



International Swaps and Derivatives Association, Inc.

## **ISDA 2021 EONIA COLLATERAL AGREEMENT FALLBACKS PROTOCOL**

published on August 18, 2021

by the International Swaps and Derivatives Association, Inc.

The International Swaps and Derivatives Association, Inc. (**ISDA**) has published this ISDA 2021 EONIA Collateral Agreement Fallbacks Protocol (this **Protocol**) to enable parties to Protocol Covered Documents (as defined below) to amend the terms of each such Protocol Covered Document to incorporate certain provisions of Version 2.0 of the ISDA Collateral Agreement Interest Rate Definitions (as defined below) into such Protocol Covered Document and replace references to EONIA (as defined below) in such Protocol Covered Document with references to “EONIA (Collateral Rate)” (as such term is defined in Version 2.0 of the ISDA Collateral Agreement Interest Rate Definitions), in order to include in the terms of such Protocol Covered Document the fallbacks for EONIA as set out in Version 2.0 of the ISDA Collateral Agreement Interest Rate Definitions. The publication of this Protocol does not imply, and should not be construed as implying, that any arrangement (whether in writing, by notice, a course of dealing or otherwise) between parties to ISDA Credit Support Documents (as defined below) to fall back to an alternative rate upon the permanent cessation of EONIA would not be binding, or that any interpretation by any such party that EONIA should be construed as Modified EuroSTR (as defined in the ISDA Collateral Agreement Interest Rate Definitions) is ineffective, in the absence of amendment by means of this Protocol.

A party may adhere to this Protocol and be bound by its terms by completing and delivering a letter substantially in the form of Exhibit 1 to this Protocol (an **Adherence Letter**) to ISDA, as agent, as described below (each such party, an **Adhering Party**).

### **1. Adherence to and Effectiveness of the Protocol**

(a) By adhering to this Protocol in the manner set forth in this paragraph 1, each Adhering Party agrees, in each case on the terms and subject to the conditions set forth in this Protocol and the relevant Adherence Letter and in consideration of the mutual promises and covenants contained herein, that the terms of each Protocol Covered Document between such Adhering Party and any other Adhering Party will be amended with effect from the Implementation Date (as defined below) in accordance with the terms set forth in the Attachment hereto.

(b) Adherence to this Protocol will be evidenced by the execution and online delivery, in accordance with this paragraph, to ISDA, as agent, of an Adherence Letter (in accordance with subparagraphs 1(b)(i) to 1(b)(iii) below). ISDA shall have the right, in its sole and absolute discretion, upon at least thirty calendar days’ notice on the “ISDA 2021 EONIA Collateral Agreement Fallbacks Protocol” section of its website at [www.isda.org](http://www.isda.org) (or by other suitable

means), to designate a closing date of this Protocol (such closing date, the **Cut-off Date**). After the Cut-off Date, ISDA will not accept any further Adherence Letters to this Protocol.

(i) Each Adhering Party will access the “Protocols” section of the ISDA website at [www.isda.org](http://www.isda.org) to enter information online that is required to generate its form of Adherence Letter and will submit payment of any applicable fee. Either by directly downloading the populated Adherence Letter from the Protocol system or upon receipt via e-mail of the populated Adherence Letter, each Adhering Party will sign and upload the signed Adherence Letter as a PDF (portable document format) attachment into the Protocol system. Once the signed Adherence Letter has been approved and accepted by ISDA, such Adhering Party will receive an e-mail confirmation of the Adhering Party’s adherence to this Protocol.

(ii) A conformed copy of each Adherence Letter containing, in place of each signature, the printed or typewritten name of each signatory will be published by ISDA so that it may be viewed by all Adhering Parties. Each Adhering Party agrees that, for evidentiary purposes, a conformed copy of an Adherence Letter certified by the General Counsel (or other appropriate officer) of ISDA will be deemed to be an original.

(iii) Each Adhering Party agrees that the determination of the date and time of acceptance of any Adherence Letter will be determined by ISDA in its absolute discretion.

(c) As between two Adhering Parties, the agreement to make the amendments contemplated by this Protocol, on the terms and conditions set forth in this Protocol, will be effective on the Implementation Date. Acceptance by ISDA of a subsequent or revised Adherence Letter from either such Adhering Party will not have the effect of changing such Implementation Date (except as set out in paragraph 1(e)(viii) below). The **Implementation Date** with respect to any two Adhering Parties shall be the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of such two Adhering Parties to adhere, except that, in respect of any Protocol Covered Document into which an Agent has entered on behalf of a Client, subject to paragraph 3(j) below, the Implementation Date shall be the date specified in subparagraph 3(f)(i)(A), subparagraph 3(f)(i)(B), subparagraph 3(f)(i)(C), paragraph 3(g), paragraph 3(h) or paragraph 3(i) below, as applicable.

(d) This Protocol is intended for use without negotiation, but without prejudice to any amendment, modification or waiver in respect of a Protocol Covered Document that the parties may otherwise effect in accordance with the terms of that Protocol Covered Document.

(i) In adhering to this Protocol, an Adhering Party may not specify additional provisions, conditions or limitations in its Adherence Letter.

(ii) Any purported adherence that ISDA, as agent, determines in good faith is not in compliance with this Protocol will be void and ISDA will inform the relevant party of such fact as soon as reasonably possible after making such determination.

