

Meeting Statement in relation to 2024 Atos SE Credit Derivatives Auction Settlement Terms

The DC published an updated draft of the Auction Settlement Terms (the **AST**) on 3 October 2024. The purpose of this Meeting Statement is to note certain matters relating to the Auction and settlement of Representative Auction-Settled Transactions (**RASTs**) in respect of Atos SE.

Eligible Market Participants should ensure that they carefully review the AST and should consult their own legal and other advisors. This Meeting Statement is a summary of certain provisions and issues only and is no substitute for reading the relevant contractual and other provisions of the AST and any RASTs.

If Eligible Market Participants wish to provide comments, then such comments must be received on 4 October 2024.

The DC notes that (i) the DC Rules require that an Auction is held to settle Transactions referencing Atos SE and (ii) there is a short window to settle RASTs prior to the implementation of the proposed safeguard plan. Accordingly, the DC has made certain amendments to the AST in order to facilitate such settlement and has provided a short further comment period. Once such comment period expires, the DC will publish the final AST. The DC will also publish the list of Participating Bidders shortly following the publication of the final AST.

For the avoidance of doubt, references in this statement to an Eligible Market Participant participating in the Auction include such persons doing so by submission of Physical Settlement Requests and Limit Orders to a Participating Bidder.

Part 1 – General Matters

1. Identity of Deliverable Obligations

The Final List of Deliverable Obligations includes the Term Loan and the RCF (Deliverable Obligation Numbers 4 and 5 in the Final List, and respectively the **Term Loan** and the **RCF** for the purposes of this Meeting Statement).

Under the terms of the RCF, a lender may transfer any of its rights and obligations to another bank or financial institution, provided that the amount transferred to a new lender is at least €10,000,000 (or its equivalent in other currencies) or, if less the whole of the existing lender's commitments.

Under the terms of the Term Loan, a lender may transfer any of its rights and/or obligations to another bank or financial institution or to a fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets, provided that the amount transferred to a new lender is at least €10,000,000 (or its equivalent in other currencies), if applicable, taking into account any amount contemporaneously transferred by an affiliate or a related fund of that existing lender to that new lender or, if less, the whole of the existing lender's commitments.

Each of the RCF and Term Loan also include consent requirements in relation to the Reference Entity and proposed transfers.

In summary, an Eligible Market Participant that wishes to submit a Physical Settlement Request or a Limit Order is required to represent that either:

- (1) such Eligible Market Participant is not subject to any requirement that would make it impossible or illegal for such entity to Deliver or accept Delivery of any of the Deliverable Obligations; or

- (2) such Eligible Market Participant will procure a designee for whom it is not impossible or illegal to Deliver or accept Delivery of any of the relevant Deliverable Obligations.

Eligible Market Participants must consider the impact of the presence of the Term Loan and RCF on the Final List on their ability to participate in the Auction (taking into account, without limitation, the transfer provisions of such Term Loan and RCF, the ability of such Eligible Market Participant to hold Loans under their constitution and any applicable investment policies and restrictions, and law and regulation applicable to both the Loans and such Eligible Market Participant).

Note that the appointment of a designee requires the consent of the other party to the relevant Customer RAST – however, such consent will be deemed given if the designee is a Participating Bidder for whom it is not impossible or illegal to Deliver or accept Delivery of the relevant Deliverable Obligations. If an Eligible Market Participant intends to use a designee, such approach should be discussed with the Participating Bidder with whom such Eligible Market Participant will submit Customer Physical Settlement Requests or Customer Limit Order Submissions as soon as possible.

2. Minimum transfer amount of Term Loan and RCF and Cash Settlement

Both the Term Loan and RCF are transferable in amounts of EUR10m, or if lower, the entire of the Commitment of the relevant Lender. This means that in many cases, the notional amount of the RAST will be less than the minimum transfer amount of the Term Loan or the RCF.

