

# It's A Cross-Border World After All

Top 10 Things you need to know about Indenture Trustees acting from Canada or the US on cross-border transactions

**STUART SWARTZ**

Computershare

Senior Vice President > Corporate Trust

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# Stuart's Top 10 List

## Things you need to know about Indenture Trustees acting from Canada or the US on cross-border transactions:

1. Indenture Trustees unfortunately still cannot claim diplomatic immunity when acting on cross-border deals.
2. When working with an indenture trustee on a cross border default, get the counsel and parties collaborating as soon as possible.
3. In Canada, rating agencies view indenture trustees differently than in the US.
4. Canadian's don't do Committees like in the US.
5. In Canada, there is no need to act unless funded and provided with an indemnity in advance.

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## Things you need to know about Indenture Trustees acting from Canada or the US on cross-border transactions:

6. Industry practice in Canada and US shapes discussions as does market size and number of industry players. Trustees are expected to be much more active in the US than in Canada. Other regions vary as well. The use of discretion by the trustee will vary greatly in each region.
7. Canadian trustees don't create conflicts due to lending situations (re: Successor Trusteeships are more common in the US due to these conflicts).
8. Trustees are advocates and not experts. This is why we retain the right to hire and rely upon advisors.
9. Regardless of jurisdiction, it is the overall goal of the indenture trustee to maximize return of investment to the holders when acting in a default situation.
10. As with this presentation, indenture trustees are never given enough time when first called upon. Please reach out as soon as you can.