

Americas Credit Derivatives Determinations Committee Statement – November 5, 2020

Ingersoll-Rand Company Successor Question

DC Issue Number 2020102201

The Americas DC considered the General Interest Question relating to Ingersoll-Rand Company (**Ingersoll-Rand**) (DC Issue Number 2020102201) under the 2014 ISDA Credit Derivatives Definitions (the **2014 Definitions**) as published by the International Swaps and Derivatives Association, Inc.,¹ and Resolved on November 3, 2020 (the **DC Resolution**) that, under the 2014 Definitions, (i) Trane Technologies Company LLC (Texas Secretary of State file number 803606079) (**Old Trane**) became the Universal Successor to Ingersoll-Rand Company with a Succession Date of May 1, 2020, and (ii) there is no successor to Old Trane (which has ceased to exist) in respect of the events that occurred on or around May 1, 2020.

The Americas DC is providing the following statement in connection with its Successor determination.

1. SUMMARY OF EVENTS

- (a) As of 10:00 a.m. EDT on May 1, 2020, Ingersoll-Rand, a New Jersey corporation, merged into Old Trane, a Texas limited liability company (the **Merger**), after which Ingersoll-Rand ceased to exist.²
 - i. As a result of the Merger, Old Trane assumed all of the obligations (including debt obligations and guarantees) of Ingersoll-Rand.³
- (b) As of 11:00 a.m. EDT on May 1, 2020, Old Trane effected a divisional merger into two newly created Texas limited liability companies, Trane Technologies Company LLC (**New Trane**) and Aldrich Pump LLC (**Aldrich**) (the **Divisional Merger**), after which Old Trane ceased to exist.⁴
 - i. As a result of the Divisional Merger, Aldrich became solely responsible for the asbestos-related liabilities, and the beneficiary of the asbestos-related insurance assets (together, the **Asbestos Items**), assumed by Old Trane from Ingersoll-Rand as a result of the Merger.⁵
 - ii. As a result of the Divisional Merger, New Trane assumed all of the assets and obligations (including debt obligations and guarantees) of Old Trane, except for the Asbestos Items.⁶

¹ Each capitalized term used but not defined in this Statement shall have the meaning given to it in the 2014 Definitions.

² See New Jersey Certificate of Merger dated May 1, 2020; Texas Certificate of Merger dated May 1, 2020.

³ See New Jersey Certificate of Merger dated May 1, 2020; Texas Certificate of Merger dated May 1, 2020.

⁴ See Texas Certificate of Divisional Merger dated May 1, 2020; Texas Certificate of Formation of Aldrich Pump LLC dated May 1, 2020; Texas Certificate of Formation of Trane Technologies Company LLC dated May 1, 2020.

⁵ Form 10-Q of Trane Technologies PLC for the quarterly period ended June 30, 2020, p. 7, available at <https://www.sec.gov/Archives/edgar/data/1466258/000146625820000190/tt-10qxq2x06302020.htm>.

⁶ See Id.

- (c) As of 12:00 p.m. EDT on May 1, 2020, New Trane reincorporated itself as a Delaware limited liability company, Trane Technologies Company LLC (**Trane DE**) (the **Reincorporation**, and collectively with the Merger and Divisional Merger, the **Restructuring**).⁷

2. APPROACH UNDER THE 2014 DEFINITIONS

- (a) Under the 2014 Definitions, an entity "succeeds" to a Reference Entity and its Relevant Obligations when it "(i) assumes or becomes liable for such Relevant Obligations whether by operation of law or pursuant to any agreement ... and ... the Reference Entity is not thereafter a direct obligor or a provider of a Relevant Guarantee with respect to such Relevant Obligations".⁸
- (b) An entity may only be a Successor if:
- (i) either (A) the related Succession Date occurs on or after the Successor Backstop Date, or (B) such entity is a Universal Successor in respect of which the Succession Date occurred on or after January 1, 2014;
 - (ii) the Reference Entity had at least one Relevant Obligation outstanding immediately prior to the Succession Date and such entity succeeds to all or part of at least one Relevant Obligation of the Reference Entity; and
 - (iii) where the Reference Entity is a Sovereign, such entity succeeded to the Relevant Obligations by way of a Sovereign Succession Event.⁹
- (c) Under the 2014 Definitions, if an entity "assumes *all of the obligations* (including at least one Relevant Obligation) of the Reference Entity" (emphasis added) and at the time of determination "the Reference Entity has ceased to exist" and the "Reference Entity has not issued or incurred any Borrowed Money obligation at any time since the legally effective date of the assumption", then such entity will be the Universal Successor to the Reference Entity.

3. ANALYSIS UNDER THE 2014 DEFINITIONS

The Americas DC Resolved that the Successor Resolution Request Date occurred on October 22, 2020. Therefore, the Successor Backstop Date is July 24, 2020.¹⁰ The Merger and Divisional Merger both took effect as of May 1, 2020, a date that is prior to the Successor Backstop Date.

Accordingly, pursuant to Section 2.2(c)(i) of the 2014 Definitions, there can only be a Successor to Ingersoll-Rand or Old Trane, if the Merger and/or Divisional Merger resulted in a Universal Successor under Section 2.2(a)(vii) of the 2014 Definitions.

