

Notice regarding recent developments relating to HICP

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ISDA refers to the notice dated 26 February 2019, which provided information regarding a member call held on 26 February 2019 at 12 noon London time. That call considered an announcement by Eurostat in respect of certain revisions to the Harmonised Index of Consumer Prices (HICP). The purpose of the notice from ISDA was to encourage participation of member representatives in the discussions of the issues set out therein and to notify them of the intention to hold a further call on 27 February 2019.

ISDA held a follow-up call for its members today at 16:30 London time which was open to all member representatives from the buy and sell side community. Issues discussed on the call included:

- 1) Whether the events described in Eurostat’s announcements are events that a Calculation Agent might consider to constitute a rebasing of an index under Section 2.3 of the 2008 ISDA Inflation Derivatives Definitions and, if so, what the consequences of such a determination might be.
- 2) Whether the events described in Eurostat’s announcements might be considered to constitute a material change to an index under Section 2.4 of the 2008 ISDA Inflation Derivatives Definitions and, if so, what the consequences of such a determination might be.

It was acknowledged on the call that:

- 1) It is for the Calculation Agent to determine whether or not an index has been rebased and, consequently, any consensus achieved on the call or otherwise would not be binding.
- 2) “rebase” is not defined in the 2008 ISDA Inflation Derivatives Definitions and its meaning can only be determined on the basis of all relevant factual evidence together with appropriate legal interpretation.
- 3) Eurostat has amended its announcement. The final paragraph of page 2 of the announcement contains a link to an excel spreadsheet which now sets out, amongst other things, a list of “back data linking factors” in respect of certain ancillary indexes, including the Harmonised Index of Consumer Prices all items excluding tobacco (HICPxT). These factors had previously been referred to as “implicit rebasing keys”.

- 4) Under Sections 2.3 and 2.4 of the 2008 ISDA Inflation Derivatives Definitions, if there is a Related Bond (which term includes any Fallback Bond), the Calculation Agent shall make such adjustments, if any, to the index as are made by the calculation agent pursuant to the terms and conditions of the Related Bond (or Fallback Bond).
- 5) Unless otherwise specified by the parties to a derivative incorporating the 2008 ISDA Inflation Derivatives Definitions, the Related Bond will be the Fallback Bond which, for derivatives which reference HICPxT, will be a debt obligation of one of the governments of Germany, France, Spain or Italy which pays a coupon or redemption amount which is calculated by reference to the level of inflation in the European Monetary Union and selected by the Calculation Agent according to certain criteria.
- 6) The German and French debt management offices (DMOs) have confirmed that no amendments are expected to be made to the terms of their debt instruments which reference the level of inflation in the European Monetary Union as a result of Eurostat's announcement.
- 7) Confirmation was being sought from the Italian and Spanish DMOs whether adjustments were expected to be made to the terms of their debt instruments which reference the level of inflation in the European Monetary Union as a result of Eurostat's announcement.

ISDA intends to publish a statement in respect of the issues discussed on the call in due course.