

**EMEA DC Meeting Statement - 17 November 2020**

**Settlement of 2014 Transactions in respect of Scandinavian Airlines System Denmark – Norway  
– Sweden (the Reference Entity)**

**1. KEY DATES TO NOTE FOR PHYSICAL SETTLEMENT**

- (a) Date of Credit Event: 23 October 2020
- (b) Credit Event Resolution Request Date and Event Determination Date in respect of triggered Transactions: 27 October 2020
- (c) No Auction Announcement Date: 17 November 2020
- (d) Exercise Cut-off Date: 16 December 2020
- (e) NOPS Cut-off Date: 17 December 2020
- (f) Physical Settlement Date: 2 February 2021

Note that (i) a Credit Event Notice to trigger a 2014 Transaction; (ii) a Notice of Physical Settlement; and (iii) a NOPS Amendment Notice must be delivered on or prior to 4:00 p.m. (London time) on a London Business Day to be effective on such London Business Day. Otherwise such notice will be effective on the next London Business Day.<sup>1</sup>

**2. INTRODUCTION**

- (a) On 28 October 2020, the EMEA DC determined that:
  - (i) a Restructuring Credit Event had occurred in respect of Scandinavian Airlines System Denmark – Norway – Sweden (the **Reference Entity**);
  - (ii) the date of the Credit Event<sup>2</sup> was 23 October 2020; and
  - (iii) the Credit Event Resolution Request Date<sup>3</sup> was 27 October 2020.
- (b) The relevant Transaction Type is Standard European Corporate. Therefore, Mod Mod R is applicable to settlement of 2014 Transactions relating to the Reference Entity.
- (c) The EMEA DC notes that (i) the Relevant Transaction 300/5 Criteria is not satisfied in respect of the Reference Entity; and (ii) in any event, the Relevant Transaction 300/5 Criteria is not applicable to a Restructuring Credit Event where Mod Mod R applies. The EMEA DC has determined that no Auction will be held to settle 2014 Transactions relating to the Reference Entity and no Auction Settlement Terms will be published in respect of any Maturity Bucket (as defined in paragraph 6.2(b) below). The date of this statement is the No Auction Announcement Date under Section 6.11(a) of the 2014 Definitions.

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<sup>1</sup> See Section 1.38 (Requirements Regarding Notices) of the 2014 Definitions and the ISDA Credit Derivatives Physical Settlement Matrix which provides that the Calculation Agent City for Standard European Corporate Transactions is London.

<sup>2</sup> This is the date on which the Restructuring Credit Event occurred – i.e. the conversion of the relevant SEK notes due in 2022 into hybrid notes.

<sup>3</sup> This is the date that the question was raised to the EMEA DC and is the Event Determination Date for triggered 2014 Transactions.

- (d) This statement sets out (i) how to trigger 2014 Transactions in respect of the Reference Entity; and (ii) how to physically-settle triggered 2014 Transactions. This statement only addresses settlement of vanilla single name 2014 Transactions. For example, it does not address settlement of 2014 Transactions that amend Section 3.32(a) of the 2014 Definitions such that it is applicable in circumstances where a Credit Event Notice is delivered by a Seller (for example, a recovery lock credit derivative Transaction).
- (e) This statement is a high level summary of the relevant provisions of the 2014 Definitions and is provided for information purposes only. This statement is not legal advice. You should consult your own legal advisers and review the terms of your Transactions and the 2014 Definitions in relation to settlement of your Transactions.
- (f) Terms used in this statement have the meaning given to them in the 2018 Credit Derivatives Determinations Committees Rules (September 28, 2018 version as most recently amended on October 3, 2020) (the **DC Rules**) or the 2014 ISDA Credit Derivatives Definitions (the **2014 Definitions**) as applicable.

