

EMEA DC Meeting Statement – 17 July 2023

DC Issue: 2023061201

PART 1 – THE SUCCESSOR QUESTION

1. GENERAL

Capitalised terms used but not defined herein have the meanings given to them in the 2018 ISDA Credit Derivatives Determinations Committees Rules (September 28, 2018 Version) (as amended on January 27 2020, March 30 2020 and 2 October 2020) (the **DC Rules**) or the 2014 ISDA Credit Derivatives Definitions (the **2014 Definitions**).

2. SUMMARY AS TO THE IDENTITY OF THE SUCCESSOR

- 2.1 UBS Group AG is the sole Successor to Credit Suisse Group AG in respect of each of the Transaction Types referenced in the DC Resolution (including in respect of the Updated 2003 Transactions where relevant). 12 June 2023 is the Succession Date for the purposes of 2014 Transactions and the legally effective date of the Succession Event for the purposes of Updated 2003 Transactions.
- 2.2 The EMEA DC also determined that the Successor Resolution Request Date was 12 June 2023. This determination applies to all Transactions with a Trade Date that occurred on or prior to 17 July 2023.

3. THE MERGER

The EMEA DC noted that UBS published a statement on 12 June 2023 which provided that “*Credit Suisse Group AG has been merged into UBS Group AG and the combined entity will operate as a consolidated banking group*”.¹ In addition, the information on Credit Suisse’s website included a statement that “*By operation of law, Credit Suisse Group AG’s assets, liabilities and contracts, as well as all of Credit Suisse Group AG’s rights and obligations under such contracts, have been transferred to UBS Group AG in their entirety*”.² This statement would apply to the obligations of Credit Suisse Group AG under both its own debt and any guarantee of debt issued by other entities.

4. SUCCESSOR ANALYSIS

- 4.1 The EMEA DC noted that a list of senior unsecured bonds issued by Credit Suisse Group AG was previously available on Credit Suisse’s website. The EMEA DC noted that Credit Suisse Group AG had senior Bonds outstanding immediately prior to 12 June 2023 including, without limitation, the Bonds due in September 2025 with ISINs USH3698DCR38 (Reg S) and US225401AM02 (144A).
- 4.2 The only instrument that the EMEA DC is aware of that may constitute a Subordinated Obligation is the subordinated guarantee of the Notes that were issued by Credit Suisse (USA), Inc. and that were previously guaranteed by Credit Suisse Group AG and are now guaranteed by UBS Group AG (the **Subordinated Guarantee Bonds**).³ As per the front page of the prospectus dated June 15, 2023 “*Pursuant to the Second Supplemental Indenture, effective upon completion of the Merger, UBS Group AG expressly assumed all of CS Group’s obligations as guarantor under the Senior Indenture*”.
- 4.3 A Successor determination is made by reference to Relevant Obligations. The Relevant Obligations for European Financial Corporate Transactions is determined under Section 2.2(f)(iii) of the 2014 Definitions. For Senior Transactions Relevant Obligations only includes Senior Obligations of the Reference Entity which fall within the Obligation Category “Bond or Loan”. As noted above, Credit

¹ <https://www.ubs.com/global/en/media/display-page-ndp/en-20230612-ubs-credit-suisse-acquisition.html>

² <https://www.credit-suisse.com/about-cs/en.html>

³ https://www.sec.gov/Archives/edgar/data/29646/000110465923071686/tm2317707-9_424b2.htm

Suisse Group AG Bonds were outstanding that were senior unsecured obligations immediately prior to 12 June 2023. The public information referenced above evidences that (i) all such Bonds as well as any Loans were transferred to UBS Group AG and (ii) Credit Suisse Group AG has ceased to exist and is no longer liable for any such Bonds or Loans. Accordingly, UBS Group AG is the sole Successor in respect of such Transactions.

- 4.4 In respect of European Financial Corporate Transactions that are Subordinated Transactions (including Transactions that incorporate the 2014 CoCo Supplement to the 2014 ISDA Credit Derivatives Definitions), *“Relevant Obligations shall exclude Senior Obligations and any Further Subordinated Obligations of the Reference Entity which fall within the Obligation Category “Bond or Loan”*”. However, if there are no Relevant Obligations that are Subordinated Obligations, then a fallback applies that states that such Transactions should be treated as Senior Transactions for the Successor mechanics. The EMEA DC noted that the Subordinated Guarantee Bonds may be Relevant Obligations at the Subordinated Level, but in any event, either there are Subordinated Obligations that have all been transferred to UBS Group AG or the determination falls back to relying on the movement of Senior Obligations to UBS Group AG. Therefore, UBS Group AG is the sole Successor.
- 4.5 In respect of Standard European Corporate Transactions, Section 2.2(f)(iii) and (iv) of the 2014 Definitions do not apply so all Obligations of Credit Suisse Group AG that are Bonds or Loans are “Relevant Obligations”. Such Relevant Obligations have been transferred to UBS Group AG so UBS Group AG is the sole Successor. The analysis for Updated 2003 Transactions on the Standard European Corporate Transaction Type is substantially similar.

