

DC STATEMENT 14 SEPTEMBER 2018

14 September 2018: Further to the SRO Identification Resolutions published on Wednesday 12 September 2018, the EMEA DC wishes to make the following clarifications in relation to Deutsche Bank AG ISIN DE000DL19TX8 (**Potential SRO 4**). **In summary, subject to the detailed description below, the DC has determined that all legacy senior CDS transactions referencing a German bank Reference Entity which do not specify whether they are senior preferred or senior non-preferred CDS transactions will be treated as senior non-preferred CDS transactions.**

Capitalised terms used but not defined herein have the meaning specified in the 2016 ISDA Credit Derivatives Determinations Committee Rules (January 20, 2016 Version, as amended on March 9, 2018) (including in the 2014 Definitions and Updated 2003 Definitions, as defined therein).

N.B. even though this may not be technically correct, for the purposes of this statement we have described senior non-preferred obligations as being subordinated obligations in order to be consistent with the descriptions used in the 2014 Definitions.

- (1) The DC has determined that Potential SRO 4 constitutes a Senior Non-Preferred Obligation of Deutsche Bank AG – in other words, that Potential SRO 4 is subordinated to any unsubordinated borrowed money obligations of the Reference Entity but senior to any subordinated obligations (including Tier 2 subordinated obligations) of such Reference Entity. Notwithstanding that Potential SRO 4's subordination to unsubordinated borrowed money obligations arises by operation of law, the DC has treated such subordination as arising pursuant to Potential SRO 4's contractual terms and conditions. In coming to this view, the DC was aware of recent amendments to the German Banking Act pursuant to which, with effect from 21 July 2018, German banks can now choose to issue two types of senior unsecured debt obligations – senior preferred and senior non-preferred – by expressly referring to the relevant ranking in the corresponding terms and conditions and offering documents. These recent changes to the German Banking Act also clarified that senior unsecured debt obligations issued prior to 21 July 2018 (e.g. Potential SRO 4), which were subordinated to become senior non-preferred debt obligations by virtue of prior amendments to the German Banking Act in 2015 (i.e. by operation of law), rank *pari passu* on an insolvency/resolution of the Reference Entity with senior non-preferred debt obligations issued by the Reference Entity on or after 21 July 2018 (i.e. contractually subordinated debt obligations). The DC was of the view that it would be anomalous to reach a different conclusion as to the seniority level for CDS purposes of two senior non-preferred bonds issued by the same issuer and ranking *pari passu* with each other upon an insolvency/resolution purely due to different mechanics for implementing the relevant subordination at the time at which each such bond was issued.
- (2) The DC understands that the current Standard Reference Obligation in respect of Deutsche Bank AG for the Senior Level (ISIN DE000DB5S5U8, which was fully redeemed on its maturity date of 31 August 2017) (the **Prior Senior SRO**) would have fallen into the class of senior unsecured debt obligations that were effectively subordinated pursuant to the 2015 changes to the German Banking Act referred to above. As noted above, pursuant to the most recent changes to the German Banking Act, (a) German banks are now able to issue two types of senior unsecured debt obligations – senior preferred and senior non-preferred and (b) senior unsecured debt obligations issued prior to 21 July 2018 such as the Prior Senior SRO (i.e. subordinated by operation of law) rank *pari passu* with, *inter alia*, Potential SRO 4 and senior non-preferred debt obligations issued by Deutsche Bank AG on or after 21 July 2018. As such, given the possibility of having two types of senior unsecured debt obligations in relation to Deutsche Bank AG, the DC has determined that Potential SRO 4 should constitute the Standard Reference Obligation for the Senior Non-Preferred Level and, notwithstanding this, would constitute a valid replacement Standard Reference Obligation for the Prior Senior SRO.

- (3) Further, in relation to any such 2014 Transaction referencing Deutsche Bank AG in respect of which Potential SRO 4 constitutes the replacement Standard Reference Obligation, the DC further resolved that (assuming Potential SRO 4 becomes the replacement Standard Reference Obligation for the Senior Level following the expiration of the corresponding Challenge Deadline) (a) Potential SRO 4 and any other senior unsecured debt obligations of Deutsche Bank AG ranking *pari passu* with such Potential SRO 4 upon an insolvency of the same shall be treated as though they were Subordinated Obligations (as defined in Section 2.25 of the 2014 Definitions) for the purposes of the 2014 Definitions and (b) such 2014 Transaction shall be treated as though it were a Subordinated Transaction (as defined in Section 2.24 of the 2014 Definitions) for the purposes of the 2014 Definitions.
- (4) For the avoidance of doubt, the foregoing clarifications/determinations apply to any 2014 Transaction irrespective of whether the parties thereto have incorporated the Senior Non-Preferred Supplement.
- (5) The DC was of the view that the foregoing resolutions should apply, *mutatis mutandis*, in relation to outstanding senior Updated 2003 Transactions referencing Deutsche Bank AG such that, without limitation:
 - (a) in relation to any such Updated 2003 Transaction specifying the Prior Senior SRO as the Reference Obligation, Potential SRO 4 would constitute a valid Substitute Reference Obligation; and
 - (b) in relation to any such Updated 2003 Transaction specifying as the Reference Obligation any other senior unsecured debt obligations of Deutsche Bank AG ranking *pari passu* with Potential SRO 4 upon an insolvency of the same, Potential SRO 4 would be capable of constituting a valid Substitute Reference Obligation.
- (6) Although the DC has not reviewed or selected potential Standard Reference Obligations for the Senior Non-Preferred Level in respect of other German banks, the DC would apply the same approach as that adopted by the DC in relation to Deutsche Bank AG.