(e) Each Adhering Party acknowledges and agrees that adherence to this Protocol is irrevocable, except that an Adhering Party may deliver to ISDA, as agent, a notice substantially in the form of Exhibit 2 to this Protocol (a **Revocation Notice**) that is effective (determined pursuant to paragraph 3(e) below) on any Protocol Business Day during the Annual Revocation Period to designate the next Annual Revocation Date as the last date on which an Implementation Date can occur in respect of any Protocol Covered Document between the counterparty and such Adhering Party.

(i) Upon the effective designation of the next Annual Revocation Date by an Adhering Party, this Protocol will not amend any Protocol Covered Document between that Adhering Party and another Adhering Party for which the Implementation Date would occur after the relevant Annual Revocation Date.

(ii) If an Agent adheres to this Protocol on behalf of a Client, then, if the Client effectively delivers a Revocation Notice in accordance with this paragraph 1(e), this Protocol will not amend any Protocol Covered Document between another Adhering Party and that Client entered into by that Client itself or by the Agent on behalf of that Client, in each case, for which the Implementation Date would occur after the relevant Annual Revocation Date.

(iii) If an Agent delivers a Revocation Notice in accordance with this paragraph 1(e) on behalf of a Client and the Client separately adheres to this Protocol directly rather than through the agency of an Agent, then the Revocation Notice delivered by the Agent will not prevent an Implementation Date from occurring after the relevant Annual Revocation Date in respect of any Protocol Covered Document into which the Client has entered with another Adhering Party (including through the Agent).

(iv) Subparagraph 1(e)(i), subparagraph 1(e)(ii) and sub-paragraph 1(e)(iii) are without prejudice to any amendment effected pursuant to this Protocol to any Protocol Covered Document between two Adhering Parties for which the Implementation Date occurred on or before the Annual Revocation Date, regardless of the date on which such Protocol Covered Document is entered into, and any such amendment shall be effective notwithstanding such designation of that Annual Revocation Date.

(v) Each Revocation Notice must be delivered by the means specified in paragraph 3(e) below.

(vi) Each Adhering Party agrees that, for evidentiary purposes, a conformed copy of a Revocation Notice certified by the General Counsel or an appropriate officer of ISDA will be deemed to be an original.

(vii) Any purported revocation that ISDA, as agent, determines in good faith is not in compliance with this paragraph 1(e) will be void.

(viii) For the avoidance of doubt, if an Adhering Party has delivered an effective Revocation Notice and such Adhering Party later adheres again to this Protocol after the

Annual Revocation Date designated in such Revocation Notice (a **Re-adherence**), then with respect to each counterparty that adheres to this Protocol after such Annual Revocation Date, the Re-adherence (including any specifications made in the Adherence Letter relating to such Re-adherence) shall be effective as if such Adhering Party were adhering to this Protocol for the first time, and with respect to each counterparty that adhered to this Protocol on or before such Annual Revocation Date, the effects of this Protocol with respect to any Protocol Covered Document between such Adhering Party and such counterparty shall continue to be governed by the Adherence Letter (including any specifications made therein) in respect of such Adhering Party's prior adherence.

## 2. **Representations and Undertakings**

(a) As of the date on which an Adhering Party adheres to this Protocol in accordance with paragraph 1 above (which will be the date of acceptance by ISDA of an Adherence Letter from that Adhering Party (in accordance with paragraph 1(b) above)), such Adhering Party represents to each other Adhering Party with which it has entered into a Protocol Covered Document (which representations will be deemed to be repeated on the Implementation Date if such date is later than the date on which such Adhering Party adheres to the Protocol) each of the following matters:

(i) **Status.** It is, if relevant, duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing or, if it otherwise represents its status in or pursuant to the Protocol Covered Document, has such status.

(ii) **Powers.** It has the power to execute and deliver the Adherence Letter and to perform its obligations under the Adherence Letter and the Protocol Covered Document as amended by the Adherence Letter and this Protocol (including the Attachment hereto), and has taken all necessary action to authorize such execution, delivery and performance.

(iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.

(iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to the Adherence Letter and the Protocol Covered Document, as amended by the Adherence Letter and this Protocol (including the Attachment hereto), have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

(v) **Obligations Binding.** Its obligations under the Adherence Letter and the Protocol Covered Document, as amended by the Adherence Letter and this Protocol (including the Attachment hereto), constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as

to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(vi) **Credit Support.** Its adherence to this Protocol and any amendment contemplated by this Protocol (including the Attachment hereto) will not, in and of itself, adversely affect the enforceability, effectiveness or validity of any obligations owed, whether by it or by any third party, under any Credit Support Document or Third Party Credit Support Document in respect of its obligations relating to any Protocol Covered Document as amended by the Adherence Letter and this Protocol (including the Attachment hereto).

(b) Each Adhering Party agrees with each other Adhering Party with which it has entered into a Protocol Covered Document that each of the foregoing representations will be deemed to be a representation for purposes of Section 5(a)(iv) of any ISDA Master Agreement (i) which the relevant Protocol Covered Document supplements, forms part of and is subject to or (ii) in relation to which the relevant Protocol Covered Document is specified to be a “Credit Support Document” (as such term is defined in such ISDA Master Agreement), in each case that is made by each Adhering Party as of the date on which such Adhering Party adheres to this Protocol in accordance with paragraph 1 above and which is deemed repeated on the Implementation Date if such date is later than the date on which such Adhering Party adheres to this Protocol.