Delivery is to be effected by delivery directly of the relevant loan. However, if an Eligible Market Participant (acting as Seller) has identified the Buyer or the Buyer's Affiliate as such Eligible Market Participant's nominee for receiving Deliverable Obligations, then Buyer may deliver to Seller in accordance with the arrangements put in place when Buyer or its Affiliate accepted the role of nominee.

3. Transfer process in respect of Term Loan and RCF

An Eligible Market Participant cannot require a Participating Bidder to adhere to any lock up agreement or receive "locked-up debt" or otherwise become subject to any new money commitment.

Therefore, Eligible Market Participants that sell any of the Deliverable Obligations will need to ensure that they will be able to satisfy their Delivery obligations by transferring debt that is (i) not subject to any lock-up arrangement (taking into account the terms of any lock-up arrangement they may have entered into) and (ii) not attached to any new money commitment.

Delivery of the Term Loan and the RCF will be effected in accordance with the terms of such instruments. No LMA Secondary Debt Trading Documentation is required to be entered into in addition to the RAST. The AST provides that no additional amount will be due in respect of any accrued interest.

4. The RCF

Based on information received from the Reference Entity and from the proposed safeguard plan published by the Reference Entity on its website¹, the RCF is presently fully drawn in EUR by the Reference Entity directly.

Therefore, there is presently no mismatch between the Relevant Currency of the Auction (EUR) and the currency of any of the Deliverable Obligations. The proposed safeguard plan notes that the Reference Entity is currently prohibited from paying the debts affected by the safeguard plan (including the RCF).²

¹ See page 27 of the English translation of the plan (available at: <https://atos.net/content/investors-documents/financial-restructuring/atos-se-draft-accelerated-safeguard-plan.pdf>)

² See page 45 of the English translation of the plan.

If the Reference Entity were to repay and reborrow in USD, then any required currency conversion for the purposes of settling Representative Auction-Settled Transactions will be effected by reference to the FX rate used for converting the EUR commitment under the RCF into USD in connection with the relevant drawing.

Given the RCF is currently fully drawn in EUR and the broader factual context, the AST provides that no indemnity is required against further borrowings under the RCF under Section 11.2(b) of the 2014 Definitions. This is because it is important for the chain of settlement that the position with regard to any requirement for an indemnity is clear to all market participants under the draft Auction Settlement Terms. In light of the chain of settlement of RASTs, this will remain the case even if the Reference Entity were to exit the safeguard process with the RCF still outstanding and then repay some of the RCF prior to its Delivery. Note that this is strictly limited to amounts arising under the terms of the RCF itself and not any new money commitment).

5. Key Dates

The schedule of certain key dates is set out below:

- Auction Date: 9 October
- Notice of Physical Settlement Date: 10 October
- Final Notice of Physical Settlement Date: 11 October
- Deadline for a NOPS Amendment Notice that would replace a Bond with a Loan:
 - Customer Buy RAST (i.e. where an Eligible Market Participant will Deliver to a Participating Bidder or a PB Affiliate) – 15 October
 - Direct RAST (i.e. between two Participating Bidders) – 16 October
 - Customer Sell RAST (i.e. where a Participating Bidder or a PB Affiliate will Deliver to an Eligible Market Participant) – 17 October
- Physical Settlement Dates:
 - Customer Buy RAST – 1 November
 - Inter-dealer RAST – 8 November
 - Customer Sell RAST – 15 November
- Fallback to Cash Settlement process under Section 9.1 and Section 9.6. Such date will also be the Valuation Date for the purposes of Section 9.6:³
 - Customer Buy RAST – 6 November
 - Inter-dealer RAST – 13 November
 - Customer Sell RAST – 20 November
- Fallback to Buy-in of Bonds not Delivered under Section 9.7: Three Business Days following the Physical Settlement Date. For example, the Seller's buy-in right would apply from 20 November to 26 November.

