

## Americas DC Meeting Statement January 6, 2017

### Summary

The DC met on January 6, 2017 to continue its discussion of the Auction Date for the iHeart Communications, Inc. (f/k/a Clear Channel Communications, Inc.) (the **Reference Entity**) Failure to Pay Credit Event.

The DC Resolved that the Auction should be held on February 2, 2017.

Each capitalized term used but not defined in this Meeting Statement has the meaning given to it in the Credit Derivatives Determinations Committees Rules (January 20, 2016 version) (including in the 2014 Definitions and the Updated 2003 Definitions, each as defined therein) (the **DC Rules**).

### Background

In setting the Auction Date, the DC considered the application of Section 3.2(b) and Section 3.2(d) of the DC Rules.

- (a) Section 3.2(b) of the DC Rules provides that the Global Dealer Voting Members and Regional Dealer Voting Members of a Convened DC shall "Resolve, for each Auction, by a Majority [...] (i) the Auction Date for each Auction; provided that the Auction Date shall be the third Relevant City Business Day immediately preceding the 30th calendar day after the Credit Event Resolution Request Date unless the Global Dealer Voting Members and Regional Dealer Voting Members of such Convened DC Resolve otherwise [...]". In this case, the third Relevant City Business Day immediately preceding the 30th calendar day after the relevant Credit Event Resolution Request Date (the **Provisional Auction Date**) is January 13, 2017.
- (b) Section 3.2(d) of the DC Rules provides that "[i]f the Convened DC determines that the Credit Derivatives Auction Settlement Terms and Final List are not broadly reflective of the Deliverable Obligations and ability to settle which would have been available if Physical Settlement had been the applicable Settlement Method and that this would cause prejudice to either Buyer or Seller under a Relevant Transaction, it may Resolve by Supermajority to make amendments to the Credit Derivatives Auction Settlement Terms and/or Final List as applicable in an attempt to avoid or mitigate against such prejudice."

The DC noted that Section 3.2(b) of the DC Rules gives the DC Global Dealer Voting Members and Regional Dealer Voting Members the discretion to set the Auction Date by a Majority vote. While Section 3.2(b) of the DC Rules provides guidance on the general timeline for setting the Auction by making reference to a Provisional Auction Date, the DC is not required under the DC Rules to treat the Provisional Auction Date as a default Auction Date or as a settled provision of the Credit Derivatives Auction Settlement Terms that can only be modified by an amendment to the Credit Derivatives Auction Settlement Terms.

While not required to consider Section 3.2(d) of the DC Rules when setting the Auction Date, the DC noted that Section 3.2(d) sets out general principles that the DC considered relevant in the context of Auction determinations more generally. The DC determined that a chosen Auction Date should not cause prejudice to either Buyer or Seller under a Relevant Transaction as compared to such Buyer or Seller's ability to settle if Physical Settlement had been the applicable Settlement Method.

In determining the timing and economic consequences of Physical Settlement outside of the Auction, the DC considered publicly available information indicating that the Reference Entity's 14% senior notes due 2021<sup>1</sup> (the **14% Notes**) (a) are currently expected to be included as potential Reference Entity Deliverable Obligations; and (b) have a substantial amount of accrued but unpaid interest that will become due and payable on February 1, 2017.<sup>2</sup> In light of these circumstances, the DC expected that a Buyer physically settling outside the Auction would look to delay settlement until after the February 1, 2017 interest payment date, while a Seller would look to accelerate settlement where possible. Finally, the DC took into account potential confusion that Auction participants may have in calculating accrued interest and the potential settlement timeline for Representative Auction-Settled Transactions when submitting bids and/or offers in the Auction.

### **Timeline for Physical Settlement – 2014 Transactions**

The timeline for settlement if Physical Settlement had been the applicable Settlement Method begins with the Event Determination Date, which the DC previously Resolved to be December 20, 2016.

Section 5.1 of the 2014 Definitions provides that a Buyer under a Relevant Transaction must deliver a Notice of Physical Settlement on or prior to the NOPS Cut-off Date. If a Notice of Physical Settlement is not delivered on or prior to the NOPS Cut-off Date following the relevant Event Determination Date, the NOPS Cut-off Date is the Termination Date for the relevant 2014 Transaction.<sup>3</sup>

Section 8.10 of the 2014 Definitions provides, in pertinent part, that where Physical Settlement is the Settlement Method, the NOPS Cut-off Date is the later of the thirtieth calendar day after the relevant Event Determination Date or the tenth calendar day after the relevant DC Credit Event Announcement. In this case, the NOPS Cut-off Date would therefore be January 19, 2017.<sup>4</sup>

Section 8.17 of the 2014 Definitions provides that the Physical Settlement Date is the "last day of the longest Physical Settlement Period following the NOPS Cut-off Date".<sup>5</sup> For a Standard North American Corporate / North American Corporate 2014 Transaction, Section 8.19 of the 2014 Definitions defines the Physical Settlement Period as "the longest number of Business Days for settlement in accordance with then current market practice of [the relevant] Deliverable Obligation, as the Calculation Agent shall determine after consultation with the parties".<sup>6</sup> The DC determined based on market practice for settlement of the Reference Entity's Bonds that the Physical Settlement Period for the Reference Entity's Bonds (including the 14% Notes) should be three Business Days. In this case, the Physical Settlement Date would therefore be January 24, 2017.

