

Determinations Committees Decision

Date:	September 8, 2014
Determinations Committee:	Americas / EMEA / Asia Ex-Japan / Japan / Australia & New Zealand
Meeting Date:	September 8, 2014

		Amendments/Clarifications to ISDA 2014 Credit Derivatives Definitions Protocol				
Question for vote:	Do you approve the attached amendments/clarifications to the Protocol and the RDP Additional Provisions, including the publication of the RDP Further Additional Provisions?					
Vote result:	YES					
	Determinations Committee	Americas	EMEA	Asia Ex-Japan	Japan	Australia and New Zealand
DC Voting Member						
BNP Paribas	YES	YES	YES	YES	YES	YES
Bank of America, N.A	YES	YES	YES	YES	YES	YES
Barclays Bank PLC	YES	YES	YES	YES	YES	YES
BlueMountain Capital Management, LLC	YES	YES	YES	YES	YES	YES
Citibank, N.A.	YES	YES	YES	YES	YES	YES
Credit Suisse International	YES	YES	YES	YES	N/A	YES
D.E. Shaw Group & Co., L.P.	YES	YES	YES	YES	YES	YES
Deutsche Bank AG	YES	YES	YES	YES	YES	YES
Eaton Vance Management	YES	YES	YES	YES	YES	YES
Elliot Management Corporation	YES	YES	YES	YES	YES	YES
Goldman Sachs International	YES	YES	YES	YES	YES	YES
JP Morgan Chase Bank, N.A.	YES	YES	YES	YES	YES	YES
Mizuho Securities Co., Ltd.	N/A	N/A	N/A	N/A	YES	N/A
Morgan Stanley & Co. International plc	YES	YES	YES	YES	YES	YES
Nomura International plc	YES	YES	YES	YES	YES	YES
Pacific Investment Management Co., LLC	YES	YES	YES	YES	YES	YES

NB. "N/A" indicates that the institution is not a DC Voting Member of the relevant Determinations Committee



International Swaps and Derivatives Association, Inc.

ISDA 2014 CREDIT DERIVATIVES DEFINITIONS PROTOCOL

published on August 21, 2014

by the International Swaps and Derivatives Association, Inc.

The International Swaps and Derivatives Association, Inc. (**ISDA**) has published this ISDA 2014 Credit Derivatives Definitions Protocol (this **Protocol**) to enable parties to Protocol Covered Transactions and/or Protocol Covered Agreements to amend the terms of such Protocol Covered Transactions and Protocol Covered Agreements.

Accordingly, a party that has entered and/or anticipates entering into a Protocol Covered Transaction or a Protocol Covered Agreement may adhere to this Protocol and be bound by its terms by completing and delivering a letter substantially in the form of Exhibit 1 to this Protocol (an **Adherence Letter**) to ISDA, as agent, as described below.

1. Adherence to and Effectiveness of this Protocol

- (a) By adhering to this Protocol in the manner set forth in this paragraph 1, a party (an **Adhering Party**) that wishes to amend the terms of a Protocol Covered Transaction or a Protocol Covered Agreement, in each case on the terms and subject to the conditions set forth in this Protocol and the relevant Adherence Letter, agrees that the terms of each Protocol Covered Transaction and Protocol Covered Agreement, if any, between it and each other Adhering Party will be amended with effect from the Amendment Effective Date in accordance with the terms of Schedule 1 (*Amendments*) hereto.
- (b) Adherence to this Protocol will be evidenced by the execution and online delivery, in accordance with this paragraph, to ISDA, as agent, of an Adherence Letter (in accordance with subparagraphs 1(b)(i), (ii) and (iii) below) at any time during the period from and including the date of publication of this Protocol to and including 5:00 p.m., New York time, on 12 September, 2014 or such later date determined as set out below (in either case, the **Cut-off Time** and the **Cut-off Date**, respectively) or on any day during the Subsequent Adherence Period (if any) determined in accordance with paragraph 1(i) below. ISDA may designate a date later than 12 September, 2014 as the Cut-off Date by notice published no later than noon, New York time, on 12 September, 2014 on its website at www.isda.org (or by other suitable means) if it determines in its absolute discretion that market interest justifies such an extension to the adherence period. In addition, the Cut-off Date may be extended in accordance with paragraph 1(h) below. ISDA will not accept any Adherence Letters to this Protocol received after the Cut-off Time on the Cut-off Date, subject to the designation of a Subsequent Adherence Period pursuant to paragraph 1(i) below.
- (i) Each Adhering Party will access the Protocol Management section of the ISDA website at www.isda.org to enter information online that is required to generate its form of Adherence Letter. Either by directly downloading the populated Adherence

Covered Transaction or Protocol Covered Agreement, as amended, supplemented, varied or modified as at the Amendment Effective Date.