(c) **Undertakings in respect of Protocol Covered Documents with Third Party Credit Support Documents.** With respect to Protocol Covered Documents with Third Party Credit Support Documents that expressly require the consent, approval, agreement, authorization or other action of a Third Party to be obtained, each Adhering Party whose obligations under such arrangements are secured, guaranteed or otherwise supported by such Third Party undertakes to each other Adhering Party with which it has entered into such arrangements that it has obtained the consent (including by way of paragraph 2(d) below), approval, agreement, authorization or other action of such Third Party and that it will, upon demand, deliver evidence of such consent, approval, agreement, authorization or other action to such other Adhering Party.

(d) **Deemed Third Party Consent.** Each Adhering Party which is also a Third Party in relation to a Third Party Credit Support Document is hereby deemed to have consented to the amendments imposed by this Protocol on the Protocol Covered Document supported by such Third Party Credit Support Document.

### 3. **Miscellaneous**

(a) **Entire Agreement; Restatement; Survival.**

(i) This Protocol constitutes the entire agreement and understanding of the Adhering Parties with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto. Each Adhering Party acknowledges that in adhering to this Protocol it has not relied on any oral or written representation, warranty or other assurance (except as provided for or referred to elsewhere in this Protocol or in the Attachment) and waives all rights and remedies which might

otherwise be available to it in respect thereof, except that nothing in this Protocol will limit or exclude any liability of an Adhering Party for fraud.

(ii) Except for any amendment deemed to be made pursuant to this Protocol in respect of any Protocol Covered Document, all terms and conditions of each Protocol Covered Document will continue in full force and effect in accordance with its provisions as in effect immediately prior to the date on which it first becomes subject to this Protocol. Except as explicitly stated in this Protocol, nothing herein shall constitute a waiver or release of any rights of any Adhering Party under any Protocol Covered Document to which such Adhering Party is a party or a provider or recipient of credit support. This Protocol will, with respect to its subject matter, survive, and any amendments made or deemed to be made pursuant to this Protocol will form a part of each Protocol Covered Document between the Adhering Parties, notwithstanding any statements in a Protocol Covered Document to the effect that such Protocol Covered Document constitutes the entire agreement and understanding between the parties to such Protocol Covered Document with respect to the subject of such Protocol Covered Document.

(b) **Amendments.** An amendment, modification or waiver in respect of the matters contemplated by this Protocol will only be effective in respect of a Protocol Covered Document if made in accordance with the terms of the Protocol Covered Document and then only with effect between the parties to that Protocol Covered Document.

(c) **Headings.** The headings used in this Protocol and any Adherence Letter are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Protocol or any Adherence Letter.

(d) **Governing Law.** This Protocol and each Adherence Letter will, as between two Adhering Parties and in respect of each Protocol Covered Document between them, be governed by and construed in accordance with the laws of England and Wales, without reference to choice of law doctrine, provided that the amendments to each Protocol Covered Document shall be governed by and construed in accordance with the law specified to govern that Protocol Covered Document and otherwise in accordance with the applicable choice of law doctrine.

(e) **Notices.** Any Revocation Notice must be in writing and delivered as a locked PDF (portable document format) attachment to an e-mail to ISDA at [isda@isda.org](mailto:isda@isda.org) and will be deemed effectively delivered on the date it is delivered unless, on the date of that delivery, ISDA's London office is closed or that communication is delivered after 5:00 p.m., London time, in which case that communication will be deemed effectively delivered on the next day ISDA's London office is open.

(f) **Ability of an Agent to Adhere to the Protocol on Behalf of a Client.**

(i) An Agent may adhere to this Protocol:

(A) on behalf of all Clients represented by such Agent (in which case, such Agent need not identify each Client in its Adherence Letter or otherwise) and, in

respect of any Protocol Covered Document into which the Agent has entered on behalf of those Clients, the Implementation Date shall be the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere;

(B) on behalf of only those Clients represented by such Agent that such Agent specifically names or identifies in the Adherence letter or otherwise (including by way of a written notice to the other Adhering Party). In respect of any Protocol Covered Document into which the Agent has entered on behalf of any such Client, the Implementation Date shall be (I) if the Agent names or identifies that Client in the Adherence Letter, the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere or (II) if the Agent names or identifies that Client by way of a written notice to the other Adhering Party, the date on which that written notice is delivered to the other Adhering Party (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from the other Adhering Party);

(C) on behalf of all Clients represented by such Agent, excluding any Clients whose name or identity the Agent communicates to the other Adhering Party in the Adherence letter or otherwise (including by way of a written notice to the other Adhering Party) as a Client excluded from adherence, subject to subparagraph 3(g)(i) below, on or before the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere (in which case, such Agent need not identify each Client on whose behalf it adheres). In respect of any Protocol Covered Document into which the Agent has entered on behalf of any Client whose name or identity has not been communicated to the other Adhering Party in the Adherence Letter or otherwise as a Client excluded from adherence, the Implementation Date shall (subject to subparagraph 3(g)(i) below) be the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere. If the Agent has not communicated the name or identity of any Clients excluded from adherence to the other Adhering Party in the Adherence Letter or otherwise on or before the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere, then (subject to subparagraph 3(g)(i) below) in respect of any Protocol Covered Document into which the Agent has entered on behalf of any Client, the Implementation Date shall be the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the two Adhering Parties to adhere,

provided, in each case, that such adherence shall only be effective with respect to a Protocol Covered Document entered into by such Agent on behalf of such Client.

