question for a reason other than insufficient information being available to answer the relevant question or the question being premature in nature (in each case, as indicated by the Credit Derivatives Determinations Committee and published by the DC Secretary); and
 - III. where new information or analysis becomes available with respect to such matter after an announcement by the DC Secretary under clause (d)(ii)(A)II. above and prior to a determination made by any Qualifying Supervisory Body or pursuant to arbitration, disciplinary or judicial proceedings or other third-party expert determination becoming binding under Section 9.1(c)(iii) of the Definitions (interpreted as if such Qualifying Supervisory Body or arbitration, disciplinary or judicial proceedings or other third-party expert determination constituted a Calculation Agent determination with respect to the relevant Cleared Contract), such information or analysis has been made available to the DC Secretary (which may require the re-submission of the question to the DC Secretary) and an announcement has again been made by the DC Secretary under (d)(ii)(A)II. above; and
- (B) our rules or the terms of each Cleared Contract expressly provide that any DC Resolution in relation to such matter shall be binding on each Cleared Contract to which such DC Resolution is applicable (subject to Section 9.1(c)(iii) of the Definitions, interpreted as if any Qualifying Supervisory Body or arbitration, disciplinary or judicial proceedings or other third-party expert determination that resulted in a prior determination of such matter constituted a Calculation Agent determination with respect to the relevant Cleared Contract).

The representations herein are subject to us making such changes to our rules, procedures and/or the terms of Cleared Contracts as are necessary, acting reasonably, to bring our rules, procedures and/or the terms of Cleared Contracts into conformity with the representations herein and are conditional upon applicable regulatory notification, review and approval processes for amendments to our rules, procedures or the terms of Cleared Contracts. We commit to use all reasonable endeavors to make such

changes to our rules, procedures and/or the terms of Cleared Contracts as soon as reasonably practicable.¹

¹ This paragraph will only apply to CCP Letter Agreements submitted prior to March 1, 2013 and will be removed for all CCP Letter Agreements submitted on or after March 1, 2013.