

ISDA response to the Canadian Securities Administrators' consultation on Proposed Amendments to National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives

Management summary

ISDA members welcome the Canadian Securities Administrators (CSA) consultation on proposed amendments to the scope of the mandatory central counterparty clearing requirement to reflect the transition to a new interest rate benchmarks regime based on overnight risk-free interest rate benchmarks.

ISDA members acknowledge the benefits of central clearing, as demonstrated by the current clearing rates for risk free reference rate (RFR) swaps.

While we welcome the consultation, we would ask the CSA to provide an appropriate implementation period of six months for firms to get prepared for the changes from the time the amended instrument enters into force.

We also welcome that the proposed changes are largely in line with global developments and existing requirements in other jurisdictions on the scope of the mandatory central counterparty clearing requirement. However, we noted that with regards to Overnight Index Swaps (OIS) referencing Canadian Overnight Repo Rate Average (CORRA), the CSA proposed to include products on a wider maturity scope than the current requirement under CFTC rules¹. We would recommend aligning the scope with the requirement currently in place in the United States, as international harmonization would reduce complexity for firms.

On the specific question asked in the consultation, regarding whether single-name CDS should be included in the scope of mandatory clearable questions, we would suggest to ensure that the scope remains in line with global peer jurisdictions, and note that no other jurisdiction currently mandate single-name CDS for clearing. We believe single name CDS are not sufficiently liquid to warrant a clearing requirement.

Timeline

We would like to point out that, generally speaking, members require sufficient notice to prepare for implementing a change to the scope of the mandatory central counterparty clearing requirement.

Many preparations can only be done once the final rules and compliance dates are available. Such actions include for example:

- Adapting the control framework to make sure all transactions that fall under the new clearing obligation will be cleared.
- Adapting middleware, which can include liaising with external suppliers that might impose their own notice periods.
- Changes to reporting systems: for instance, EMIR reporting which requires adjustments in term of mandatory clearing instrument eligibility.

¹ [eCFR :: 17 CFR 50.4 -- Classes of swaps required to be cleared.](#)

All these preparations take time, and our members require a sufficient notice period between final rules and effective date of the clearing obligation. We would respectfully request an implementation time of six months from finalisation of the rules.

International harmonization

We appreciate that the CSA provides a list of factors that have been considered to determine with classes of OTC derivatives should be included in the scope of the mandatory central counterparty clearing requirement. In particular, we welcome that one of those factors is “international harmonization”. We note that the proposed requirement (on maturities from 7 days to 30 years) is broader than the maturity scope which is currently subject to the clearing requirement in the US (7 days to 2 years), under CFTC rules, but appreciate that the CSA explains that the proposals on the maturity scope for CAD CORRA are based “*given the significant liquidity for the reference period*”

Specific question of the CSA relating to the Proposed Amendments: *Would adding some single-name CDS to the list of mandatory clearable derivatives be beneficial for market participants? Please explain the reasons why it would be appropriate or not.*

Currently, single-name CDS are not under the scope of the clearing obligation in any jurisdiction. In the EU, the European Securities Market Authority performed an analysis of these products, and concluded that a preferred approach was to concentrate on rolling out the clearing obligation to CDS referring indices first².

We note that the changes consulted upon by the CSA would now subject certain index CDS to the mandatory clearing requirement in Canada. We welcome that the proposed classes of index CDS are already subject to the clearing requirement in the US, as this minimises complexity for firms.

However, we consider that it would be premature to include single-name CDS within the scope of the mandatory clearing requirement while the scope is being extended to index CDS only now, and also given that no other jurisdiction currently require single-name CDS to be cleared. We also doubt that single-name CDS are sufficiently liquid in the market for a clearing requirement. Recent ISDA analysis on liquidity in single-name CDS over Q1 2022 – Q1 2023 suggests that these contracts are traded infrequently, with few contracts trading more often than 10 times a day in average.³ Further ISDA analysis looking at the average number of trades per day across all single-name CDS for Q1 2024 and Q2 2024 confirms that for most single-name reference entities, the number of transactions per day is very limited. The charts below show the number of underliers in the buckets based on average daily transaction count.