(ii) If an Agent adheres to this Protocol on behalf of a Client by executing and delivering an Adherence Letter on behalf of such Client in accordance with paragraph 1

above and this paragraph 3(f), references to the Adhering Party for purposes of this Protocol (including the Attachment hereto) and the Adherence Letter shall be interpreted to refer to such Client. If, in respect of a Client, more than one Adherence Letter is accepted by ISDA in accordance with paragraph 1(b) above (by virtue of the Client adhering on its own behalf and one or more Agents adhering on behalf of that Client), then:

(A) if ISDA accepts an Adherence Letter from an Agent on behalf of a Client after it accepts an Adherence Letter from that Client, any document entered into by that Agent acting on behalf of that Client which has a Protocol Covered Document Date on or prior to the date of acceptance by ISDA, as agent, of an Adherence Letter from that Agent (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from the other Adhering Party), will be deemed to have “a Protocol Covered Document Date on or prior to the Implementation Date” for the purposes of the definition of Protocol Covered Document below; and

(B) if ISDA accepts an Adherence Letter from a Client after it accepts an Adherence Letter from an Agent on behalf of that Client, any document entered into by the Client, whether directly or through the agency of an Agent, which has a Protocol Covered Document Date on or prior to the date of acceptance by ISDA, as agent, of an Adherence Letter from that Client (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from the other Adhering Party), will be deemed to have “a Protocol Covered Document Date on or prior to the Implementation Date” for the purposes of the definition of Protocol Covered Document below.

(iii) If an Agent adheres to this Protocol on behalf of a Client, then as of the date on which such Agent adheres to this Protocol in accordance with paragraph 1 above, such Agent represents to each Adhering Party with which it has entered into a Protocol Covered Document on behalf of such Client (which representation will be deemed to be repeated on the Implementation Date if that date is later than the date on which such Agent adheres to this Protocol) that it has, as at the relevant Implementation Date, all necessary authority to enter into the Adherence Letter on behalf of such Client. In respect of any Client referred to in paragraph 3(g), paragraph 3(h) or paragraph 3(i) below, the Agent represents that it has, as at the relevant Implementation Date, all necessary authority to apply the terms of the Adherence Letter to such Client.

**(g) *Clients Added to an Agent Protocol Covered Document after the date of acceptance by ISDA of an Adherence Letter from the later of the Agent and the other Adhering Party to adhere.***

(i) Subject to subparagraph 3(g)(ii) below, in respect of any Client added to an Agent Protocol Covered Document between an Agent and an Adhering Party after the date of acceptance by ISDA of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the Agent and the other Adhering Party to adhere (a **New Client**), the Agent and such Adhering Party agree that the terms of such Agent Protocol Covered Document as between such Adhering Party and any New Client will be subject to the



amendments effected by this Protocol and as between the Adhering Party and the New Client the Implementation Date shall be the date on which the New Client is added to the Agent Protocol Covered Document, unless otherwise agreed between such Agent and such Adhering Party.

(ii) If an Agent adheres to this Protocol using the approach described in subparagraph 3(f)(i)(B) above and therefore specifically names or identifies one or more Clients on whose behalf it is adhering, then in order for the terms of an Agent Protocol Covered Document as between an Adhering Party and any New Client to be subject to the amendments effected by this Protocol, the Agent shall communicate the identity of each New Client to the other Adhering Party which is a party to the Agent Protocol Covered Document to which the New Client is added and, as between the other Adhering Party and that New Client, the Implementation Date shall be the date on which the Agent communicates in writing the identity of that New Client to the other Adhering Party.

(h) ***Clients Added to an Agent's List of Identified In-Scope Clients after the date of Acceptance by ISDA of the Agent's Adherence Letter.*** If an Agent adheres to this Protocol using the approach described in subparagraph 3(f)(i)(B) above and therefore specifically names or identifies one or more Clients on whose behalf it is adhering, then for the purposes of subparagraph 3(f)(i) above, it may communicate the name or identity of additional Clients on whose behalf it is adhering (by way of a written notice) to another Adhering Party after the date of acceptance by ISDA, as agent, of its Adherence Letter and, as between that other Adhering Party and the additional Client, the Implementation Date shall be the date on which that written notice is delivered to the other Adhering Party (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from that other Adhering Party), unless otherwise agreed between such Agent and such Adhering Party.

(i) ***Clients Removed from an Agent's List of Excluded Clients after the date of Acceptance by ISDA of the Agent's Adherence Letter.*** If an Agent adheres to this Protocol using the approach described in subparagraph 3(f)(i)(C) above and therefore specifically names or identifies one or more Clients as excluded from adherence, then for the purposes of subparagraph 3(f)(i) above, the Agent may, after the date of acceptance by ISDA, as agent, of its Adherence Letter, remove one or more of those Clients from its list of excluded Clients by way of a written notice to the other Adhering Party communicating that the Client is removed from the list of excluded Clients. As between any other Adhering Party and that Client, the Implementation Date shall be the date on which that written notice is delivered to the other Adhering Party (or, if later, the date of acceptance by ISDA, as agent, of an Adherence Letter from that other Adhering Party), unless otherwise agreed between such Agent and such Adhering Party.

