

## EMEA DC Meeting Statement 31 August 2022

### regarding settlement of credit derivative transactions in relation to the Russian Federation

#### Issue number 2022052501

1. As noted in the EMEA DC Meeting Statement of 25 July 2022 and 19 August 2022, the EMEA DC has been preparing to hold an Auction to settle credit derivative transactions in relation to the Russian Federation.
2. In order to finalise the Auction Settlement Terms and hold an Auction, the EMEA DC has had to consider a number of overlapping potential restrictions on settlement. As noted in the EMEA DC Meeting Statements of 25 July 2022 and 19 August 2022, Auctions give rise to chains of “Representative Auction-Settled Transactions” (RASTs) on the terms set out in the Auction Settlement Terms and the EMEA DC has been considering how to structure the Auction Settlement Terms in order to facilitate the orderly settlement of the chains of Representative Auction-Settled Transactions. The EMEA DC has also considered the timing requirements set out in OFAC General License No. 46 on 22 July 2022 (**OFAC General License 46**). OFAC General License 46 states that the “*purchase or receipt of debt obligations of the Russian Federation...for the period beginning two business days prior to the announced date of the auction and ending eight business days after the conclusion of the auction*” and the related FAQ 1072 states that “*GL 46 does not require the clearance and settlement of such transactions to be completed within eight business days after the conclusion of the auction. For example, a purchase by a U.S. person of Russian Federation debt obligations made on the seventh business day after the conclusion of the auction does not have to be settled or cleared by the eighth business day.*”<sup>1</sup>
3. The Auction in respect of Russia will be held on 12 September 2022 and the EMEA DC has published a draft set of Auction Settlement Terms. Eligible Market Participants are strongly encouraged to review the Auction Settlement Terms and provide any feedback to the EMEA DC ([DCSecretary@cdsdeterminationscommittees.org](mailto:DCSecretary@cdsdeterminationscommittees.org)) by 2 September 2022.
4. In particular, Eligible Market Participants should note the draft Auction Settlement Terms include the features described below. The proposed settlement timeline is intended to facilitate the orderly settlement of as many of the Representative Auction-Settled Transactions as practicable within the trading window permitted under OFAC General License 46.
  - (a) The deadline for the party delivering the Bonds under the RAST to deliver the Notice of Physical Settlement is:
    - (i) **2:00 p.m. London time / 9:00 a.m. New York time on 13 September 2022** in respect of a Customer Buy RAST (i.e. where the customer is delivering Deliverable Obligations to a Dealer participating in the Auction);
    - (ii) **4:00 p.m. London time / 11:00 a.m. New York time on 13 September 2022** in respect of a RAST between two Dealers participating in the Auction; and
    - (iii) **6:00 p.m. London time / 1:00 p.m. New York time on 13 September 2022** in respect of a Customer Sell RAST (i.e. where the Dealer is delivering Deliverable Obligations to a customer).
  - (b) Depending on its location, a customer entering into a Customer Buy RAST may wish to send the Notice of Physical Settlement at the end of the day of the Auction to ensure that such notice is served prior to the cut-off time. No NOPS Amendment Notices may be served after the relevant deadline set out above.
  - (c) The Physical Settlement Date (i.e. the date that Deliverable Obligations should be delivered by) is scheduled to be as follows:

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<sup>1</sup> See: <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20220722>

- (i) **15 September 2022** in respect of a Customer Buy RAST (i.e. where the customer is delivering Deliverable Obligations to a Dealer participating in the Auction);
  - (ii) **19 September 2022** in respect of a RAST between two Dealers participating in the Auction; and
  - (iii) **21 September 2022** in respect of a Customer Sell RAST (i.e. where the Dealer is delivering Deliverable Obligations to a customer).
- (d) In order to promote orderly settlement:
- (i) by delivering a Notice of Physical Settlement the party delivering the Deliverable Obligation is deemed to represent that it holds, or has a reasonable expectation of receiving, the Outstanding Amount of each Deliverable Obligation specified in such notice (either under another Representative Auction-Settled Transaction or as a result of a separate transaction it has entered into) and accordingly it has a reasonable expectation of being able to deliver the Outstanding Amount of each such Deliverable Obligation; and
  - (ii) parties are required to enter settlement instructions and take any related actions that are reasonably necessary to facilitate Delivery taking into account the Physical Settlement Period and the possibility of settlement disruption and each party is required to negotiate in good faith to seek to resolve settlement issues that would prevent or otherwise delay Delivery of a Deliverable Obligation.
- (e) To the extent that the Deliverable Obligations under a RAST have not been delivered by the Physical Settlement Date in respect of such RAST, then the recipient of the Deliverable Obligations will be able to exercise a buy-in right on the Business Day following such Physical Settlement Date. However, to the extent that the party that is due to deliver the Deliverable Obligations has entered appropriate settlement instructions but such settlement has not yet occurred, then no buy-in shall occur under section 9.7 of the 2014 Definitions (as amended by the Auction Settlement Terms) and instead the parties are required to continue to comply with their obligations to facilitate Delivery of the relevant Deliverable Obligations as soon as practicable.
- (f) Customer RASTs can be entered into either by the relevant Participating Bidder directly or by an Affiliate – this is similar to the approach adopted for the Auction in respect of Talen Energy Supply, LLC. The definition of Representative Auction-Settled Transaction has also been moved to a separate schedule to aid readability.