³ Note that such process will apply to a chain as a whole and so a Customer Sell RAST or an Inter-dealer RAST may be subject to such process by virtue of it being triggered on an earlier leg on an earlier date. [Note added on 8 October 2024]

- Fallback to Alternative Procedures for Loans Not Delivered under Section 9.8: Five Business Days following the applicable Valuation Date. For example, in respect of the Customer Sell RAST, 27 November.
- Fallback to Loan Alternative Procedure under Section 9.8(ii): 10 Business Days following the fallback above. For example, in respect of the Customer Sell RAST, 11 December.

Part 2

Settlement of RASTs by Delivery of Loans

General

The Physical Settlement Period has been set taking into account the time available prior to the implementation by the Reference Entity of the proposed safeguard plan. As noted above, the Final List includes Loans and typically the process for settlement of Loans will be more protracted than settlement of Bonds which can be transferred through clearing systems.

To facilitate settlement of Loans, the AST includes:

- A deadline for a NOPS Amendment Notice that will replace a Bond with a Loan – once the applicable deadline has been passed, a Bond cannot be replaced with a Loan. This is intended to ensure that parties have sufficient time to settle the delivery of the relevant Deliverable Obligations.
- Obligations on parties to consult with each other and to relay information through any chain of RASTs in order to facilitate settlement and the operation of the fallbacks. In relation to Delivery of a Loan, if all steps to Deliver the relevant Loan have been taken but the transfer has not been processed prior to the Physical Settlement Date, then parties are also required to consult with each other in good faith prior to commencing the relevant fallback process. Unless the relevant parties otherwise agree, the fallback process will commence as scheduled on the third Business Day following the Physical Settlement Period.

Designation provisions

The AST includes various provisions around designating other entities to receive or deliver Deliverable Obligations. This does not purport to be a summary of all such provisions and Eligible Market Participants should review the terms of the AST.

Section 11.2(c)(iv) of the 2014 Definitions as amended by the AST governs the designation process applicable in respect of settlement of Loans. This is intended to facilitate delivery of the Loan directly from one end of a chain of RASTs to the other end of a chain of RASTs – although note that such RASTs remain principal to principal transactions.

The criteria for who can be designated is set out in Section 11.2(c)(iv) – in essence the intention is to allow (i) a party to designate a person who is delivering to such party as its designee for the purposes of its onwards delivery obligations and (ii) a party to designate a person who it will need to onward deliver the Deliverable Obligations to act as its designee for receipt of Deliverable Obligations. This is to facilitate settlement of all RASTs in as few steps as possible and promote efficient settlement for all Eligible Market Participants.

It is possible to designate another person in respect of part only of the amount of the relevant Deliverable Obligations to be delivered. It is also possible to designate multiple persons in respect of a single RAST.

If a Buyer is designating under Section 11.2(c), then such designation is done in the Notice of Physical Settlement or NOPS Amendment Notice (as the case may be) or otherwise by separate notice promptly following identification of the relevant chain of RASTs.

If Seller is making a designation under Section 11.2(c), then such designation will be done by separate notice within one Business Day of receipt of the Notice of Physical Settlement or NOPS Amendment Notice from

the Buyer (or, if later, with the Seller acting in good faith promptly once the scope of the relevant chain of Transactions has been identified).

Within one Business Day of a designation being made, the other party may reject such designation in which case it will cease to apply and Delivery will operate without reference to such designation. However, such designation will still apply for the purposes of Cash Settlement and the consequences thereof – for the avoidance of doubt, this would not result in cash amounts being paid directly from one end of the chain of RASTs to the other end of a chain of RASTs; cash amounts are still paid principal to principal between the parties to the relevant RAST. A further designation may also be made following a rejection.

Notwithstanding the general deadlines set out in Section 11.2(c)(iv), a designation may also occur subsequently if the reason for the delay is identifying the universe of RASTs a person is party to and the Deliverable Obligations to be delivered under such RASTs.

