

**Amendment to Section 4 (*External Review*) of the 2018 ISDA Credit Derivatives Determinations
Committees Rules**

October 2, 2020

Section 4 (*External Review*) of the 2018 ISDA Credit Derivatives Determinations Committees Rules is deleted in its entirety and replaced with the following provisions:

4. EXTERNAL REVIEW

4.1 Referral to External Review

- (a) **Eligible DC Questions for Review.** Any DC Question relating to DC Resolutions to be made by Supermajority under Sections 3.1(b) (*Potential Repudiation/Moratorium Resolution*), 3.1(c) (*Credit Event Resolution*), 3.2(e)(ii) (*Decision to not hold an Auction*), 3.3(e) (*The Final List of Deliverable Obligations*), 3.3(h) (*Determinations relating to the Outstanding Principal Balance*), 3.3(i) (*Other Determinations relating to the Asset Package*), 3.3(j) (*Loan Documentation*), 3.5(b) (*Determination of a Successor*), 3.6 (*Substitute Reference Obligation Resolutions*), 3.7 (*Merger of Reference Entity and Seller*), Section 2.2(e)(i)(A) of the SRO Rules or Section 2.2(e)(i)(A) of the POB Rules shall be referred to the external review process described in this Section 4 (*External Review*) (such process, "**External Review**") if a Convened DC (or Relevant Convened DC, as applicable) holds a binding vote on, but is unable to Resolve by a Supermajority, such DC Question (such DC Question, an "**Eligible Review Question**"). Furthermore, any DC Question relating to DC Resolutions under Section 3.8(b) (*Other Determinations Relating to the Overall Market*) shall be referred to External Review if a Convened DC Resolves by a Majority to send such DC Question to External Review. The referral of an Eligible Review Question will occur at such time when there are at least three External Reviewers selected in accordance with Section 4.3(a) (*Conflicts*) and Section 4.3(b) (*Selection of External Reviewers*).
- (b) **Forming Reviewable Questions.** Upon referral of an Eligible Review Question to the DC Secretary for External Review in accordance with Section 4.1(a) (*Eligible DC Questions for Review*), the DC Secretary shall rephrase such Eligible Review Question in order to resemble, where applicable, the standard format of the relevant reviewable question in Schedule 1 to the Rules; provided that the phrasing may be modified to accurately reflect an Eligible Review Question that is a component question of the relevant reviewable question in Schedule 1 (each such rephrased Eligible Review Question, a "**Reviewable Question**"). Each Eligible Review Question falling under Sections 3.1(b)(ii) (*Potential Repudiation/Moratorium Resolution*), 3.1(c)(iii) (*Credit Event Resolution*), 3.3(h) (*Determinations relating to the Outstanding Principal Balance*), 3.3(i)(i) (*Other Determinations relating to the Asset Package*), 3.5(b)(i)(B) (*Determination of a Successor*), 3.5(b)(i)(C) (*Determination of a Successor*), 3.5(b)(ii)(C) (*Determination of a Successor*), 3.5(b)(ii)(D) (*Determination of a Successor*), 3.6(b)(ii) (*Substitute Reference Obligations*) or 3.6(b)(iii) (*Substitute Reference Obligations*) in accordance with the applicable standard format for Reviewable Questions specified in Schedule 1 to the Rules, shall include the two answers that were supported by the most Convened DC Voting Members during the binding vote held by the Convened DC with respect to the DC Question corresponding to such Eligible Review Question; provided that, if the number of votes in favor of either of the two answers that were supported by the most Convened DC Voting Members is tied with one or more other answers, all such tied answers shall be included in such Eligible Review

Question. Each Eligible Review Question falling under Section 3.8(b) (*Other Determinations Relating to the Overall Market*) shall be phrased in the manner Resolved by the Convened DC.

- (c) Presented Positions. The positions to be presented to the External Reviewers (each, a "**Presented Position**") with respect to any Reviewable Question shall be as follows:
 - (i) for a Reviewable Question phrased to be answered either "yes" or "no", the Presented Positions shall be the respective arguments in favor of the "yes" and "no" answers; and
 - (ii) for a Reviewable Question not phrased to be answered either "yes" or "no", the Presented Positions shall consist of the arguments in favor of the two answers that were supported by the most Convened DC Voting Members during the binding vote held by the Convened DC with respect to such Reviewable Question; provided that, if the number of votes in favor of either of the two answers that were supported by the most Convened DC Voting Members is tied with one or more other answers, all such tied answers shall be included as Presented Positions.
- (d) Publishing Reviewable Questions. All Reviewable Questions shall be promptly published by the DC Secretary on its Website, along with the answer relating to each Presented Position and the Submission Deadline with respect to such Reviewable Question.