### 3. DELIVERABLE OBLIGATIONS

- (a) The EMEA DC invited Eligible Market Participants to submit potential Deliverable Obligations. The EMEA DC reviewed the submitted obligations and determined that the following are Deliverable Obligations (the **List**):

| ISIN         | Description of the Notes                            | Reference Entity (Issuer or Guarantor) | Interest Rate                       |
|--------------|---|--|-------------------------------------|
| XS1446711639 | Series 38 EUR 5,000,000 Notes due 1 June 2021       | Issuer                                 | 3 month EUR-EURIBOR-Reuters + 1.59% |
| XS1659699877 | Series 40 EUR 5,000,000 Notes due 1 June 2022       | Issuer                                 | 3 month EUR-EURIBOR-Reuters + 1.64% |
| XS1659699950 | Series 41 – EUR 5,000,000 Notes due 1 June 2022     | Issuer                                 | 3 month EUR-EURIBOR-Reuters + 1.64% |
| XS1864162109 | Series 46 – EUR 5,000,000 Notes due 1 December 2020 | Issuer                                 | 3 month EUR-EURIBOR-Reuters + 1.65% |
| XS1864162281 | Series 47 – EUR 5,000,000 Notes due 1 December 2020 | Issuer                                 | 3 month EUR-EURIBOR-Reuters + 1.65% |
| XS1864162364 | Series 48 – EUR 5,000,000 Notes due 1 December 2020 | Issuer                                 | 3 month EUR-EURIBOR-Reuters + 1.65% |
| XS1864162448 | Series 49 – EUR 5,000,000 Notes due 1               | Issuer                                 | 3 month EUR-                        |

|              |   |        |                                     |
|--------------|---|--------|-------------------------------------|
|              | December 2020                                       |        | EURIBOR-Reuters + 1.65%             |
| XS1864162521 | Series 50 – EUR 5,000,000 Notes due 1 December 2020 | Issuer | 3 month EUR-EURIBOR-Reuters + 1.65% |
| XS1864162794 | Series 51 – EUR 5,000,000 Notes due 1 December 2020 | Issuer | 3 month EUR-EURIBOR-Reuters + 1.65% |
| XS1892124535 | Series 52 – EUR 5,000,000 Notes due 1 December 2020 | Issuer | 3 month EUR-EURIBOR-Reuters + 1.65% |

- (b) The SEK 1,500,000,000 5.375% Fixed Rate Senior Unsecured Notes 2017/2022 issued by SAS AB and guaranteed by the Reference Entity (ISIN SE0010520338) (the **SEK Notes**) were not Deliverable Obligations as SEK is not a Standard Specified Currency. The Restructuring Credit Event was triggered by the conversion of the SEK Notes into new hybrid notes. The new hybrid notes are not Deliverable Obligations as they are perpetual, denominated in SEK and not guaranteed by the Reference Entity.
- (c) No other potential Deliverable Obligations have been submitted to the EMEA DC and the EMEA DC assumes that the List is a comprehensive list of all Deliverable Obligations. However, if other obligations of the Reference Entity do exist, then such obligations may also be Deliverable Obligations. Whether or not another obligation is a Deliverable Obligation would need to be evaluated in accordance with Section 3 of the 2014 Definitions (including as supplemented by the 2019 Narrowly Tailored Credit Event Supplement to the 2014 ISDA Credit Derivatives Definitions).
- (d) If there are additional Deliverable Obligations, then the settlement process may be more complex. These considerations are discussed at paragraph 6 below.

#### 4. MOD MOD R – TRIGGERING 2014 TRANSACTIONS

- (a) A “Mod Mod R” Restructuring Credit Event is a “soft” Credit Event. This means that parties can choose whether or not to trigger 2014 Transactions. It is also possible to trigger in respect of only part of the Floating Rate Payer Calculation Amount.
- (b) To trigger, either the Buyer or Seller must deliver a Credit Event Notice on or prior to the Exercise Cut-off Date. The Exercise Cut-off Date is 16 December 2020 (as per DC Decision of 20 November 2020). A notice must be delivered on or prior to 4:00 p.m. (London Time) on a London Business Day to be effectively delivered under Section 1.38 of the 2014 Definitions.<sup>4</sup> The triggering process for Physical Settlement differs slightly from Auction Settlement as (i) the triggering window is the same for Buyers and Sellers; and (ii) no hierarchy applies if both Buyer and Seller seek to trigger – instead whichever Credit Event Notice is effectively delivered first will prevail.<sup>5</sup>
- (c) Assuming the 2014 Transaction is recorded within the Trade Information Warehouse operated by DTCC, it is possible to serve the relevant Credit Event Notice within the Trade Information Warehouse platform. To the extent that the 2014 Transaction is not recorded

<sup>4</sup> The ISDA Credit Derivatives Physical Settlement Matrix provides that the Calculation Agent City for Standard European Corporate Transactions is London.