Note that Section 8.12(a) of the 2014 Definitions also imposes a general obligation on parties to RASTs to use commercially reasonable efforts to consult with the other party to such Transaction and to relay information through any relevant chain of Representative Auction-Settled Transactions in each case in order to facilitate settlement of the Representative Auction-Settled Transactions (including, without limitation, information to facilitate the process for designating Direct RASTs and Related RASTs).

Minimum Transfer Amount and Cash Settlement

Since the Quotation Amount Increment (being the increments in which any Physical Settlement Request or Limit Order must be made) and the Minimum Rounding Amount are [EUR100,000], there are a number of situations where a RAST could be formed pursuant to an Auction and Buyer would be unable to Deliver the RCF / Term Loan to Seller due to the minimum transfer amount provisions in such Loans.

For example, a Physical Settlement Sell Request of €100,000 forming a RAST with a notional of €100,000 cannot practically be settled with a Loan since Buyer is not compensated for any amount of the Loan that is Delivered in excess of the notional of the RAST. Even if the RAST notional is greater than €10,000,000, Cash Settlement may still apply if the Loan cannot be Delivered for other reasons (such as a failure to secure consent).

The AST includes Cash Settlement mechanics that are similar to those that have been included in previous ASTs. Market participants should consider all of the risks involved in placing Physical Settlement Requests or Limit Orders in the Auction and should ensure that they are aware of the circumstances where the Cash Settlement provisions may operate, including in an economically disadvantageous manner.

This summary primarily relates to Section 9.1 (*Partial Cash Settlement of a Deliverable Obligation Due to Impossibility or Illegality; Partial Cash Settlement of a Deliverable Obligation which is a Loan Due to no Delivery*) and Section 9.6 (*Partial Cash Settlement Terms*) of the Definitions, as amended in the definition of RAST in the draft Auction Settlement Terms. Note that a further fallback will also apply under Section 9.8 (*Alternative Procedures relating to Loans Not Delivered*). This does not purport to set out all of the details of the process and is a high-level summary only. Note that if settlement has not completed prior to the implementation of the proposed safeguard plan, the DC has the power to publish a further supplement to the AST to address such fact pattern.

Eligible Market Participants should ensure that they carefully review the Cash Settlement mechanics of the AST and should consult their own legal and other advisors.

Cash Settlement mechanics in the Credit Derivatives Auction Settlement Terms

- If a party to a RAST is unable to successfully Deliver a Loan within the specified timeframe to the other party, a dealer poll may be held to determine the value of the relevant Loan. These mechanics will only apply once the Physical Settlement Period has ended (so as to provide certainty to the market as to the overall timetable). However, the AST includes certain provisions relating to chains of RASTs (referred to as Direct RASTs and Related RASTs). Once Cash Settlement applies to the first RAST in a chain, then Cash Settlement will also apply to the relevant portion of each other Transaction notwithstanding that the Physical Settlement Period on subsequent legs of the chain of RASTs may still be running.
- Under the Cash Settlement process set out in Section 9.6 of the 2014 Definitions as modified by the draft Auction Settlement Terms, Full Quotations are sought in respect of an amount of such Loan equal to the greater of (a) the Outstanding Amount (i.e. the outstanding principal balance of the Loan specified in the Notice of Physical Settlement) and (b) any applicable minimum transfer amount under the terms of the relevant Loan (i.e. €10m unless the entire holding of the Buyer in such Loan is less than €10m).
- Cash Settlement will only occur if the Relevant Buyer enters into an arms-length binding contract to sell the relevant amount of the Loan using a firm Full Quotation from a Dealer (including the Seller (or, in respect of a settlement chain, an ultimate Seller at the end of the relevant chain of RASTs)) providing such Full Quotation. Note that such sale need not be at the highest quotation but such highest quotation will be used for determining the Cash Settlement Amount.
- Under Section 9.6 of the 2014 Definitions as modified by the draft Auction Settlement Terms, Seller (or, in respect of a settlement chain, the ultimate Seller(s) at the end of the relevant chain of RASTs) is treated as a Dealer and is permitted to provide a Full Quotation and is given a "last-look" in order to be the final party to provide a Full Quotation. This means that such a Seller who wishes to purchase the Loan will have an opportunity to do so by providing the highest Full Quotation. However, note that the Buyer is permitted to sell to any of the persons providing a Quotation and is not required to only sell to the person providing the highest Full Quotation. Note that the Cash Settlement Amount will be determined by reference to the size of the relevant RAST whereas the actual sale will be by reference to an amount that can be transferred. The actual sale and purchase needs to be documented separately.
- Section 9.8 (*Alternative Procedures relating to Loans Not Delivered*) will also apply as a further fallback if the process set out in Section 9.6 does not successfully result in the determination of the Final Price for Cash Settlement. Note this will apply to all Direct RASTs and Related RASTs in the chain at the same time notwithstanding the original Physical Settlement Dates.
- In summary under Section 9.8:
 - (i) provided that Buyer is the person who served the Notice of Physical Settlement, Buyer is permitted certify that its failure to Deliver is due to a failure to obtain consent or due to the minimum transfer amounts in the Loans and Buyer may then deliver any Bond or Assignable Loan on the Final List; and
 - (ii) Seller may also require Buyer to Deliver any Bond or Assignable Loan provided that Seller identifies a holder of such instrument willing to sell it to Buyer (note that this can be at a price higher than the Auction Final Price) and such instrument may be on-delivered without any consents being required and taking into account any minimum transfer amount provisions.