4.2 Pool Members

- (a) Terms of Engagement. The DC Secretary shall cause to have in place standard terms of engagement, pursuant to which Pool Members and the DC Secretary will acknowledge and agree to their respective rights and responsibilities as described in the Rules (the "**Terms of Engagement**"). The Terms of Engagement shall include provisions to pay compensation to External Reviewers in accordance with the Rules and shall allow Pool Members to recuse themselves from External Review or resign in situations where they believe a potential conflict of interest exists. The DC Secretary and a Pool Member may agree at any time to extend the term of the Terms of Engagement with respect to such Pool Member rather than allowing the Terms of Engagement to expire with respect to such Pool Member.
- (b) Nominating Pool Members. With respect to each Region, any ISDA Member may nominate one or more individuals to be a Pool Member for such Region by notice to the DC Secretary of each such nomination (each such individual, a "**Potential Pool Member**"). Each nomination notified to the DC Secretary will be deliberated for purposes of determining whether such nominee satisfies the requirements set forth in Section 4.2(c) (*Pool Member Criteria*) and confirming the nomination in accordance with Section 4.2(d) (*Approval and Adherence*) the next time a meeting

of a Convened DC of the relevant Region is convened; provided that, if requested by two or more Convened DC Members, the DC Secretary will, no more frequently than once per month, convene a Convened DC of the relevant Region solely for the purpose of deliberating Potential Pool Member nominations. An individual nominated to be a Potential Pool Member must be willing to provide a resume, biography or other background materials requested by the DC Secretary or the Convened DC in order to permit the Convened DC to deliberate.

- (c) Pool Member Criteria. To be considered for confirmation under Section 4.2(d) (*Approval and Adherence*), unless unanimously waived by the Convened DC, a Potential Pool Member, must satisfy the following criteria (the "**Pool Member Criteria**"):
- (i) have achieved the status of senior barrister, Queen's / King's Counsel or judge (including a retired judge) (or equivalent status in the relevant Region); or
 - (ii) have the following qualifications:
 - (A) significant experience in one or more of the following areas:
 - I. debt capital markets, investment banking or corporate finance;
 - II. bankruptcy, insolvency or restructuring;
 - III. credit derivatives; or
 - IV. mergers and acquisitions; and
 - (B) a minimum of 10 years of experience in one (or across a combination) of the following areas:
 - I. relevant legal practice, having achieved the status of partner, senior in-house counsel, managing director or any equivalent thereof;
 - II. relevant commercial practice, having achieved the status of managing director or any equivalent thereof; and/or
 - III. relevant academic practice, having achieved the status of tenured professor or any equivalent thereof.
- (d) Approval and Adherence. A Potential Pool Member shall be able to participate in External Review only after (i) a Convened DC Resolves to confirm the nomination of the relevant individual as a Potential Pool Member by a Majority; provided that a Convened DC may not confirm the nomination of an individual (A) who is a current employee, or who has been an employee during the three year period prior to the Potential Pool Member's nomination, of a DC Member, an Affiliate of a DC Member or the DC Secretary or (B) who is a current employee or

partner (or any equivalent thereof) of the DC Secretary's regular credit derivatives counsel, and (ii) such Potential Pool Member adheres to the Terms of Engagement described in Section 4.2(a) (*Terms of Engagement*) (and, in the case of Potential Pool Members other than a senior barrister, Queen's / King's Counsel or judge (including a retired judge) (or equivalent in the relevant Region), such adherence has lasted for a minimum of three months) (each such approved and adhering Potential Pool Member, a "**Pool Member**"). Upon such DC Resolution, the Potential Pool Member will be deemed to satisfy the minimum experience criteria set forth in Section 4.2(c) (*Pool Member Criteria*). Notwithstanding Section 2.5(d) (*Publication on the Website*), the DC Secretary shall not publish the binding vote taken for purposes of confirming a Potential Pool Member.