Under Section 11.2(c)(ii) of the 2014 Definitions, a Buyer may continue to attempt to Deliver the Deliverable Obligations specified in the Notice of Physical Settlement after the Physical Settlement Date.

Section 9.7 of the 2014 Definitions provides that at any time after the date that is five Business Days after the Physical Settlement Date, if the Buyer has not Delivered the Deliverable Obligations specified in the Notice of

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<sup>1</sup> Available at: <https://www.sec.gov/Archives/edgar/data/739708/000119312513267374/d556784dex41.htm>

<sup>2</sup> The DC is aware that (a) the contractual record date for the February 1, 2017 interest payment on the 14% Notes is January 15, 2017 and (b) the relevant clearing system processing payments on the 14% Notes may determine the recipients of interest payments by identifying the beneficial holders of the 14% Note as of January 31, 2017. The specific record date used to determine recipients of the February 1 interest payment on the 14% Notes does not affect the DC's conclusions around auction timing because, assuming a Buyer would delay Delivery of the 14% Notes until the latest date permitted under the 2014 Definitions or Updated 2003 Definitions, using either record date would result in the February 1, 2017 interest payment being paid to the Buyer.

<sup>3</sup> The Updated 2003 Definitions include a substantially similar provision. See Section 3.4 of the Updated 2003 Definitions.

<sup>4</sup> The Updated 2003 Definitions include a substantially similar provision requiring delivery of the Notice of Physical Settlement prior to the 30th calendar day after the Event Determination Date. See Section 3.2(c) of the Updated 2003 Definitions.

<sup>5</sup> The Updated 2003 Definitions include a substantially similar provision. See Section 8.4 of the Updated 2003 Definitions.

<sup>6</sup> The Updated 2003 Definitions include a substantially similar provision. See Section 8.6 of the Updated 2003 Definitions.

Physical Settlement, the Seller may commence a buy-in of any specified Bonds not Delivered.<sup>7</sup> In this case, the earliest that a Seller could commence the buy-in process would be February 1, 2017. The buy-in process would entail the Seller obtaining firm quotations for the sale of the relevant Bonds, with any sale of such Bonds settling on a T+3 basis.

### **Timeline for Physical Settlement – Representative Auction-Settled Transactions**

The DC also considered the timeline for settlement of a Representative Auction-Settled Transaction that would be formed pursuant to the Credit Derivatives Auction Settlement Terms for the relevant Auction. For purposes of this exercise, the DC assumed that the relevant Auction Date would be the Provisional Auction Date (January 13, 2017), and that the Auction Date would be the Auction Final Price Determination Date.

If the Provisional Auction Date were the Auction Final Price Determination Date, the Notice of Physical Settlement Date for a Representative Auction-Settled Transaction formed in the Auction would be the Business Day following the Auction Final Price Determination Date (January 17, 2017).

The Final Notice of Physical Settlement Date for such Representative Auction-Settled Transaction would be the fifteenth calendar day after the Notice of Physical Settlement Date (February 1, 2017).

Assuming (as above) a Physical Settlement Period of three Business Days for the relevant Deliverable Obligations, the Physical Settlement Date under Section 8.17 of the 2014 Definitions (as amended by the terms of the Representative Auction-Settled Transaction) would be February 6, 2017.

### **Potential Prejudice to Buyers as Compared to Physical Settlement**

Given the above timelines, the DC concluded that the timeline for settlement of a Representative Auction-Settled Transaction formed in an Auction held on or after the Provisional Auction Date and the settlement timeline for a Relevant Transaction under Physical Settlement should produce substantially similar economic results, in that a Buyer in both circumstances would have the ability to delay Delivery of the 14% Notes until after the February 1, 2017 interest payment date.