<sup>5</sup> See Section 1.41 of the 2014 Definitions.

within the Trade Information Warehouse, then a form of Credit Event Notice is provided in Exhibit B to the 2014 Definitions (available on ISDA's website).

- (d) If a 2014 Transaction is triggered, then the Event Determination Date will be 27 October 2020 (being the Credit Event Resolution Request Date). If neither the Buyer nor the Seller triggers, the 2014 Transaction will not settle and the Buyer will continue to pay the Fixed Amount and will benefit from protection to the extent another Credit Event occurs on or prior to the Scheduled Termination Date of the 2014 Transaction.
- (e) On the basis of the List, the EMEA DC has assumed that the Deliverable Obligations in respect of each of the Maturity Buckets would be identical. However, if additional Deliverable Obligations are identified, then the Deliverable Obligations that can be delivered into 2014 Transactions falling in an earlier Maturity Bucket may differ from those deliverable into 2014 Transactions falling in a later Maturity Bucket. Importantly, if a Seller triggers a 2014 Transaction then the bucketing process does not apply and all Deliverable Obligations will be deliverable. This is discussed further at paragraph 6 below.

## **5. PHYSICAL SETTLEMENT**

### **5.1 General**

- (a) The EMEA DC has determined that no Auction will be held to settle 2014 Transactions relating to the Reference Entity. Therefore, all triggered 2014 Transactions will be subject to Physical Settlement.
- (b) Physical Settlement of 2014 Transactions is superficially similar to settlement of Representative Auction-Settled Transactions. However, Physical Settlement differs in a number of ways as both parties are committed to settle under a Representative Auction-Settled Transaction whereas a Buyer can choose whether or not to physically-settle a 2014 Transaction.
- (c) As Physical Settlement applies and settlement will occur bilaterally, market participants should consider whether any rebate is required in relation to the Fixed Amount payable by a Buyer under the 2014 Transaction.

### **5.2 Notice of Physical Settlement**

- (a) The first stage of Physical Settlement involves the Buyer delivering a "Notice of Physical Settlement" which confirms that the Buyer intends to settle the 2014 Transaction and contains a detailed description of each Deliverable Obligation that Buyer intends to Deliver to Seller. The EMEA DC has published a form of Notice of Physical Settlement to assist with this.
- (b) The Notice of Physical Settlement must be effectively delivered on or prior to the NOPS Cut-off Date which is 17 December 2020 (the 30th calendar day after the No Auction Announcement Date). As noted above, a notice must be delivered on or prior to 4:00 p.m.(London Time) on a London Business Day to be effectively delivered under Section 1.38 of the 2014 Definitions.<sup>6</sup>
- (c) If an effective Notice of Physical Settlement is not delivered by the NOPS Cut-off Date, then the NOPS Cut-off Date will be the Termination Date. This means that the Buyer will not deliver Deliverable Obligations and the Seller will not need to pay the Physical Settlement Amount.

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<sup>6</sup> The ISDA Credit Derivatives Physical Settlement Matrix provides that the Calculation Agent City for Standard European Corporate Transactions is London.

### **5.3 NOPS Amendment Notice**

- (a) Once the Buyer has delivered a Notice of Physical Settlement, Buyer has the right to deliver a NOPS Amendment Notice and replace, in whole or in part, one or more Deliverable Obligations specified in the Notice of Physical Settlement or prior NOPS Amendment Notice.
- (b) A NOPS Amendment Notice cannot increase the aggregate amount of Deliverable Obligations that are to be delivered compared with the original Notice of Physical Settlement. A NOPS Amendment Notice must be effective on or prior to the Physical Settlement Date. As noted above, a notice must be delivered on or prior to 4:00 p.m. (London time) on a London Business Day to be effectively delivered under Section 1.38 of the 2014 Definitions.<sup>7</sup>