- (e) External Review Panel List. The DC Secretary shall maintain a list, for each Region, of all Pool Members for such Region (each list, an "**External Review Panel List**"). Each External Review Panel List shall be subject to an annual review by the relevant Convened DC, and in connection with such annual review, each Pool Member shall provide updates of the information previously submitted in connection with Section 4.2(c) (*Pool Member Criteria*). Such annual review will conclude on the date the relevant Convened DC Resolves by Majority to approve the relevant External Review Panel List (the "**Panel List Approval Date**"). Promptly following the Panel List Approval Date, the DC Secretary shall publish the members of each External Review Panel List on its Website, and shall publish any updates to such list in respect of additions removals and resignations from time to time as necessary. Any Pool Member may resign from an External Review Panel List at any time upon effective receipt by the DC Secretary of valid written notice from such Pool Member.
- (f) Removal. A Convened DC may Resolve to remove a Pool Member by a Supermajority; provided that a Pool Member that is currently serving as an External Reviewer may be removed from the External Review Panel only for fraud, wilful misconduct or voluntary breach of an express term of the Terms of Engagement ("**Cause**"). Following a DC Resolution to remove a Pool Member, the Terms of Engagement with respect to the relevant Pool Member shall terminate upon effective receipt by such Pool Member of valid written notice from the DC Secretary.

4.3 Composition of the External Review Panels

- (a) Conflicts. Upon the existence of an Eligible Review Question, the DC Secretary shall notify each Pool Member from the External Review Panel List for the relevant Region. Each Pool Member shall notify the Convened DC, via the DC Secretary, by 5:00 p.m. Relevant City Time on the first Relevant City Business Day after being notified of such Eligible Review Question or such other time as the Convened DC Resolves by a Majority, of its availability and disclose to the Convened DC any conflict of interest which exists or is foreseeable with respect to either the Reviewable Question (including with respect to any direct or indirect investment in the Affected Reference Entity) or the related DC Questions which may be deliberated by the Convened DC. Any Convened DC Voting Member or Convened DC Consultative Member may also raise an existing or potential conflict of interest with respect to a Pool Member or may ask for additional information to be disclosed.

- (b) Selection of External Reviewers. Following the disclosure of availability and potential conflicts of interest in accordance with Section 4.3(a) (*Conflicts*), a panel of three **External Reviewers** and up to two alternates (the "**External Review Panel**") will be formed as follows:
- (i) First, the Convened DC must consider the External Review Panel List for the relevant Region in order to select the External Review Panel for such Eligible Review Question. If the Convened DC Resolves by unanimity to appoint three or fewer Pool Members from the External Panel Review List to the External Review Panel, each such Pool Member shall be an External Reviewer. If the Convened DC Resolves by unanimity to appoint four or more Pool Members from the External Panel Review List to the External Review Panel, three of such Pool Members will be External Reviewers and up to two of the remaining selected Pool Members shall be an alternate (in each case, as agreed by unanimity by the Convened DC or in the absence thereof as selected by the DC Secretary at random). In the event that any External Reviewer or alternate positions remain unfilled after such vote, any remaining External Reviewers or alternates will be selected in accordance with the following paragraph.
- (ii) Second, the Convened DC may Resolve by a Supermajority to exclude from the External Review Panel any Pool Member on the External Review Panel List not already selected under Section 4.3(b)(i) above (including, without limitation, as a result of any conflict of interest disclosed under Section 4.3(a) (*Conflicts*)). For the avoidance of doubt, such exclusion of a Pool Member will apply solely to the selection of External Reviewers for the relevant Eligible Review Question and will not constitute a general removal of such Pool Member from the External Review Panel List. Upon the exclusion of any Pool Members, if there are more remaining Pool Members on the External Review Panel List than the number of External Reviewers and alternates still required to form an External Review Panel, the remaining External Reviewers and/or alternates will be selected by the DC Secretary at random.
- (iii) In the event that the External Review Panel is compiled in whole or in part pursuant to clause (ii) above and:
- (A) with respect to any Reviewable Question which would require the External Review Panel to consider bankruptcy- and/or insolvency-related issues, such External Review Panel does not contain one or more Pool Members who satisfy the Pool Member Criteria set forth at Section 4.2(c)(i) and Section 4.2(c)(ii)(A)(II) (the "**Bankruptcy Criteria**") and one or more Pool Members who either satisfy (1) the Pool Member Criterion set forth at Section 4.2(c)(i) or (2) the Pool Member Criterion set forth at Section 4.2(c)(ii)(B)(I) (such criteria, the "**Legal Experience Criteria**") (it being understood that a single Pool Member who satisfies both the Bankruptcy Criteria and the Legal Experience Criteria shall be sufficient to satisfy the requirements of this sub-clause (A)); or