The Quotation Process and the last-look mechanic

- Note that market participants submitting a Physical Settlement Sell Request or Limit Offer could be matched with more than one counterparty under the Auction process, thereby forming multiple RASTs with different Sellers (or, in respect of a settlement chain, a different ultimate Seller or different ultimate Sellers at the end of each such chain of RASTs).

- As noted above, the quotation process is set out in Section 9.6 (*Partial Cash Settlement*) as modified by the Auction Settlement Terms. Quotations must be sought from (I) five or more Dealers which must, at a minimum, include each Seller under a Related RAST or the Direct RAST (if any) which, in each case, is not a Loan Settled Transaction provided that in the case of a Seller under a Customer Sell RAST which is a Related RAST, such Seller may designate another party to participate in the quotation process as a Dealer in its place (and each such entity is deemed to be a Dealer) and (II) any other additional person from whom the Buyer wishes to obtain Quotations (and each such entity is also deemed to be a Dealer) (i.e. this enables the Buyer to bring in any other RASTs it is also party to).
- This means that in a situation where Buyer's exposure of €10,000,000 has been split into two separate RASTs (whether directly under the RASTs Buyer is party to or at the end of a chain of RASTs), for example, one with a notional amount of €4,000,000 and one with a notional amount of €6,000,000, the outcome under the draft Auction Settlement Terms would be that Buyer would continue to alternate between each Seller under the last look mechanic (or, in respect of a settlement chain, the ultimate Seller at the end of each relevant chain of RASTs), offering them each a last look, until one refused the option. Both RASTs, or each RAST in the chain, as applicable, would then be settled at the same Cash Settlement Amount that results from the Full Quotation provided by whichever of the two Sellers provides the highest Full Quotation.
- If the Buyer does not make use of this provision, then Buyer may only be able to cash settle one RAST (by entry into a binding commitment to sell €10,000,000 of the RCF / Term Loan to a Dealer) and the other RAST would fall back to Section 9.8 (*Alternative Procedures relating to Loans Not Delivered*) (which would require Delivery of another Deliverable Obligation). Note that Sellers may face competition with respect to their last-look and this may also affect the price of such last look.
- The Cash Settlement mechanics may affect the ability of Seller (or, in respect of a settlement chain, the ultimate Seller at the end of the relevant chain of RASTs) to take advantage of its last-look, because to the extent that the amount of the Loan in respect of which Full Quotations are sought in the dealer poll exceeds the RAST notional, Seller will not recoup all of the amounts paid by Seller to purchase the Loan through the corresponding reduction of the Cash Settlement Amount payable by Seller. Seller should consider the economic effect of having to purchase an amount of the Loan in excess of the RAST notional at the Full Quotation given pursuant to its last-look (e.g. if such Full Quotation is above the market value of the relevant Loan).