(j) ***Implementation Date if both an Agent and a Client adhere to this Protocol or if more than one Agent adheres for a Client.*** If an Agent adheres to this Protocol and, in respect of a particular Client and a Protocol Covered Document into which the Agent has entered on behalf of that Client, there is, pursuant to the terms of this Protocol, more than one Implementation Date, then, notwithstanding any provision to the contrary in this Protocol, the Implementation Date shall be the first of those dates to occur.

(k) ***Adhering Party that is an Agent with respect to a Protocol Covered Document.*** An Adhering Party that executes a Protocol Covered Document (including an annex thereto) as agent with respect to that Protocol Covered Document, shall not for purposes of this Protocol be considered to be a party to or to have entered into such Protocol Covered Document solely by acting as agent with respect to that Protocol Covered Document except as expressly provided therein.

(l) ***Written notices delivered by an Agent to an Adhering Party.***

(i) A written notice delivered by an Agent to an Adhering Party under this Protocol will only be effective:

- (A) if the Agent providing such notice has previously, or simultaneously, adhered to the Protocol in accordance with paragraph 1 and paragraph 3(f) above; or
- (B) if an Agent delivers any such written notice prior to adhering to this Protocol, once that Agent has adhered to the Protocol in accordance with paragraph 1 and paragraph 3(f) above.

(ii) A written notice delivered by an Agent to an Adhering Party under this Protocol may be given in the manner described in that Adhering Party's Adherence Letter to the address or number or in accordance with the electronic messaging system or e-mail details provided in paragraph 6 of that Adhering Party's Adherence Letter and, subject to subparagraph 3(l)(i) above, will be deemed effective as indicated below:

- (A) if in writing and delivered in person or by courier, on the date it is delivered;
- (B) if sent by facsimile transmission, on the date it is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (C) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date it is delivered or its delivery is attempted;
- (D) if sent by electronic messaging system, on the date it is received; or
- (E) if sent by e-mail, on the date it is delivered,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after close of business on a Local Business Day, in which case that communication will be deemed given and effective on the first following day that is a Local Business Day.

#### 4. Definitions

References in this Protocol and the Attachment to the following terms shall have the following meanings:

**Adherence Letter** has the meaning given to such term in the introductory paragraphs hereof.

**Adhering Party** has the meaning given to such term in the introductory paragraphs hereof, as construed in accordance with subparagraph 3(f)(ii) above where relevant.

**Agent** means an entity that enters into a Protocol Covered Document and executes and delivers an Adherence Letter with respect to this Protocol on behalf of, and as agent for, one or more Clients. With respect to paragraph 3(g) above, Agent also means an entity that enters into a Protocol Covered Document and executes and delivers an Adherence Letter pursuant to subparagraph 3(f)(i) above solely for purposes of amending such agreements to which New Clients may be added under paragraph 3(g) above.

**Agent Protocol Covered Document** means any Protocol Covered Document signed by the Agent on behalf of one or more Clients prior to the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the Agent and the other Adhering Party to adhere, including any agreement that is signed as an umbrella agreement by an Agent and an Adhering Party prior to the date of acceptance by ISDA, as agent, of an Adherence Letter (in accordance with paragraph 1(b) above) from the later of the Agent and the other Adhering Party to adhere which would be a Protocol Covered Document but for the absence of any underlying Client which is an Adhering Party.

**Annual Revocation Date** means, with respect to each calendar year, December 31 of such calendar year. If December 31 in any calendar year is not a day on which ISDA's London office is open, the Annual Revocation Date with respect to such calendar year will be deemed to occur on the next day that ISDA's London office is open.

**Annual Revocation Period** means the period between October 1 and October 31 of any calendar year.

**Client** means, with respect to an Agent, a client, investor, fund, account and/or other principal on whose behalf the Agent acts.

**Credit Support Document** means, in respect of an Adhering Party and a Protocol Covered Document, any document in effect on the Implementation Date, which by its terms secures, guarantees or otherwise supports such Adhering Party's obligations under such Protocol Covered Document from time to time, whether or not such document is specified as such therein or in the Protocol Covered Document.

**Cut-off Date** has the meaning given to such term in paragraph 1(b) above.

**EONIA** means the euro overnight index average provided by the European Money Markets Institute as administrator of the benchmark (or a successor administrator), and a reference to EONIA in any Protocol Covered Document means any reference to EONIA, howsoever described.

**Implementation Date** has the meaning given to such term in subparagraph 1(c) above.

**ISDA** has the meaning given to such term in the introductory paragraphs hereof.

**ISDA Collateral Agreement Interest Rate Definitions** means the ISDA Collateral Agreement Interest Rate Definitions published by ISDA on August 14, 2020.

**ISDA Credit Support Document** means each of the following documents:

- (a) 1994 ISDA Credit Support Annex (Bilateral Form; ISDA Agreements Subject to New York Law Only);
- (b) 1995 ISDA Credit Support Annex (Bilateral Form – Transfer; ISDA Agreements Subject to English law);
- (c) 1995 ISDA Credit Support Deed (Bilateral Form – Security Interest; ISDA Agreements Subject to English Law);
- (d) 1995 ISDA Credit Support Annex (Bilateral Form – Loan and Pledge; Security Interest Subject to Japanese Law);
- (e) 1995 ISDA Credit Support Annex (Bilateral Form – Transfer; ISDA Agreement Subject to French Law);
- (f) 1995 ISDA Credit Support Annex (Bilateral Form – Transfer; ISDA Agreement Subject to Irish Law);
- (g) 2008 ISDA Credit Support Annex (Loan/Japanese Pledge);
- (h) 2013 Standard Credit Support Annex (New York Law);
- (i) 2013 Standard Credit Support Annex (English Law);
- (j) 2014 Standard Credit Support Annex (New York Law – Multicurrency Settlement);
- (k) 2014 Standard Credit Support Annex (English Law – Multicurrency Settlement);
- (l) 2014 ISDA Korean Law Credit Support Annex (Bilateral Form – Loan and Pledge; Credit Support Annex Subject to Korean Law);
- (m) 2016 Credit Support Annex for Variation Margin (VM) (Bilateral Form; ISDA Agreements Subject to New York Law Only), including any such form entered into between the Parties pursuant to the ISDA 2016 Variation Margin Protocol;

