

DC STATEMENT 19 September 2018, as amended on 20 September 2018¹

Further to the SRO Identification Resolutions published on 12 September 2018 and the DC statement on 14 September 2018, the DC wishes to publish some further clarifications in respect of any new senior 2014 Transactions referencing a German bank Reference Entity.

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).

- (1) The DC has previously 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. However, the DC considers that it would be helpful to clarify the Seniority Level of new senior CDS transactions referencing a German bank Reference Entity, which are entered into without incorporating the Senior Non-Preferred Supplement and specify "SRO applicable" or "senior SRO applicable" without differentiation (unless expressly specified as being a senior preferred CDS transaction, including by specifying a senior preferred obligation).
- (2) The DC has considered, as a question of interpretation, the Seniority Level for a market standard senior 2014 Transaction referencing Deutsche Bank AG and specifying Standard Reference Obligation, or Standard Reference Obligation at the Senior Level, as applicable, without differentiation (unless expressly specified as being a senior preferred CDS transaction, including by specifying a senior preferred obligation²), which has been entered into during the Relevant Period. "**Relevant Period**" means the period on or after publication on the SRO List of a Standard Reference Obligation for the Senior Non-Preferred Level and prior to publication on the SRO List of a Standard Reference Obligation for the senior preferred Seniority Level, in each case in respect of Deutsche Bank AG.³ The DC has determined that such 2014 Transaction will be interpreted as referring to the Standard Reference Obligation for the Senior Non-Preferred Level in respect of Deutsche Bank AG.
- (3) The DC would apply the same approach in respect of other German bank Reference Entities as that adopted by the DC in relation to Deutsche Bank AG.

¹ A previous version of this statement published on 19 September 2018 erroneously included a reference to Updated 2003 Transactions referencing Deutsche Bank AG. This has been corrected in this version, as the concept of Standard Reference Obligations is not relevant for Updated 2003 Transactions.

² As provided in the ISDA publication 'Best Practices for Single-name Credit Default Swap Confirmations Regarding Reference Obligation or Standard Reference Obligation – November 18, 2014' (<https://www.isda.org/a/1XEDE/20141118-final-sro-confirmation-best-practice-table.pdf>), for CDS transactions specifying SRO as the Reference Obligation, but for which the first SRO has not been published before the relevant Trade Date, it is recommended that parties should specify SRO as "Applicable" and specify a Reference Obligation, but not include the "Seniority Level" field. Parties wishing to enter into a senior preferred CDS transaction should specify SRO as "Applicable" and include a senior preferred obligation as the Reference Obligation.

³ Note that the definition of Relevant Period was updated in the DC Statement dated 15 March 2019 to end on and exclude the Implementation Date of the ISDA 2019 German Bank CDS Protocol. Please refer to the DC Statement dated 15 March 2019.