Excluded Reference Entity means an entity listed as such in the Excluded Reference Entity List.

Excluded Reference Entity List means the list identified as such and published by ISDA on its website at www.isda.org (or by other suitable means), as such list may be amended from time to time pursuant to paragraph 3(h) above.

Excluded Reference Entity Transaction means any Credit Derivative Transaction, other than ~~a~~an Updated Covered Index Transaction, in respect of which one or more Reference Entities is an Excluded Reference Entity.

Excluded Reference Obligation means any of the following:

- (a) an Obligation in respect of which the Obligation Characteristics include either Full Faith and Credit Obligation Liability, General Fund Obligation Liability, or Revenue Obligation Liability (each as defined in either of the U.S. Muni Additional Provisions); or
- (b) an asset-backed security, mortgage-backed security, and/or collateralized debt obligation (including, but not limited to, any collateralized loan obligation, collateralized bond obligation, collateralized synthetic obligation or hybrid thereof).

Excluded Transaction means any of the following:

- (a) an Excluded Reference Entity Transaction;
- (b) a Loan Only Transaction;
- (c) a U.S. Muni Transaction;
- (d) a CDS on ABS Transaction;
- (e) a Party Agreed Excluded Transaction; or
- (f) a Reference Obligation Only Trade.

First to Default Transaction means a Credit Derivative Transaction that references more than one Reference Entity pursuant to which Auction Settlement Amounts, Cash Settlement Amounts or Physical Settlement Amounts, as applicable, will only be paid to the Buyer after the Conditions to Settlement have been satisfied for the first time or following the first occurrence of an Event Determination Date in respect of any of the relevant Reference Entities.

Fixed Recovery Transaction means a Credit Derivative Transaction in respect of which the Final Price is pre-determined and specified in the relevant Documentation.

Governing Master Agreement means, in respect of a Protocol Covered Transaction or a Protocol Covered Agreement, the ISDA Master Agreement or other form of master agreement governing such Protocol Covered Transaction or Protocol Covered Agreement and of which such Protocol

- (v) no Early Termination Date (as defined in the Governing Master Agreement relating to such Credit Derivative Transaction, or in the case of a Governing Master Agreement which is not an ISDA Master Agreement, any event analogous thereto) in respect of the relevant Credit Derivative Transaction has occurred or been effectively designated under the Governing Master Agreement prior to the Implementation Date; or
- (b) any Credit Derivative Transaction that is a Covered Swaption Transaction ~~or~~ a Covered Non-Swaption Transaction or a Covered Index Transaction that is not an Updated Covered Index Transaction:
- (i) in respect of which the related Documentation (without reference to any amendments applicable pursuant to this Protocol) does not incorporate the 2014 Definitions;
 - (ii) in respect of which each of the parties is an Adhering Party;
 - (iii) in respect of which the Trade Date or, in respect of a Covered Swaption Transaction, the Swaption Trade Date, is on or after the Implementation Date but on or before September 18, 2015; and
 - (iv) which is not a Novation Transaction; and
 - (v) which is not an iTraxx Swaption Transaction or a CDX Swaption Transaction,

provided that:

- (1) subject to clause (2) below, any Transaction that is an Excluded Transaction shall not be a Protocol Covered Transaction;
- (2) in respect of any Credit Derivative Transaction, other than ~~a~~ an Updated Covered Index Transaction, that relates to more than one Reference Entity and that would otherwise be a Protocol Covered Transaction but for the inclusion of any Affected Portion therein, such Affected Portion shall be excluded for purposes of this Protocol and the remaining portion of such Credit Derivative Transaction shall be deemed to be a Protocol Covered Transaction; and
- (3) if:
 - (i) any consent, approval, agreement, authorization or other action of any Third Party is expressly required, under the terms of a Third Party Credit Support Document or Governing Master Agreement relating to such Credit Derivative Transaction, to amend or otherwise modify such Credit Derivative Transaction;
 - (ii) such Third Party Credit Support Document or such Governing Master Agreement includes express terms to the effect that any amendment or modification of such Credit Derivative Transaction without the consent, approval, agreement, authorization or other action of any such Third Party

Transferee means a party which accepts by way of novation from a Transferor all of such Transferor's rights, liabilities, duties and obligations under and in respect of the novated amount of a Credit Derivative Transaction that is originally between such Transferor and a Remaining Party.