### **5.4 Delivery**

- (a) On or prior to the Physical Settlement Date, Buyer is able to deliver to Seller the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, and Seller shall pay to Buyer the Physical Settlement Amount that corresponds to the Deliverable Obligations that have been Delivered. The Delivery by the Buyer and the payment by the Seller shall be made in accordance with market practice applicable to the Deliverable Obligation on the Delivery Date – for a Bond, this will typically mean settlement takes place on a delivery versus payment basis.
- (b) The Physical Settlement Date is 30 Business Days following the NOPS Cut-off Date (2 February 2021).
- (c) If the Buyer delivers Deliverable Obligations that are less than Floating Rate Payer Calculation Amount, the Physical Settlement Amount is proportionately reduced. However, if the Buyer delivers Deliverable Obligations that are greater than the Floating Rate Payer Calculation Amount, no additional amount is payable by the Seller. To the extent that the Buyer initially delivers Deliverable Obligations that are less than Floating Rate Payer Calculation Amount, the Buyer can subsequently deliver additional Deliverable Obligations during the Physical Settlement Period and will be entitled to receive the relevant portion of the Physical Settlement Amount in respect of such additional Deliverable Obligations.

### **5.5 Non-Delivery of Bonds**

- (a) If the Buyer has not delivered the relevant Deliverable Obligations (and such Deliverable Obligations are Bonds) by the end of the fifth Business Day after the Physical Settlement Date, then, subject to certain exceptions, the Seller has the right to buy-in the Bonds.<sup>8</sup> To exercise the buy-in, the Seller must give two Business Days' notice (which may be provided prior to the end of the fifth Business Day referred to above).
- (b) On the date selected as the Buy-in Date, the Seller shall request firm quotations from five or more dealers for the specified Outstanding Principal Balance of the relevant Bonds (together with any accrued interest to the extent not included as part of the Outstanding Principal Balance of the relevant Bonds). If the process is not successful on the Buy-in Date, it is repeated by seeking quotes for all or a portion of the Outstanding Principal Balance of the Bonds until either all Bonds are bought in or four additional Business Days have elapsed.
- (c) Note that Buyer's right to Deliver the specified Outstanding Principal Balance of the Bonds is only suspended during the relevant Buy-in Period. At the end of the first Buy-in Period, the

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<sup>7</sup> The ISDA Credit Derivatives Physical Settlement Matrix provides that the Calculation Agent City for Standard European Corporate Transactions is London.

<sup>8</sup> See Section 9.7 of the 2014 Definitions.

Buyer has five more Business Days to deliver the relevant Bonds. At the end of that period, the Seller has the right to designate another Buy-in Date and, if the Seller gives such notice, the process will repeat.

- (d) This process can continue until the sixtieth Business Day following the Physical Settlement Date which is the Cap on Settlement.
- (e) If the buy-in process is successful, the Physical Settlement Amount payable by the Seller in respect of the relevant Bonds is reduced (but not below zero) to account for the relevant Buy-in Price and any reasonable brokerage costs incurred by the Seller in connection with any purchases by it of the Bonds as part of the buy-in.
- (f) The other fallbacks in Article IX of the Definitions are beyond the scope of this statement. However, note that Section 9.1 carves out market conditions from its scope.

## 6. OTHER DELIVERABLE OBLIGATIONS

### 6.1 Impact of Other Deliverable Obligations

- (a) As noted above, this statement assumes that the only Deliverable Obligations are those in the List at paragraph 3(a) above.
- (b) If other Deliverable Obligations do exist, a number of additional considerations may arise, including under the Mod Mod R provisions at section 3.32 of the 2014 Definitions.

### 6.2 Mod Mod R - Maturity Buckets

- (a) Under Mod Mod R, 2014 Transactions triggered by a Buyer are bucketed by reference to the Scheduled Termination Date (up to the 10-year Limitation Date). This means that a Buyer triggered 2014 Transaction will settle by reference to Deliverable Obligations that have a final maturity date not later than the last day of the applicable Maturity Bucket (as of both the NOPS Effective Date and the Delivery Date).<sup>9</sup>
- (b) The buckets (each a **Maturity Bucket**) are as follows:

| <b>Maturity Bucket</b>   | <b>Range of Scheduled Termination Dates that fall within the Maturity Bucket</b> |
|--------------------------|--|
| 2.5-year Maturity Bucket | 23 October 2020 – 20 June 2023   |
| 5-year Maturity Bucket   | 21 June 2023 - 20 December 2025  |
| 7.5-year Maturity Bucket | 21 December 2025 - 20 June 2028  |
| 10-year Maturity Bucket  | 21 June 2028 – 20 December 2030  |

- (c) To the extent that a 2014 Transaction has a Scheduled Termination Date falling after 20 December 2030, the Scheduled Termination Date is the Modified Restructuring Maturity Limitation Date (i.e. any Deliverable Obligation must have a maturity date falling on or prior to the Scheduled Termination Date of the 2014 Transaction).