- (n) 2016 Credit Support Annex for Variation Margin (VM) (Bilateral Form – Transfer; ISDA Agreements Subject to English Law), including any such form entered into between the Parties pursuant to the ISDA 2016 Variation Margin Protocol;
- (o) 2016 Credit Support Annex for Variation Margin (VM) (Bilateral Form – Loan; ISDA Agreements Subject to Japanese Law), including any such form entered into between the Parties pursuant to the ISDA 2016 Variation Margin Protocol;
- (p) 2016 Credit Support Annex for Variation Margin (VM) (Bilateral Form – Transfer; ISDA Agreements Subject to French Law); or
- (q) 2016 Credit Support Annex for Variation Margin (VM) (Bilateral Form – Transfer; ISDA Agreements Subject to Irish Law).

**ISDA Master Agreement** means an ISDA 2002 Master Agreement, an ISDA 2002 Master Agreement (French law), an ISDA 2002 Master Agreement (Irish law), a 1992 ISDA Master Agreement (Multicurrency – Cross Border), a 1992 ISDA Master Agreement (Local Currency – Single Jurisdiction), a 1987 ISDA Interest Rate Swap Agreement or a 1987 ISDA Interest Rate and Currency Exchange Agreement, in each case as published by ISDA.

**Local Business Day** means, in respect of a notice and for the purposes of paragraph 3(l) above, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the city specified in the address for notice provided by the recipient (or in the place of incorporation or organization of the recipient if no such city is specified).

**New Client** has the meaning given to such term in paragraph 3(g)(i) above.

**Protocol** has the meaning given to such term in the introductory paragraphs hereof.

**Protocol Business Day** means a day on which commercial banks and foreign exchange markets are generally open to settle payments in both London and New York.

**Protocol Covered Document** means any ISDA Credit Support Document which is entered into between two Adhering Parties (whether directly or through the agency of an Agent and, if through the agency of an Agent, whether executed by that Agent or by an entity on behalf of that Agent), has a Protocol Covered Document Date on or prior to the Implementation Date and which references EONIA, *provided that* if the parties to such ISDA Credit Support Document have (i) entered into a written agreement (whether as part of such ISDA Credit Support Document or otherwise, but excluding emails between the parties) that includes a fallback rate (or methodology to determine a fallback rate) upon the cessation (howsoever described) of EONIA (including by incorporating or otherwise applying the terms of any version of the ISDA Collateral Agreement Interest Rate Definitions) or (ii) expressly stated in such agreement or otherwise agreed in writing that this Protocol and the Attachment hereto shall not apply to such ISDA Credit Support Document, then, in either case, such ISDA Credit Support Document shall not be a Protocol Covered Document.

**Protocol Covered Document Date** means, in respect of any document, the date of such document, howsoever described therein, provided that if such document has different dates specified therein, one of which includes a date specified as an “as of” date, such date shall be the Protocol Covered Document Date.

**Revocation Notice** has the meaning given to such term in paragraph 1(e) above.

**Third Party** means, in relation to an agreement supported by a Third Party Credit Support Document, any party to such Third Party Credit Support Document other than either of the Adhering Parties which are parties to the agreement.

**Third Party Credit Support Document** means, with respect to an Adhering Party and a Protocol Covered Document, any Credit Support Document which is executed by one or more Third Parties (whether or not an Adhering Party is a party thereto), whether or not such document is specified as a Third Party Credit Support Document or as a Credit Support Document therein or in the Protocol Covered Document.

**EXHIBIT 1**

**to the ISDA 2021 EONIA COLLATERAL AGREEMENT FALLBACKS PROTOCOL**

**Form of Adherence Letter**

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[Letterhead of Adhering Party]

[Date]

**International Swaps and Derivatives Association, Inc.**

Ladies and Gentlemen,

**ISDA 2021 EONIA COLLATERAL AGREEMENT FALLBACKS PROTOCOL –  
Adherence**

The purpose of this letter is to confirm our adherence to the ISDA 2021 EONIA Collateral Agreement Fallbacks Protocol as published by the International Swaps and Derivatives Association, Inc. (**ISDA**) on August 18, 2021 (the **Protocol**). By submitting this Adherence Letter, we confirm that we are an **Adhering Party** to the Protocol. This letter constitutes, as between each other Adhering Party and us, an Adherence Letter as referred to in the Protocol. The definitions and provisions contained in the Protocol are incorporated into this Adherence Letter, which will supplement and form part of each Protocol Covered Document between us and each other Adhering Party.

1. **Specified Terms**

As between each Adhering Party and us, we acknowledge and agree that the amendments in the Attachment to the Protocol shall apply to each Protocol Covered Document to which we are a party in accordance with the terms of the Protocol and this Adherence Letter.