Examples

Set out below are some examples to show how the provisions relating to the Cash Settlement of Loans in the draft Auction Settlement Terms would operate in practice. Assume for the purposes of each of the examples below that the Auction Final Price = 80%. These have been simplified for clarity – the actual position may be more complex given the chains of RASTs.

Example One:

Buyer holds less than €10,000,000 of the RCF / Term Loan (e.g. €4,000,000) and submits a Physical Settlement Sell Request or a Limit Offer for a notional amount of €4,000,000 specifying the RCF / Term Loan as the Deliverable Obligation.

- As the minimum transfer amount under the RCF / Term Loan is the lesser of €10,000,000 and the relevant lender's holding and the Seller is able to take delivery of the RCF/Term Loan, Buyer is able to Deliver €4,000,000 of the RCF / Term Loan to Seller.

Example Two:

Buyer holds €10,000,000 of the RCF / Term Loan and submits a Physical Settlement Sell Request or a Limit Offer for a notional amount equal to €4,000,000 specifying the RCF / Term Loan as the Deliverable Obligation

- As the minimum transfer amount under the RCF / Term Loan is the lesser of €10,000,000 and the relevant lender's holding, Buyer will not be able to Deliver €4,000,000 of the RCF / Term Loan to Seller, since here Buyer's holding is equal to €10,000,000 and therefore the smallest amount of the RCF / Term Loan that Buyer can transfer is €10,000,000.
- Unless Buyer is prepared to overdeliver, the fallback to Cash Settlement will apply and the amount of the Loan in respect of which Full Quotations would be sought in the dealer poll would be €10,000,000.
 - Assume the highest Full Quotation is 70%. Seller would pay 10% by way of Cash Settlement Amount (since the Auction Final Price is 80%) and, if Seller was the party with whom Buyer entered into a binding agreement to sell the RCF / Term Loan, 70% for the RCF / Term Loan.
 - If Buyer did not enter into a binding agreement to sell €10,000,000 of the RCF / Term Loan to one of the Dealers providing a Full Quotation (including Seller), Section 9.8 would apply.

Example Three:

Buyer holds €10,000,000 of the RCF / Term Loan and submits a Physical Settlement Sell Request or a Limit Offer for a notional amount of €10,000,000 specifying the RCF / Term Loan as the Deliverable Obligation.

Buyer is paired with two separate counterparties in the Auction, forming RAST 1 with a notional amount of €4,000,000 with Seller A and RAST 2 with a notional amount of €6,000,000 with Seller B.

- As the minimum transfer amount under the RCF / Term Loan is the lesser of €10,000,000 and the relevant lender's holding, Buyer is unable to Deliver the RCF / Term Loan into either of the RASTs (unless Buyer is prepared to overdeliver).
- The fallback to Cash Settlement will apply and the amount of the Loan in respect of which Full Quotations would be sought in the dealer poll would be €10,000,000. Buyer nominates both Sellers.
 - Seller A and Seller B could each provide Full Quotations and Buyer would continue to give each a last look until either declined to provide a further Full Quotation.
 - If the highest Full Quotation is 70%, provided by Seller A, and Buyer enters into a binding agreement to sell €10,000,000 of the RCF / Term Loan to Seller A, Seller A would pay 10% by way of Cash Settlement Amount and 70% for the RCF / Term Loan. Seller B would be required to pay 10% by way of Cash Settlement Amount.
 - If Buyer did not enter into a binding agreement to sell €10,000,000 of the RCF / Term Loan to a Dealer (including either Seller) providing a Full Quotation, both RAST 1 and RAST 2 would be subject to Section 9.8 (*Alternative Procedures relating to Loans Not Delivered*).