PART 2

IDENTITY OF THE STANDARD REFERENCE OBLIGATIONS AND SENIORITY

1. SUMMARY

1.1 The EMEA DC notes that a second DC Question (Issue Number 2023061202) was raised which stated:

“If the DC determines that UBS Group AG is the Successor to Credit Suisse Group AG following the merger, please can the DC also determine the impact of the merger on Transactions that reference Credit Suisse Group AG at the subordinated level in particular. What would be the Obligations and Deliverable Obligations under such Transaction?”

1.2 Generally the EMEA DC does not determine the scope of Obligations or Deliverable Obligations of any particular Transaction prior to the occurrence of a Credit Event. However, the EMEA DC has considered the SRO List in the context of the Successor DC Question.

1.3 The SRO at the Senior Level in respect of Credit Suisse Group AG has been redeemed. No SRO has been selected in respect of UBS Group AG at the Senior Level. As per the statement on the SRO section of the DC Website, the SRO Administrator has received a request to select a new SRO for UBS Group AG at the Senior Level. The SRO Administrator has identified ISIN CH0520042489 as a potential SRO at the Senior Level. A further update will be published in due course.

1.4 An SRO had previously been selected as the SRO at the Subordinated Level in respect of Credit Suisse Group AG (XS0118514446). No SRO has been selected in respect of UBS Group AG at the Subordinated Level. The SRO Administrator has also received a request to adopt the Subordinated Guarantee Bonds as the SRO in respect of UBS Group AG at the Subordinated Level and the process to evaluate such request has commenced. Whether such Subordinated Guarantee Bonds can be selected will depend on, amongst other things whether such guarantee is a Qualifying Guarantee and the level of subordination of such guarantee.

1.5 The EMEA DC understands that until fungibility is achieved in respect of the identity of the Reference Obligation in respect of Transactions that originally referenced Credit Suisse Group AG and Transactions that originally referenced UBS Group AG, it is possible that some disruption could occur, particularly in relation to clearing and entering into off-setting Transactions in respect of Transactions that originally referenced Credit Suisse Group AG. As noted above, the process to select new SROs has commenced. It is also important that market participants act quickly to consider how best to address Transactions at the Subordinated Level – see below for further details.

2. FURTHER DETAILS IN RELATION TO THE SUBORDINATED SRO

2.1 An SRO had previously been selected as the SRO at the Subordinated Level in respect of Credit Suisse Group AG (XS0118514446). No SRO has been selected in respect of UBS Group AG at the Subordinated Level. The EMEA DC considered using its adjustment powers in respect of the SRO List upon identification of a Successor (and may do so in the future). However, the EMEA DC has not yet resolved to make any adjustment.

2.2 The EMEA DC understands that Transactions that historically referenced UBS Group AG generally traded with Standard Reference Obligation Applicable and specified that such Transactions are Subordinated Transactions. However, at least in relation to iTraxx index Transactions, no Non-Standard Reference Obligation or Prior Reference Obligation was specified as applicable in lieu of a current SRO. As noted above, Transactions that previously referenced Credit Suisse Group AG referenced the redeemed SRO at the Subordinated Level in respect of Credit Suisse Group AG. As

noted above, the EMEA DC understands that the different approaches may mean that such Transactions are not presently fungible, in particular for clearing.

2.3 Certain approaches that have been identified as possibilities in respect of the Subordinated Level are set out below but there may be others that the market should consider. Eligible Market Participants should contact the SRO Administrator in accordance with the SRO Rules. Eligible Market Participants may also wish to raise these issues with ISDA and the Credit Steering Committee for discussion. Any action that requires a DC Resolution is subject to such DC Resolution being passed and no such DC Resolution has been passed to date.

(1) *Adopting the Subordinated Guarantee Bonds*

As noted above, an Eligible Market Participant has already requested that the SRO Administrator commence the process to evaluate the Subordinated Guarantee Bonds as a possible SRO at the Subordinated Level. Amongst other things, this will require an assessment of whether the guarantee is a Qualifying Guarantee and the level of subordination of the guarantee.

(2) *Selecting a proxy SRO at the Subordinated Level in respect of UBS Group AG.*

SRO Rule 2.5 permits Eligible Market Participants to submit an SRO Request in accordance with the SRO Rules that is either (i) an obligation of the Reference Entity that has been redeemed or (ii) in circumstances where a suitable previously redeemed obligation of the Reference Entity is not available, an obligation of another entity (which may or may not have been previously redeemed) – this could include the redeemed SRO in respect of Credit Suisse Group AG at the Subordinated Level. If Eligible Market Participants wish to adopt this approach, then Eligible Market Participants should contact the SRO Administrator.

(3) *Adjusting the SRO List in respect of Credit Suisse Group AG*

Following a Successor Resolution, the EMEA DC has the power under the DC Rules to direct the SRO Administrator to adjust the SRO List. The EMEA DC noted that a potential adjustment would be to remove the old SRO in respect of Credit Suisse Group AG (including as a Prior Reference Obligation) with the aim of aligning more closely to the approach taken in respect of UBS Group AG Transactions that presently apply the Standard Reference Obligation at the Subordinated Level but have no Reference Obligation.

If either option 2 or 3 is adopted, then Eligible Market Participants should promptly request the selection of a new SRO at the Subordinated Level if they are aware of a suitable Subordinated Obligation that is either currently outstanding or incurred in future by UBS Group AG.