- (B) with respect to any other Reviewable Question, such External Review Panel does not contain one or more Pool Members who satisfies the Legal Experience Criteria,

then:

- (1) the DC Secretary shall randomly identify one or more External Reviewers from among the External Reviewers selected pursuant to Section 4.3(b)(ii) above and randomly select a replacement for each such External Reviewer from the remaining Pool Members, if any, on the External Review Panel List who are eligible for selection after application of Section 4.3(b)(ii) above and who satisfy the Legal Experience Criteria and/or Bankruptcy Criteria, as applicable; and
 - (2) in the event that an External Review Panel cannot be formed pursuant to Section 4.3(b)(iii)(1) above, the DC Secretary shall solicit nominations of additional Potential Pool Members for consideration, and upon any such Potential Pool Member becoming a Pool Member pursuant to Section 4.2(d) (*Approval and Adherence*) above, the DC Secretary shall re-initiate the process set forth under this Section 4.3(b) (*Selection of External Reviewers*); provided that for this purpose, the three month period described in Section 4.2(d)(ii) above shall be disregarded in composing the External Review Panel List and the approval of such Potential Pool Member in such circumstances shall require a Supermajority, rather than a Majority, of the Convened DC.
- (c) Recusal and Resignation. Any Potential External Reviewer may withdraw from the External Review Panel List, and any External Reviewer may recuse themselves or resign from an External Review Panel due to an existing or potential conflict of interest arising with respect to such External Reviewer. Such withdrawal, resignation or recusal shall be effective upon effective receipt by the DC Secretary of valid written notice from such Potential External Reviewer or External Reviewer, as applicable.
 - (d) Scope of the External Review Panel. Each External Review Panel formed with respect to a Reviewable Question shall also Review any other Reviewable Questions originating from the same Convened DC. The External Review Schedule shall apply separately with respect to each Reviewable Question but, if possible, the External Reviewers should group two or more Reviewable Questions together for purposes of efficiency (such as multiple Reviewable Questions relating to obligations of an Affected Reference Entity).
 - (e) Replacement of an External Reviewer. If an External Reviewer is effectively removed for Cause or resigns at any point during External Review, the first alternate shall no longer be designated as an alternate and shall be deemed to be an External Reviewer under the Rules following effective receipt of notice from the DC Secretary. Upon the effective replacement of an External Reviewer, (i) on or prior to the Submission Deadline for the relevant Reviewable Question, the External Review Schedule will remain unchanged or (ii) after the Submission Deadline for the relevant Reviewable Question, the External Review Schedule will be reset to the Submission Deadline and proceed accordingly.

- (f) Replacement of Alternates. If at any time, the first alternate is removed by the Convened DC in accordance with Section 4.3(b) (*Selection of External Reviewers*), resigns under Section 4.3(c) (*Recusal and Resignation*) or is no longer designated as an alternate, the second alternate shall immediately become the first alternate and a new second alternate shall be selected by the Convened DC in accordance with the procedures of Section 4.3(a) (*Conflicts*) and Section 4.3(b) (*Selection of External Reviewers*).

- (g) Failure to Form a Complete External Review Panel. If, at any time, an External Review Panel does not contain three External Reviewers (taking into account each designated alternate, if any) the External Review process shall be suspended until a sufficient number of External Reviewers have been selected by the Convened DC in accordance with this Section 4 (*External Review*).

4.4 The External Review Schedule

- (a) External Review Schedule. The following schedule shall apply to External Review unless modified in accordance with Section 4.4(b) (*Modification to the Schedule*) (the "**External Review Schedule**"):
 - (i) Within four Relevant City Business Days from the referral of an Eligible Review Question to the DC Secretary for External Review, the DC Secretary shall convene an administrative meeting among the External Reviewers and the Advocates (subject to the provisions of Section 4.5(b) (*Administrative Meetings*)).