2. **Appointment as Agent and Release**

We hereby appoint ISDA as our agent for the limited purposes of the Protocol and accordingly we waive any rights and hereby release ISDA from any claims, actions or causes of action whatsoever (whether in contract, tort or otherwise) arising out of or in any way relating to this Adherence Letter or our adherence to the Protocol or any actions contemplated as being required by ISDA.

3. **Arbitration Agreement and Class Action Waiver**

By adhering to the Protocol, we agree that all claims or disputes arising out of or in connection with adherence to the Protocol shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the **Rules**) by three arbitrators, and

hereby waive any right to assert any such claims or disputes against ISDA as a representative or member in any class or representative action. The claimant(s) (as defined in the Rules) shall nominate one arbitrator in the 'Request for Arbitration'. The respondent(s) (as defined in the Rules) shall nominate one arbitrator in the 'Answer to the Request'. The two party-nominated arbitrators shall then have 30 days to agree, in consultation with the parties to the arbitration, upon the nomination of a third arbitrator to act as president of the tribunal, barring which the International Chamber of Commerce Court shall select the third arbitrator (or any arbitrator that claimant(s) or respondent(s) shall fail to nominate in accordance with the foregoing).

This agreement to arbitrate shall not be affected by the Revocation Notice as described in the Protocol.

4. **Payment**

Each Adhering Party or, if such Adhering Party is a Client on whose behalf an Agent adheres to this Protocol, each Agent, must submit a one-time fee of U.S. \$500 to ISDA at or before the submission of this Adherence Letter.

5. **Contact Details**

Our contact details for purposes of this Adherence Letter are:

Name:

Company Name:

Address:

Phone:

Fax:

Email:

6. **Delivery of Notice**

An Agent that adheres to the Protocol in accordance with subparagraph 3(f)(i)(B) or subparagraph 3(f)(i)(C) of the Protocol may provide notice to us of its identification of those Clients (a) on whose behalf it is adhering to the Protocol or (b) that are excluded from adherence, as applicable, (including any notices under subparagraph 3(f)(i)(B), subparagraph 3(f)(i)(C), paragraph 3(g), paragraph 3(h) and paragraph 3(i) of the Protocol) through any of the following means:<sup>1</sup>

Notices – Mail

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<sup>1</sup> An Adhering Party that is not acting as an Agent must provide at least one means of notification.



By checking this box, we acknowledge that we can receive notices by delivery in person or by courier, or by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested) to:

[Address]  
[Address]  
[Address]  
[Attention]

Notices – Fax

By checking this box, we acknowledge that we can receive notices by facsimile transmission, to:

[Fax Number]  
[Attention]

Notices – E-mail

By checking this box, we acknowledge that we can receive notices by e-mail or other electronic messaging system, to:

[Address]

We consent to the publication of a conformed copy of this letter by ISDA and to the disclosure by ISDA of the contents of this letter.

Yours faithfully,

[ADHERING PARTY]<sup>2</sup>

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<sup>2</sup> Specify legal name of Adhering Party.

If you are an Agent, you may sign the Adherence Letter using one of the options below. Please note that, if you would like to adhere on behalf of yourself, as principal, and also on behalf of your Clients, as Agent, you must submit one adherence letter for yourself, as principal, and a second adherence letter on behalf of your Clients, as Agent, in the latter case, in accordance with one of the options set out below.

First, if you have the authority to adhere to this Protocol as Agent on behalf of all Clients, you may indicate the following in the signature block: “acting on behalf of each fund, account or other principal (each, a “Client”) on whose behalf we have entered, or will enter, into a Protocol Covered Document and any New Clients added to an Agent Protocol Covered Document in the future”. If such a signature block is used, a separate Adherence Letter for each Client does not need to be submitted to ISDA and no specific names of Clients must be identified or publicly disclosed on the ISDA website in connection with this Protocol.

Second, if you adhere to this Protocol as an agent on behalf of certain Clients only by specifically identifying such Clients, you may indicate the following in the signature block: “acting on behalf of each fund, account or other principal (each a “Client”) (a) identified in a notice to each other Adhering Party delivered in

By:

Name:
Title:

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accordance with the Protocol and this Adherence Letter and/or (b) listed in the appendix to this Adherence Letter, in each case on whose behalf we have entered, or will enter, into a Protocol Covered Document and any New Clients added to an Agent Protocol Covered Document and identified as a New Client in a notice to each other Adhering Party delivered in accordance with the Protocol and this Adherence Letter”. You will be responsible for identifying the relevant Clients on whose behalf you are adhering and any New Clients. If you cannot or do not wish to name such Clients, then provided that you can identify the Clients by way of LEIs, you may identify such Clients using LEIs and without including any names. If you choose to list the names of such Clients, or such LEIs, in an appendix to this Adherence Letter, the names or LEIs, as applicable, will be listed on the ISDA website with the Adherence Letter. If you are able to do so, you may, if you wish, identify Clients by using both names and LEIs but this is optional provided you supply, at least, either names or LEIs. Choosing not to provide both does not affect the legal validity and binding nature of the Protocol.