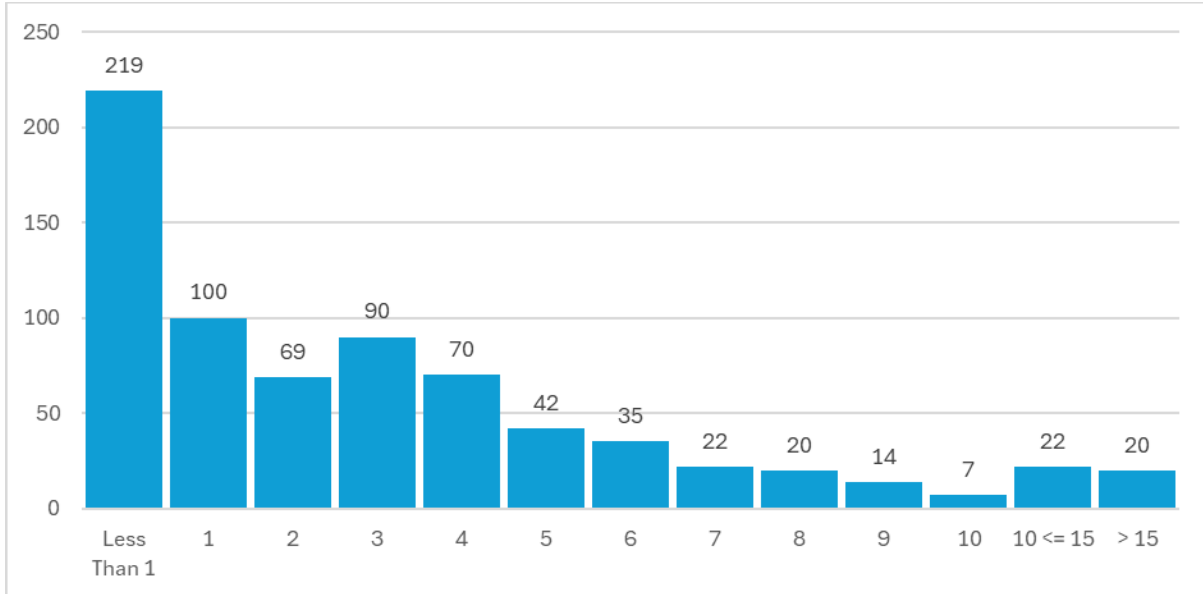
In any case, were the CSA to consider including such products to the list of mandatory clearable products, this should be subject to public consultation and substantiated by an analysis against the factors set out under paragraph (2) of the present consultation and

² [2015-1481 final report clearing obligation index cds.pdf](#)

³ <https://www.isda.org/a/WeXgE/Liquidity-and-Risk-Management-in-Single-name-CDS-and-implications-for-MIFIR.pdf>, in particular page 7.

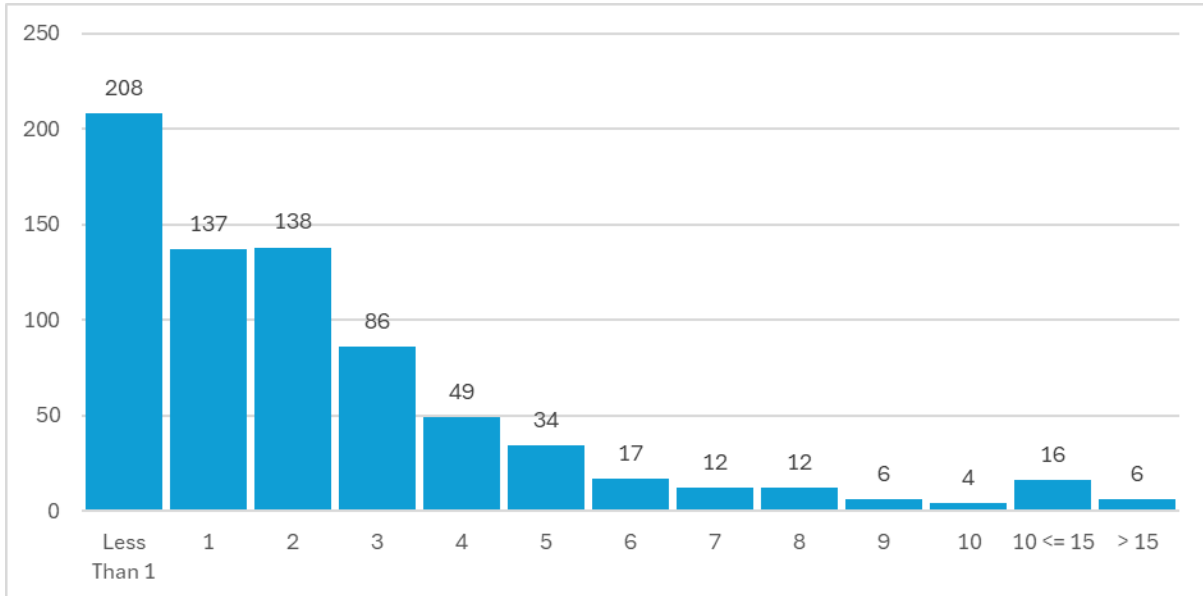
under Appendix A of Companion Policy 94-101 Mandatory Central Counterparty Clearing of Derivatives⁴, in particular with regards to liquidity, availability of prices, and international harmonization.

Number of Single-name CDS Reference Entities by Average Transactions Per Day (Q1 2024)



Source: ISDA analysis based on DTCC TIW data

Number of Single-name CDS Reference Entities by Average Transactions Per Day (Q2 2024)



Source: ISDA analysis based on DTCC TIW data

⁴ [Unofficial Consolidation: Companion Policy 94-101CP Mandatory Central Counterparty Clearing of Derivatives](#)

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 76 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org. Follow us on [LinkedIn](#) and [YouTube](#).