(a) Merger

As a result of the Merger, Old Trane assumed all of the obligations of Ingersoll-Rand, and Ingersoll-Rand ceased to exist.¹¹ Accordingly, the Americas DC Resolved that Old Trane became the Universal Successor to Ingersoll-Rand under Section 2.2(a)(vii) of the 2014 Definitions as a result of the Merger, and that the relevant Succession Date was May 1, 2020.

⁷ See Delaware Certificate of Conversion dated May 1, 2020; Texas Certificate of Conversion dated May 1, 2020; Delaware Certificate of Formation of Trane Technologies Company LLC dated May 1, 2020.

⁸ Section 2.2(d) of the 2014 Definitions.

⁹ Section 2.2(c) of the 2014 Definitions.

¹⁰ Section 2.2(k) of the 2014 Definitions.

¹¹ See New Jersey Certificate of Merger dated May 1, 2020; Texas Certificate of Merger dated May 1, 2020.

(b) **Divisional Merger**

As noted above, pursuant to the terms of the Divisional Merger, it is clear that Old Trane ceased to exist. New Trane, however, did not assume the Asbestos Items. The question therefore arises as to whether New Trane may be a Universal Successor to Old Trane, because an entity may only be a Universal Successor if such entity "assumes *all of the obligations* (including at least one Relevant Obligation) of the Reference Entity" (emphasis added).¹²

The Americas DC has not previously interpreted the meaning of the phrase "all of the obligations" in the context of Section 2.2 of the 2014 Definitions. However, in connection with the Ziggo Bond Finance B.V. (the **Ziggo Reference Entity**) Successor question, the EMEA DC determined that, under the 2014 Definitions, Ziggo Bond Company B.V. was the Universal Successor to the Ziggo Reference Entity despite outstanding immaterial tax liabilities and other payables remaining with the Ziggo Reference Entity.¹³ The EMEA DC reasoned that, although the requirement for a Universal Successor "was for an assumption of *all obligations*," if the unassumed obligations "were immaterial or negligible then they should be properly disregarded; the outcome of the Successor determination should not be different merely because of immaterial or negligible obligations."¹⁴ The EMEA DC's Ziggo statement also noted that the concept of "universal succession is a recognised one under English law, whereby a succeeding entity assumes all obligations of the original entity and the original entity thereby ceases to exist. However, while this concept was the genesis of the provision included in the 2014 Definitions, the concept was not simply imported, and the DC was of the view that Universal Successor should be interpreted in accordance with the wording of the 2014 Definitions".

We note that the Old Trane obligations assumed by Aldrich are not immaterial. Aldrich, an entity newly-formed in connection with the Divisional Merger, filed for Chapter 11 Bankruptcy shortly after assuming the Asbestos Items, indicating on its Form 201 that it had estimated liabilities of approximately \$100 million to \$500 million, and approximately 50,000 to 100,000 creditors.¹⁵

In consideration of the foregoing, the Americas DC determined that, as a result of the Divisional Merger, no one entity assumed "all of the obligations" of Old Trane, and therefore neither Aldrich nor New Trane would be a Universal Successor under the 2014 Definitions.¹⁶ As a result, the Americas DC Resolved that there is no Successor to Old Trane (which has ceased to exist) under the 2014 Definitions.¹⁷

4. EFFECT OF RESOLUTION ON CREDIT DERIVATIVE TRANSACTIONS

The Americas DC notes that, as a result of the DC Resolution, with effect from May 1, 2020, the Reference Entity for purposes of any Credit Derivative Transaction specifying Ingersoll-Rand Company as the original Reference Entity would be Old Trane.¹⁸ However, Old Trane has ceased to exist and there is no Successor to Old Trane. Market participants should therefore consider their Credit Derivative Transactions in light of Section 11.3 of the 2014 Definitions (providing that "a Credit Derivative Transaction will not be considered frustrated, void or voidable (whether for mistake or otherwise) solely because the Reference Entity does not exist on, or ceases to exist on or following, the Trade Date").

¹² Section 2.2(a)(vii) of the 2014 Definitions.

¹³ In the Ziggo Bond Finance B.V. Successor question, the total amount of outstanding tax liabilities and other payables, other than certain liabilities assumed by Ziggo Bond Company B.V., amounted to EUR 283,000. EMEA DC Statement 21 January 2019, Issue numbers 2019011001 and 2019010802, p. 4, available at <https://www.cdsdeterminationscommittees.org/documents/2019/01/emea-dc-statement-ziggo-bond-finance-b-v-january-21-2019.pdf>.

¹⁴ EMEA DC Statement 21 January 2019, Issue numbers 2019011001 and 2019010802, p. 4, available at <https://www.cdsdeterminationscommittees.org/documents/2019/01/emea-dc-statement-ziggo-bond-finance-b-v-january-21-2019.pdf>.

¹⁵ Form 201 Voluntary Petition for Non-Individuals Filing for Bankruptcy filed by Aldrich Pump LLC on June 18, 2020, parts 14 and 16.

¹⁶ Section 2.2(a)(vii) of the 2014 Definitions.

¹⁷ Section 2.2(c)(i) of the 2014 Definitions.

¹⁸ Section 2.1 and Section 2.2(a)(vii) of the 2014 Definitions.

Finally, the Americas DC notes that market participants should submit Successor questions pursuant to the DC Rules and within the timeframes contemplated by the 2014 Definitions in order to avoid situations where an event that would otherwise give rise to a Successor becomes time-barred by the Successor Backstop Date.