 - (ii) Written Materials shall be submitted to the DC Secretary on behalf of the External Reviewers no more than seven Relevant City Business Days after the referral of an Eligible Review Question to the DC Secretary for External Review (the "**Submission Deadline**").

 - (iii) Oral Argument, if any, shall be heard at a time and on a Relevant City Business Day specified by the External Reviewers and notified to the Advocates by the DC Secretary, but in no event before two Relevant City Business Days following the Submission Deadline and in no event later than four Relevant City Business Days after the Submission Deadline.

 - (iv) The External Reviewers shall render their Decision by 5:00 p.m. Relevant City Time no later than five Relevant City Business Days after the Submission Deadline (the "**Decision Deadline**").

- (b) Modification to the Schedule. The Convened DC may, at any time, Resolve by a Supermajority to modify the External Review Schedule for a particular Reviewable Question. The DC Secretary shall promptly notify the External Reviewers of any modification to the External Review Schedule, and in cases where the External Review Schedule is modified prior to the start of External Review, the DC Secretary shall notify the External Reviewers prior to the first administrative meeting.

4.5 General External Review Procedures

- (a) Advocates. The Convened DC Voting Members and Convened DC Consultative Members who support a particular Presented Position shall identify one or more persons to coordinate their communications with the External Reviewers, present their arguments to the External Reviewers and participate in Oral Arguments, as applicable (each such identified person, an "Advocate"). Such Convened DC Voting Members and Convened DC Consultative Members shall notify the DC Secretary and the External Reviewers of the identity of, and contact information for, their Advocate(s). All communication by the External Reviewers with the Convened DC shall be via either the DC Secretary or the Advocates. There shall be no oral communication between the External Reviewers and any individual Advocate unless an Advocate for each Presented Position is given the opportunity to be present during or is otherwise included in such communication. Communication in writing between the External Reviewers and an Advocate must also be transmitted contemporaneously to all other Advocates. Advocates may, but need not, be outside legal counsel selected by the relevant Convened DC Voting Members and Convened DC Consultative Members. An Advocate may be a Convened DC Voting Member.

Notwithstanding Section 2.4(h) (*No Discussions Outside of Convened DC Meetings*) and Section 5.2(a) (*Confidentiality*), following referral of an Eligible Review Question to the DC Secretary for External Review, a Convened DC Member may engage in any communication with other Convened DC Members and Advocates regarding the Eligible Review Question.

- (b) Administrative Meetings. In addition to the administrative meeting scheduled under Section 4.4(a)(i) (*External Review Schedule*), the External Reviewers may call other administrative meetings, in each case on no less than three hours' notice to all of the Advocates. Administrative meetings may be commenced at any time between 10:00 a.m. and 6:00 p.m. Relevant City Time on a Relevant City Business Day, or at any other time agreed to by the External Reviewers and all of the Advocates. All of the Advocates must be given the opportunity to be present at each administrative meeting and the External Reviewers must provide notice of (i) an administrative meeting taking place and (ii) the time, place and/or conference call details, as applicable, of such meeting. Administrative meetings may be held in person or by telephone, videoconference or web conference at the discretion of the External Reviewers. To the extent that in person meetings are held, any Advocate will be permitted to participate by telephone.

- (c) **Written Materials.** Certain materials in support of a Presented Position may be submitted to the External Reviewers via the DC Secretary by any ISDA Member. Allowed materials are the following (collectively, the "**Written Materials**"):
- (i) a brief addressing the question before the External Reviewers consisting of no more than twenty single-sided, double-spaced pages in Times New Roman twelve-point font, with one inch margins, headers and footers, on A4 or 8 ½" by 11" paper (the "**Brief**"); and
 - (ii) any exhibits in support of the Brief (the "**Exhibits**"). Unless requested or allowed by the External Reviewers, the Exhibits shall not contain any witness affidavits or additional argument.