Transferor means a party which transfers by way of novation to a Transferee all of such party's rights, liabilities, duties and obligations under and in respect of the novated amount of a Credit Derivative Transaction that is originally between such party and a Remaining Party.

Underlying CDS means, in respect of a Single Name Swaption or Portfolio Swaption, the underlying Credit Derivative Transaction to which the relevant unexercised option relates.

Updated 2003 Definitions means the 2003 ISDA Credit Derivatives Definitions as supplemented by the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement published on July 14, 2009 and/or the 2009 ISDA Credit Derivatives Determinations Committees and Auction Settlement Supplement published on March 12, 2009.

Updated Covered Index Transaction means any Covered Index Transaction the documentation in respect of which includes documents in the form of (or substantially in the form of) the template documents specified in Part 8 to Part 19 (inclusive) of Schedule 1 (Amendments) hereto (or any version of a template which has been superseded by one or more of the foregoing template documents).

U.S. Muni Additional Provisions means either (a) the Additional Provisions for Credit Derivative Transactions - U.S. Municipal Entity as Reference Entity, published by ISDA on September 17, 2004, or (b) the 2012 ISDA U.S. Municipal Reference Entity Supplement to the 2003 ISDA Credit Derivatives Definitions, published by ISDA on March 5, 2012.

U.S. Muni Transaction means (a) any Credit Derivative Transaction in respect of which the Obligation Characteristics include either Full Faith and Credit Obligation Liability, General Fund Obligation Liability, or Revenue Obligation Liability (each as defined in either of the U.S. Muni Additional Provisions) and (b) any Credit Derivative Transaction that references the Markit MCDX index.

PART 1
GLOBAL AMENDMENTS

1. References to the Credit Derivatives Definitions

Any reference (or deemed reference) in the Documentation evidencing a Protocol Covered Transaction or a Protocol Covered Agreement to the 2003 ISDA Credit Derivatives Definitions (as supplemented by either or both of (a) the 2009 ISDA Credit Derivatives Determinations Committees and Auction Settlement Supplement to the 2003 ISDA Credit Derivatives Definitions, or (b) the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions (the **Updated 2003 Definitions**)) shall be deemed to be a reference to the 2014 ISDA Credit Derivatives Definitions (the **2014 Definitions**).

Any reference (or deemed reference) in the Documentation evidencing a Protocol Covered Transaction or a Protocol Covered Agreement to the May 2003 Supplement to the 2003 ISDA Credit Derivatives Definitions or the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions shall be deemed deleted.

To the extent that the Updated 2003 Definitions are otherwise supplemented or modified by the incorporation of any additional provisions listed in Annex 1 (*Existing Supplements*) hereto (each, an **Existing Supplement**), such Existing Supplement shall be deemed amended for the purposes of the relevant Protocol Covered Transaction or Protocol Covered Agreement, as applicable, in accordance with the amendments shown in the blackline of the Existing Supplement published by ISDA for the purposes of this Protocol on its website at www.isda.org (each, an **Amended Supplement**). To the extent that the Updated 2003 Definitions are otherwise supplemented or modified by the incorporation of (a) any additional provisions that have been superseded by an Existing Supplement or (b) the incorporation of any additional provisions that have a similar effect or purpose to that of the Additional Provisions relating to Credit Derivative Transactions entered into between a Restricted Delivery Party and a Market Counterparty where Physical Settlement applies (as published by ISDA on June 25, 2013), such additional provisions shall be deemed amended for the purposes of the relevant Protocol Covered Transaction or Protocol Covered Agreement, as applicable, in the same manner as the Existing Supplement, *mutatis mutandis*.

2. Paramountcy

In the event of any inconsistency between (a) the terms of the 2014 Definitions and (b) the amendments set forth in the remainder of this Schedule 1, the amendments set forth in the remainder of this Schedule 1 shall prevail.

