

## ADDRESSING THE DIFFICULTIES: ISDA APPROVES AN ONLINE NOTICES HUB FOR DELIVERING NOTICES

ISDA's Board has recently approved the construction of a Notices Hub.

This initiative will establish an online platform for the sending and receiving of termination and close-out related notices under the ISDA Master Agreement and (potentially) other Master Agreements. The proposal to develop a Notices Hub arose in response to the difficulties experienced in delivering notices during the Financial Crisis, the Covid Pandemic and the imposition of sanctions against Russia, where parties were dealing with a mix of issues including differing time zones, difficulties with notice details not being up to date, disruptions to courier or postal services, limited or no access to particular locations and the closure of offices or only limited hours for delivery. These challenges prompted market participants to question whether the delivery requirements under Section 12 of the ISDA Master Agreement had now become unworkable in a global, multi-party financial market.

### ISDA'S INITIATIVES

Since 2023 ISDA has been working on additional options to achieve the effective service of notices. As an initial response, ISDA prepared an amendment agreement (published in May 2023) enabling the use of email to deliver notices. The amendment states that delivery is effective when the email has been "relayed to the recipient's email infrastructure". This option may appeal to parties with sophisticated IT operations that can trace whether a notice has actually reached the recipient and provide robust evidence of effective delivery. However, this method of serving notices may also be vulnerable to IT disruption.

The Notices Hub takes advantage of latest technology to provide an alternative method of serving notice via a secure and confidential online platform. It seeks to achieve both effective and (potentially) instantaneous delivery, thereby reducing the risk of prolonged counterparty and market exposure. Prior to allocating funding resources for the project, ISDA sought non-binding "indicative commitments" that its members would utilise the Notices Hub once live. In June 2024, ISDA reported strong support for the initiative and opted to proceed.

### Key issues

- The ISDA Notices Hub will be an online platform for the service of Section 5 and 6 notices.
- A notice would be deemed delivered as soon as it becomes accessible to the recipients on the platform, with a date and time stamp for evidence.
- Parties will need to amend their ISDA Master Agreements to use the Notices Hub and complete an onboarding process.
- 18 months' prior notice is required if a user wishes to stop using the Notices Hub.
- The Notices Hub will include additional features for convenience and functionality, such as allowing users to update their contact details on a bulk basis.
- An initial survey by ISDA has indicated no obvious impediments to the use of the Notices Hub across almost 60 jurisdictions
- The Notices Hub is expected to go live in Q1 2025.

## HOW TO USE THE NOTICES HUB

Users may upload pre-drafted termination notices or use the integrated ISDA Create function to draft these using standardised templates. A notice is deemed delivered as soon as it is accessible to recipients on the platform, regardless of it actually being seen by the intended recipient. For evidential purposes, a notice has a date and time stamp showing when delivered. It is also proposed that designated persons within the recipient's organisation will receive an email or SMS alert stating that a notice has been uploaded. Effective delivery remains subject to the terms of the applicable agreements regarding delivery outside business hours or on non-business days. The time and date of *effective* delivery may therefore differ from the date and time of *actual* delivery. Once a notice has been served it cannot be unilaterally withdrawn by the sender.

The Notices Hub has the potential to resolve issues encountered with the other means of delivering notices that parties may have elected in their Agreement. Provided the underpinning technology operates as planned, notices can be delivered even if the stated contact details are not up to date or locations for the delivery cannot be accessed.

## AGREEMENT AND ONBOARDING

Parties will have to amend their ISDA Master Agreements to agree that notices may be delivered via the Notices Hub. ISDA will in due course publish a protocol and supplement to amend existing agreements, a bilateral amendment agreement to incorporate the relevant terms if parties are not using the protocol and template wording to be included in new ISDA Master Agreements. Parties will also need to complete an onboarding process to access the Notices Hub before matching with their counterparties (either automatically (if both make the same selections), by invitation or by auto-matching). Once parties have matched on the Notices Hub, they can only 'un-match' by agreement.

If a party wishes to withdraw from the Notices Hub they must provide 18 months' notice. During this time the Notices Hub will remain an agreed means of delivery for existing matched counterparties (although no new matches will be permitted).

## LEGAL CERTAINTY

ISDA has conducted a high-level legal survey across a number of jurisdictions, to obtain preliminary feedback on some key issues associated with the Notices Hub. Questions to counsel included identifying impediments to effective delivery via the Notices Hub, the applicable law for determining the effectiveness of delivery and whether a signature is required for a notice to be delivered effectively. No obvious impediments were identified across almost 60 jurisdictions.

## LOOKING AHEAD TO 2025

The remainder of this year will see the build-out process and drafting of documentation, with the Notices Hub expected to become "live" in Q1 2025. The Notices Hub will be a paid for service by the dealer community and free to use by the buy-side.

### The Notices Hub is intended to have the following additional functionality:

- Updating a party's address and contact details on a bulk basis across all matched counterparties.
- A verification exercise conducted by ISDA every six months, to check each party's stored details.
- Relevant third parties (such as guarantors) being notified that a notice has been sent or received.
- Resolution Authorities communicating with counterparties of entities subject to resolution processes.
- Users electing to adopt any new functions that are added to the Notices Hub and thereby avoiding further protocols or amendment agreements.

### Dealing with Disruption: an update on ISDA initiatives

A recent Insights on Derivatives call also considered the topics raised in this briefing.

[A recording of the call is available on our Financial Markets Toolkit](#) (requires registration).

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