Written Materials that do not satisfy the requirements of Section 4.5(c)(i) (*Written Materials*) will only be accepted in the sole discretion of the External Reviewers. All Written Materials shall only include information that was available to the Convened DC on or prior to the binding vote held for the DC Question corresponding to such Reviewable Question and the External Reviewers, in making their Decision, shall disregard any additional information. The DC Secretary will make available to the External Reviewers documents and memoranda that were presented to the Convened DC in connection with its deliberations, including legal memoranda prepared for the Convened DC by legal counsel to the Convened DC. Notwithstanding the above, Written Materials may identify new information that is relevant to the resolution of a Reviewable Question and that was not available to the Convened DC on or prior to the binding vote held for the DC Question corresponding to such Reviewable Question for purposes of returning the Reviewable Question to the Convened DC in accordance with Section 4.6(a) (*Returning the Reviewable Question to the Convened DC*), provided that such information is clearly identified to the External Reviewers. Each ISDA Member submitting information to the DC Secretary shall be deemed to represent and warrant that such information has been disclosed and can be made public without violating any law, agreement or understanding regarding the confidentiality of such information and each DC Party may rely on such representation. All Briefs shall be promptly published by the DC Secretary on its Website, along with any accompanying Exhibits for which publicly available internet links acceptable to the DC Secretary are provided.

- (d) **Oral Argument.** The External Reviewers may hold one or more proceedings where the Advocates may orally present arguments in favor of their Presented Position (each such proceeding, an "**Oral Argument**"). All External Reviewers must agree unanimously to hold an Oral Argument and must notify the DC Secretary of such agreement at least three Relevant City Business Days prior to the Submission Deadline. An Oral Argument shall only include information that was available to the Convened DC on or prior to the binding vote held for the DC Question corresponding to such Reviewable Question. Notwithstanding the above, Oral Argument may identify new information that is relevant to the resolution of a Reviewable Question and that was not available to the Convened DC on or prior to the binding vote held for the DC Question corresponding to such Reviewable Question for purposes of returning the Reviewable Question to the Convened DC in accordance with Section 4.6(a) (*Returning the Reviewable Question to the Convened DC*), provided that such information is clearly identified to the External Reviewers. Unless the External Reviewers have altered the duration or format of an Oral Argument under Section 4.5(e)(ii) (*Powers of the External Reviewers*), the Advocates for each Presented Position shall be allocated

an aggregate of one hour in which to present their arguments. All Advocates must be given the opportunity to be present for the duration of an Oral Argument and the External Reviewers must provide reasonable prior notice of (i) an Oral Argument taking place and (ii) the time, place and/or conference call details, as applicable, of such Oral Argument. Oral Argument may be held in person, by videoconference, by web conference or by other means established by the External Reviewers; provided that any Advocate may participate in any Oral Argument by telephone. If an Oral Argument is to be held in person, it shall be held in the Relevant City and may be held at the DC Secretary's offices in the Relevant City (or such other location in the Relevant City as notified by the DC Secretary). Expenses incurred by External Reviewers or Advocates in relation to in person attendance for Oral Argument shall not be chargeable to the relevant Convened DC.

- (e) Powers of the External Reviewers. The External Reviewers may, subject to the External Review Schedule of Section 4.4(a) (*External Review Schedule*), do any of the following at an administrative meeting or an Oral Argument, as applicable:
 - (i) schedule the time and Relevant City Business Day of an Oral Argument;
 - (ii) establish or alter the place, duration, or format of an Oral Argument;
 - (iii) alter the page limit of the Brief;
 - (iv) request additional Written Materials on a particular subject or in response to arguments previously made, while satisfying the requirements of Section 4.6(c) (*Reviewable Information*); and/or
 - (v) upon request by a Convened DC Voting Member, allow witness affidavits as Exhibits or witness testimony at Oral Argument.

- (f) Procedural Decisions by External Reviewers. Unless otherwise specified, all procedural decisions contemplated under the Rules to be taken by the External Reviewers shall be decided by a Majority.

- (g) Expenses. Any expenses incurred by a Convened DC Voting Member or Convened DC Consultative Member in connection with the support of a Presented Position shall be borne by such Convened DC Voting Member or Convened DC Consultative Member.