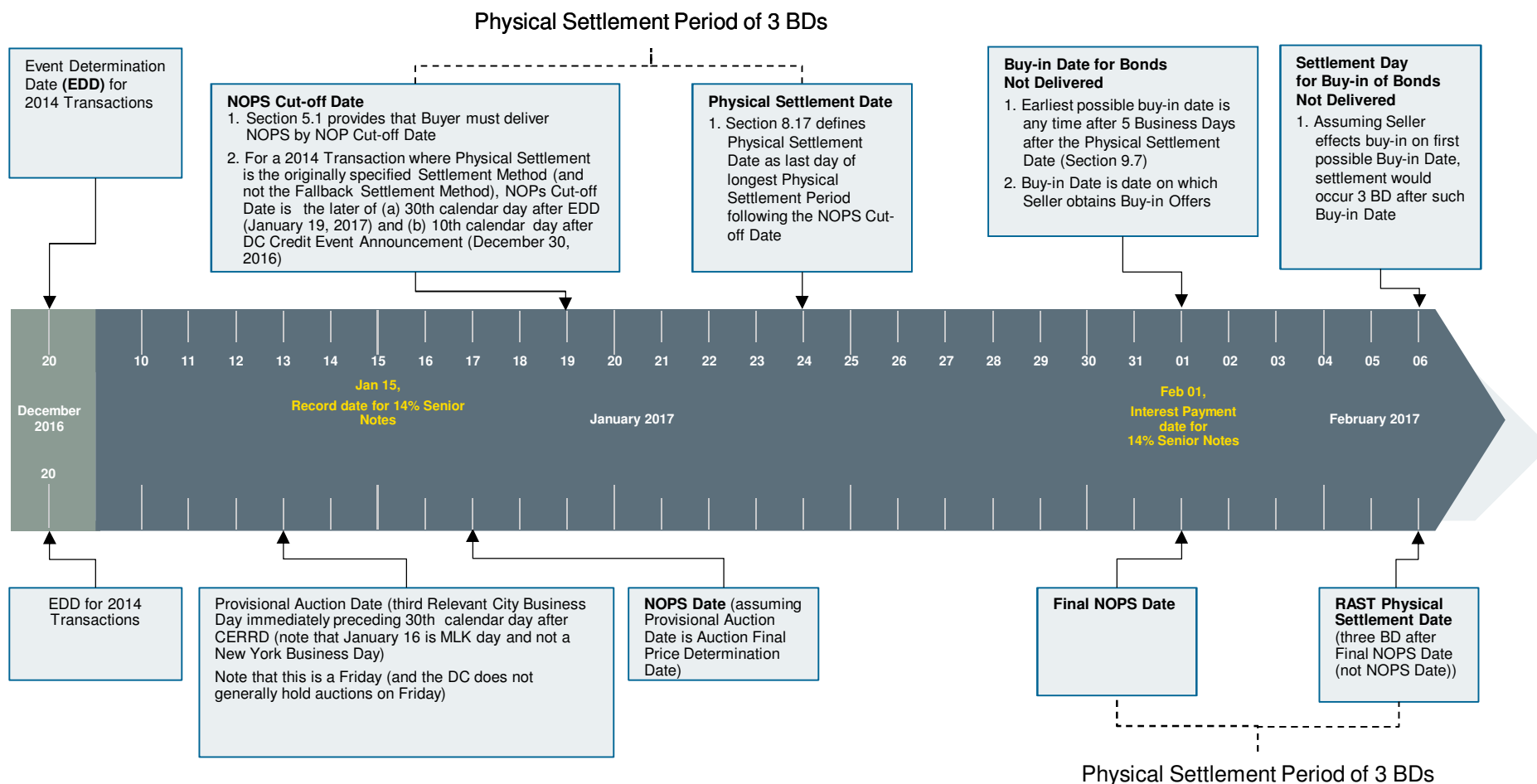
Taking into consideration market participants' questions around Auction timing, however, the DC determined that holding the Auction on the Provisional Auction Date (or on any date prior to the February 1, 2017 interest payment date) could potentially result in market confusion and/or an inaccurate Auction Final Price to the extent that participating bidders and/or customers in the Auction provided bids and/or offers that incorrectly calculated the accrued but unpaid interest applicable to the 14% Notes. If an Auction were held prior to February 1, 2017 and Auction participants submitted bids and/or offers for Representative Auction-Settled Transactions that incorrectly assumed settlement of such Representative Auction-Settled Transactions prior to the February 1, 2017 interest payment date, the Auction Final Price (which is used to settle Auction Covered Transactions and not just Representative Auction-Settled Transactions) could be distorted by incorrect calculations of the accrued but unpaid interest on the 14% Notes. As a result, for simplicity and to ensure an accurate Auction Final Price, the DC Resolved to set February 2, 2017 as the Auction Date.

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<sup>7</sup> The Updated 2003 Definitions include a substantially similar provision. See Section 9.9 of the Updated 2003 Definitions.

# Timeline for Settlement of 2014 iHeart CDS Transactions

## Physical Settlement outside the Auction



## Physical Settlement of Representative Auction Settled Transaction (RAST)