3. Mapping

Any reference in the Documentation evidencing a Protocol Covered Transaction or a Protocol Covered Agreement to (a) a section of 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 or (b) a section referred to in the 2005 Matrix Supplement to the 2003 ISDA Credit Derivatives Definitions published on March 7, 2005, in each case, as set out in the Column entitled "Updated 2003 Definitions Citation" of Annex 2 (*Mapping Table*) hereto shall be deemed to be a reference to the corresponding section of the 2014 Definitions set out in the Column entitled "2014 Definitions Citation" of Annex 2 (*Mapping Table*).

Additional Provisions relating to Credit Derivative Transactions entered into between a Restricted Delivery Party and a Market Counterparty where Physical Settlement applies¹

(published on 25 June 2013)

1. For purposes of these Additional Provisions:

“Delivery Restriction Notice” means an irrevocable notice from the Restricted Delivery Party (which shall be in writing (including by facsimile and/or email)) to the Market Counterparty in accordance with paragraph 4 below. A Delivery Restriction Notice shall be subject to the requirements regarding notices set forth in Section 1.38 of the Credit Derivatives Definitions. A form of Delivery Restriction Notice is set forth in the Exhibit to these Additional Provisions;

“Market Counterparty” means the party to the Credit Derivative Transaction that is not the Restricted Delivery Party;

“Restricted Delivery Party” means the party to the Credit Derivative Transaction that is a UCITS Fund (or that is otherwise agreed by the parties to constitute a “Restricted Delivery Party” for the purposes of these Additional Provisions);

“Restriction” means any provision of the relevant laws and regulations applicable to the Restricted Delivery Party, including any applicable investment ratios, that would be breached by the Restricted Delivery Party taking Delivery of any Bond (or the full Outstanding Principal Balance of a Bond) specified in a Notice of Physical Settlement or a NOPS Amendment Notice, as applicable; and

“UCITS Fund” means:

(a) an undertaking and/or a collective investment scheme which has or requires authorisation in accordance with, and pursuant to applicable laws implementing article 5 of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (recast) (the “Directive”) or any successor regulation thereto; or

(b) if the undertaking and/or collective investment scheme described in (a) above has no legal personality, the trustee or other person which, acting in respect of such

¹ The “Additional Provisions relating to Credit Derivative Transactions entered into between a Restricted Delivery Party and a Market Counterparty where Physical Settlement applies”, published on 25 June 2013, (these “Additional Provisions”) may be incorporated into a relevant confirmation (including in electronic form) by wording indicating that the Additional Provisions are so incorporated by reference therein. These Additional Provisions have been prepared for use with Credit Derivatives Transactions that incorporate the 2003 ISDA Credit Derivatives Definitions as supplemented by the 2009 ISDA Credit Derivatives Determinations Committees, Auction Supplement and Restructuring Supplement published on 14 July 2009.

(iii) the Market Counterparty is permitted to deselect any institution as a Selected Dealer prior to the Valuation Time on the day on which Quotations are to be obtained if it has internal credit or other policy reasons for doing so, and shall notify the Restricted Delivery Party as soon as practicable of such deselection.

For the avoidance of doubt, if the Final Price cannot be determined with respect to a particular day and Quotations are to be obtained on any subsequent day, the Selected Dealers with respect to each such subsequent day will be selected by each party to the Credit Derivative Transaction in accordance with the above definition of Selected Dealers.

For the purposes of this Section 7.15, “Approved Dealer” means the entity or entities, if any, as agreed between the parties.”

12. For the avoidance of doubt, these Additional Provisions shall only apply to any Credit Derivatives Transactions between the Market Counterparty and the Restricted Delivery Party, and shall not apply following any novation or assignment of any Credit Derivatives Transaction unless agreed by the transferee and remaining party thereto.

[13. These Additional Provisions are supplemented by the Further Additional Provisions relating to Credit Derivative Transactions entered into between a Restricted Delivery Party and a Market Counterparty where Physical Settlement applies as published by ISDA on 8 September 2014.](#)

Further Additional Provisions relating to Credit Derivative Transactions entered into between a Restricted Delivery Party and a Market Counterparty where Physical Settlement applies

(published on 8 September 2014)

These Further Additional Provisions relating to Credit Derivative Transactions entered into between a Restricted Delivery Party and a Market Counterparty where Physical Settlement applies (the “Restricted Delivery Party Further Additional Provisions”) are intended to supplement the Additional Provisions relating to Credit Derivative Transactions entered into between a Restricted Delivery Party and a Market Counterparty where Physical Settlement applies (the “Additional Provisions”) and the Letter Agreement relating to incorporation of the Additional Provisions (the “Letter Agreement”), in each case, as published by the International Swaps and Derivatives Association, Inc. (“ISDA”). In the event of any inconsistency between the Additional Provisions or the Letter Agreement and these Restricted Delivery Party Further Additional Provisions, the terms of these Restricted Delivery Party Further Additional Provisions shall prevail.