<sup>9</sup> Whilst not relevant in this case, in relation to a Restructured Bond or Loan with a final maturity date on or prior to the 10-year Limitation Date (as defined in the 2014 Definitions), the final maturity date of such Bond or Loan is deemed to be the earlier of such restructured final maturity date and the final maturity date of such Bond or Loan immediately prior to the relevant Restructuring.

- (d) Each of the Deliverable Obligations on the List fall within the 2.5-year Maturity Bucket and will be deliverable into all triggered 2014 Transactions (regardless of the identity of the party that triggered). Therefore, the bucketing process will only be of practical relevance if other Deliverable Obligations exist that have a maturity date falling on 21 June 2023 or later.
- (e) Note that if the Seller triggers, bucketing will not apply and any Deliverable Obligation will be deliverable into the triggered 2014 Transaction. This means that if additional Deliverable Obligations are identified that do not fall within the 2.5-year Maturity Bucket, longer dated Deliverable Obligations may be delivered into a 2014 Transaction triggered by the Seller compared to the position that would apply if the Buyer triggered.

### 6.3 Deliverable Obligations that are Loans

- (a) Each of the obligations on the List is a Bond and no Loans have been submitted to the EMEA DC. However, if a Loan is identified that is a Deliverable Obligation and the Buyer has triggered the 2014 Transaction, then the Loan must be a “Conditionally Transferable Obligation”<sup>10</sup> as of both the NOPS Effective Date and the Delivery Date in order to qualify as a Deliverable Obligation. This requirement applies in addition to the usual Deliverable Obligation Characteristics.
- (b) In order to be a “Conditionally Transferable Obligation” a Loan must be freely transferable to any bank, financial institution or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities and other financial assets, provided that consent can be required from certain parties including the Reference Entity so long as such consent cannot be unreasonably withheld or delayed.
- (c) The fallback provisions applicable to Physical Settlement also differ for Loans. Section 9.7 of the 2014 Definitions (*Buy-in of Bonds Not Delivered*) would not apply and instead Section 9.8 (*Alternative Procedures Relating to Loans Not Delivered*) may apply. These fallbacks are beyond the scope of this statement but the EMEA DC may publish further guidance if a Loan Deliverable Obligation is identified.

### 6.4 NOPS Amendment Notice

- (a) The Physical Settlement provisions include FX mechanics that apply if (i) the Settlement Currency differs from the currency of the Deliverable Obligations; and (ii) the currency of a Deliverable Obligation originally specified in either a Notice of Physical Settlement or a prior NOPS Amendment Notice differs from the currency of a replacement Deliverable Obligation.
- (b) As the Deliverable Obligations on the List are all denominated in EUR, a mismatch between the currency of a Deliverable Obligation specified in the Notice of Physical Settlement or a prior NOPS Amendment Notice (such obligation, the **Replaced Deliverable Obligation**) and a replacement Deliverable Obligation can only arise if additional Deliverable Obligations are identified that are denominated in a currency other than EUR.
- (c) In such circumstances, the FX mechanics lock in the exchange rate that applied to the prior conversion of the Replaced Deliverable Obligation into the Settlement Currency (if any) as the replacement Deliverable Obligation is notionally converted into the currency of the Replaced Deliverable Obligation (rather than directly into the Settlement Currency).
- (d) For example, if the Settlement Currency is USD and the original Deliverable Obligation is denominated in EUR, the conversion of the original Deliverable Obligation into USD uses the

<sup>10</sup> See Section 3.32(b) of the 2014 Definitions.

USD/EUR exchange rate as at the Next Currency Fixed Timing (as defined in the 2014 Definitions). If the Buyer wished to replace the EUR denominated Deliverable Obligation with a GBP denominated Deliverable Obligation, the amount of GBP denominated Deliverable Obligation equivalent to the existing EUR denominated Deliverable Obligation would be determined by reference to the EUR/GBP rate at the Next Currency Fixing Time (and not by reference to the USD/GBP rate).