Third, if you adhere to this Protocol as an agent on behalf of certain Clients only by excluding certain Clients, you may indicate the following in the signature block: “acting on behalf of each fund, account or other principal (each, a “Client”) on whose behalf we have entered, or will enter, into a Protocol Covered Document (except for those Clients (a) identified as excluded from adherence in a notice to each other Adhering Party delivered in accordance with the Protocol and this Adherence Letter and/or (b) listed in the appendix to this Adherence Letter) and any New Clients added to an Agent Protocol Covered Document (except for any New Clients which we identify as excluded from adherence in a notice to each other Adhering Party delivered in accordance with the Protocol and this Adherence Letter)”. You will be responsible for identifying any excluded Clients. If you cannot or do not wish to name those excluded Clients, then provided that you can identify them by way of LEIs, you may identify those Clients using LEIs and without including any names. If you choose to list the names of such excluded Clients, or such LEIs, in an appendix to this Adherence Letter, the names or LEIs, as applicable, will be listed on the ISDA website with the Adherence Letter. If you are able to do so, you may, if you wish, identify excluded Clients by using both names and LEIs but this is optional provided you supply, at least, either names or LEIs. Choosing not to provide both does not affect the legal validity and binding nature of the Protocol.

**EXHIBIT 2**

**to the ISDA 2021 EONIA COLLATERAL AGREEMENT FALLBACKS PROTOCOL**

**Form of Revocation Notice**

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**[Letterhead of Adhering Party]**

**[Date]**

**International Swaps and Derivatives Association, Inc.**

**Send to: [isda@isda.org](mailto:isda@isda.org)**

Ladies and Gentlemen,

**ISDA 2021 EONIA COLLATERAL AGREEMENT FALLBACKS PROTOCOL –  
Designation of Annual Revocation Date**

The purpose of this letter is to notify you that we wish to designate this year’s Annual Revocation Date as the last date on which an Implementation Date can occur pursuant to the terms of the ISDA 2021 EONIA Collateral Agreement Fallbacks Protocol as published by the International Swaps and Derivatives Association, Inc. (**ISDA**) on August 18, 2021 (the **Protocol**) in respect of any Protocol Covered Document between us and any other Adhering Party.

This letter constitutes a Revocation Notice as referred to in the Protocol.

We consent to the publication of the conformed copy of this notice by ISDA on and after the Annual Revocation Date and to the disclosure by ISDA of the contents of this letter.

Yours faithfully,

**[ADHERING PARTY]<sup>3</sup>**

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<sup>3</sup> Specify legal name of Adhering Party.

If you are an Agent and act on behalf of multiple Clients, you may sign a Revocation Notice using one of the methods below. Alternatively, you may submit one Revocation Notice per Client.

First, if you have the authority to deliver a Revocation Notice for this Protocol as Agent on behalf of all Clients, you may indicate the following in the signature block: “acting on behalf of each fund, account or other principal (each, a “Client”) represented by us (as agent)” or such other language which indicates the Clients to which this letter is applicable. If such a signature block is used, a separate Revocation Notice for

By:

Name:
Title:
Signature:

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each Client does not need to be submitted to ISDA and no specific names of Clients must be identified in the Revocation Notice or publicly disclosed on the ISDA website in connection with this Protocol.

Second, if you have the authority to deliver a Revocation Notice for this Protocol as Agent on behalf of certain Clients only, you may indicate the following in the signature block: “acting on behalf of each fund, account or other principal (each, a “Client”) represented by us (as agent) identified in (a) a notice to each other Adhering Party delivered in accordance with the Protocol and the applicable Adherence Letter and/or (b) the Revocation Notice or an appendix thereto”. If you cannot or do not wish to name such Clients, then provided that you can identify the revoking Clients by way of specific identifiers which will be known and recognized by all Adhering Parties with which the relevant Clients have entered into ISDA Credit Support Documents, you may identify such revoking Clients using specific identifiers and without including any names. In such case, the specific identifiers will be listed on the ISDA website with the Revocation Notice.

Paragraph 1(e) of the Protocol sets out the consequences of a Revocation Notice if an Agent adheres to the Protocol on behalf of a Client.

**ATTACHMENT**  
**to the ISDA 2021 EONIA COLLATERAL AGREEMENT FALLBACKS PROTOCOL**

With effect from the Implementation Date, each Protocol Covered Document shall be modified as follows.

Capitalised terms used but not otherwise defined in this Attachment shall have the meaning given to them in the ISDA 2021 EONIA Collateral Agreement Fallbacks Protocol published by the International Swaps and Derivatives Association, Inc. on August 18, 2021.

**1. Incorporation of certain provisions of Version 2.0 of the ISDA Collateral Agreement Interest Rate Definitions**

Each Protocol Covered Document will be subject to, and incorporate, the following Articles of Version 2.0 of the ISDA Collateral Agreement Interest Rate Definitions:

- (i) the definitions and provisions contained in Article 1 (*General Definitions and Provisions*), including, for the avoidance of doubt, Article 1.5 (*Negative Interest Protocol*);
- (ii) the definitions and provisions contained in Article 5.2 (*EONIA*); and
- (iii) the definitions contained in Article 5.3 (*Definitions relating to EuroSTR and EONIA*) insofar as they are used in Article 5.2 (*EONIA*).

**2. EONIA (Collateral Rate)**

Each reference to EONIA in each Protocol Covered Document will be deleted and replaced with the words “EONIA (Collateral Rate) (as defined in Version 2.0 of the ISDA Collateral Agreement Interest Rate Definitions)”.

Any spread that is added to, or subtracted from, EONIA that is set out in any Protocol Covered Document shall continue to apply.