Any or all of the following definitions and provisions may be incorporated into a document by wording in the document indicating that, or the extent to which, the document is subject to the 2014 ISDA Credit Derivatives Definitions (as published by ISDA (the “2014 Definitions”) as supplemented by these Restricted Delivery Party Further Additional Provisions. All definitions and provisions so incorporated in a document will be applicable to that document unless otherwise provided in that document and all terms defined in the 2014 Definitions and used in any definition or provision that is incorporated by reference in a document will have the respective meanings set forth in the 2014 Definitions unless otherwise provided in that document.

If the parties have specified that these Restricted Delivery Party Further Additional Provisions are applicable, the following provisions shall apply for purposes of the related Credit Derivative Transaction:

- I If Seller is the Restricted Delivery Party and Buyer has notified Seller, in accordance with Section 8.2 of the 2014 Definitions, that it intends to Deliver an Asset Package to Seller in lieu of the Prior Deliverable Obligation or Package Observable Bond, if any, specified in the Notice of Physical Settlement or NOPS Amendment Notice, as applicable, then:
 - (i) if Seller determines acting in good faith and in a commercially reasonable manner that by reason of any Asset Package Restriction, it is precluded from taking Delivery of one or more Assets in the Asset Package, Seller may deliver an Asset Package Delivery Restriction Notice to Buyer within three Business Days of the notification of an intention to Deliver the Asset Package, representing to Buyer that it is

so precluded and further stating that Section 9.1 of the 2014 Definitions shall apply in respect of the entire Asset Package;

- (ii) with effect from the date such Asset Package Delivery Restriction Notice is effective, the Asset Package shall constitute an "Undeliverable Obligation" for the purposes of Sections 9.1 and 9.6 of the 2014 Definitions and any amendments that apply to the 2014 Definitions pursuant to the Additional Provisions and/or the Letter Agreement shall also apply in this case; and
- (iii) Section 9.6(k) of the 2014 Definitions shall be amended by the deletion of the first four lines and the replacement thereof by the following:

"Quotation" means, with respect to a Valuation Date, each Full Quotation, the Weighted Average Quotation and, if Indicative Quotations are applicable, each Indicative Quotation obtained in the manner that follows in respect of the entire Asset Package (or in the case of a component of a Weighted Average Quotation, a proportionate part of the entire Asset Package) and expressed as a percentage of the Outstanding Principal Balance or Due and Payable Amount, as applicable, of the Prior Deliverable Obligation or Package Observable Bond referred to in the Notice of Physical Settlement or NOPS Amendment Notice, as applicable, and to which the Asset Package relates:

II For purposes of these Restricted Delivery Party Further Additional Provisions:

"Asset Package Delivery Restriction Notice" means an irrevocable notice from the Restricted Delivery Party to the Market Counterparty. An Asset Package Delivery Restriction Notice shall be subject to the requirements regarding notices set forth in Section 1.38 of the 2014 Definitions.

"Asset Package Restriction" means any provision of the relevant laws and regulations applicable to the Restricted Delivery Party, including in each case any applicable investment ratios, that would be breached by the Restricted Delivery Party taking Delivery of any Asset in the Asset Package which the Buyer has notified Seller that it intends to Deliver in lieu of any Prior Deliverable Obligation or Package Observable Bond specified in a Notice of Physical Settlement or a NOPS Amendment Notice, as applicable. Notwithstanding the foregoing, if the Additional Provisions and/or the Letter Agreement entered into between the parties include a definition of "Restriction" (howsoever described) relating to the circumstances in which Delivery of Bonds and/or Loans will be replaced by Cash Settlement, that is broader in scope than the Asset Package Restriction, then such broader definition shall apply in relation to the circumstances in which Delivery of the Asset Package will be replaced by Cash Settlement hereunder.