4.6 The Review Process

- (a) Returning the Reviewable Question to the Convened DC. At any time before the Final Decision, a Convened DC may Resolve by a Majority to withdraw a Reviewable Question from External Review if new information exists that is relevant to the resolution of such Reviewable Question and was not available to the Convened DC on or prior to the binding vote held for the DC Question

corresponding to such Reviewable Question. In addition, the External Reviewers shall inform the Convened DC, and may decide to return the Reviewable Question back to the Convened DC (even if the Convened DC has not withdrawn the Reviewable Question), if they determine that new information exists that is relevant to the resolution of such Reviewable Question and that it was not available to the Convened DC on or prior to the binding vote held for the DC Question corresponding to such Reviewable Question. If a Reviewable Question is returned to a Convened DC for any reason, the External Reviewers may continue to deliberate but cannot reach a Decision on such Reviewable Question until the Convened DC has held a new binding vote with respect to such Reviewable Question. The deadline for holding a binding vote under Section 2.4(d) (*Binding Votes*) shall be reset upon a Reviewable Question being returned to a Convened DC, but the External Review Schedule under Section 4.4(a) (*External Review Schedule*) shall only be suspended (and not reset) until the Convened DC either Resolves the Reviewable Question or again fails to Resolve the Reviewable Question. If a Reviewable Question is Resolved by a Convened DC, the DC Secretary shall notify the External Reviewers to cease any deliberations with respect to such Reviewable Question.

- (b) **The DC Vote.** With respect to a Reviewable Question, the answer which was supported by the most Convened DC Voting Members in the binding vote held for the DC Question corresponding to such Reviewable Question shall be the "**DC Vote**". In instances where the number of votes in favor of the answer that was supported by the most Convened DC Voting Members is tied with one or more other answers, the DC Vote for such Reviewable Question shall be the deemed vote, if any, specified in Schedule 1 to the Rules for such Reviewable Question or, with respect to a Reviewable Question that relates to a component question of a DC Question, the deemed vote specified in Schedule 1 to the Rules for the Reviewable Question that relates to such DC Question.
- (c) **Reviewable Information.** When deciding a Reviewable Question, the External Reviewers shall only consider information that was available to the Convened DC on or prior to the binding vote held for the DC Question corresponding to such Reviewable Question and shall make their Decision solely based on such information. For purposes of this Section 4 (*External Review*), all information that was publicly available on or prior to the binding vote held for the DC Question corresponding to the Reviewable Question shall be deemed to have been available to the Convened DC. With respect to a Reviewable Question, the Convened DC may disclose to the External Reviewers and Advocates what information was available to the Convened DC for purposes of its deliberations with respect to such Reviewable Question and the Advocates may jointly agree a list of the information that was available to the Convened DC and may be used for purposes of External Review. Any disputes among the Advocates regarding the composition of such list of information shall be resolved by the External Reviewers. Any agreed list of information shall be published by the DC Secretary on its Website.
- (d) **The Decision.** The External Reviewers must each, with respect to a Reviewable Question, select, without alteration, one of the Presented Positions (each selection, a "**Selection**"). The answer to the Reviewable Question shall then be determined by a Majority of the External Reviewers choosing a Presented Position as the "better answer" (such answer, the "**Decision**", and the term "**Decided**" will be interpreted accordingly).

- (e) Relevant Governing Law. The External Reviewers will interpret the Reviewable Question in accordance with the Relevant Governing Law. Any Decision made by the External Reviewers will be made without regard to the governing law of any Relevant Transaction.

- (f) Publishing the Decision. With respect to each Reviewable Question, the External Reviewers shall notify the DC Secretary by the Decision Deadline of each of their votes with respect to the Presented Positions for such Reviewable Question and will produce a single summary explaining their reasoning and analysis (including any dissenting views). In addition, the External Reviewers shall notify the DC Secretary by the Decision Deadline of the Decision reached in accordance with Section 4.6(d) (*The Decision*). The DC Secretary shall publish each of the votes of the External Reviewers, the written summary and the Decision on its Website within 5 hours of receiving such information from the External Reviewers (once published, the Decision is a "**Final Decision**").

- (g) Adopting the Decision. The Convened DC shall be deemed to ratify the Final Decision, without any amendment or further action, at the time such Final Decision is published and such Final Decision will constitute a DC Resolution for purposes of the Rules.

- (h) Failure to Arrive at a Decision. If the External Review Panel, for any reason, fails to make a Decision within the timeframe established by the External Review Schedule, a new External Review Panel will be selected in accordance with Section 4.3 (*Composition of the External Review Panels*) and External Review will re-commence with respect to the relevant Reviewable Question.