

November 20, 2023

## **Future Cessation Guidance - 2021 ISDA Interest Rate Derivatives Definitions, 2006 ISDA Definitions and 2018 ISDA Benchmarks Supplement**

### **Future Cessation of the Bloomberg Short-Term Bank Yield Index (“BSBY”)**

#### **Introduction and Background**

On September 13, 2023, Bloomberg issued a [consultation](#) on the proposed cessation of the Bloomberg Short-Term Bank Yield Index (“BSBY”). Following its review of the results of the consultation, Bloomberg announced on November 15, 2023 that BSBY will cease publication from Friday, November 15, 2024, with the final publication of BSBY occurring on that day. The announcement can be found [here](#).

Bloomberg’s announcement of the future cessation of BSBY constitutes an “Index Cessation Event” for purposes of the 2021 ISDA Interest Rate Derivatives Definitions (the “**2021 Definitions**”), the 2006 ISDA Definitions (the “**2006 Definitions**”) and the 2018 ISDA Benchmarks Supplement (the “**ISDA Benchmarks Supplement**”).

The guidance set out below describes the consequences under the 2021 Definitions, the 2006 Definitions and the ISDA Benchmarks Supplement that apply following the occurrence of an Index Cessation Effective Date in respect of BSBY on Monday, November 18, 2024,<sup>1</sup> which is the first date on which BSBY would ordinarily have been published or provided and will no longer be published or provided.

Terms used but not defined in this guidance have the meanings given to them in the 2021 Definitions, the 2006 Definitions or the ISDA Benchmarks Supplement, as applicable.

#### **2021 Definitions**

Under all currently published versions of the 2021 Definitions, the Permanent Cessation Fallbacks for BSBY which apply in respect of the USD-BSBY floating rate option (as set out in Section 9 of the main book of the 2021 Definitions (the “**Main Book**”)) provide that, following an Index Cessation Effective Date with respect to BSBY, the rate for a Fixing Day on or after the Index Cessation Effective Date will be the BSBY Recommended Rate for a period of the Designated Maturity or, if there is no such recommended rate, Calculation Agent Alternative Rate Determination will apply.

#### **BSBY Recommended Rate:**

*Versions 1.0 and 2.0:* Versions 1.0 and 2.0 of the Main Book (published, respectively, on June 11, 2021 and September 30, 2021) define “BSBY Recommended Rate” as a rate recommended as the replacement for BSBY by the Administrator of BSBY or, if the Administrator of BSBY does not make a recommendation, by a committee officially endorsed or convened by the Federal Reserve Board or the supervisor for the Administrator of BSBY for the purposes of recommending a replacement for BSBY.

*Versions 3.0 onwards:* Under all later published Versions of the Main Book, “BSBY Recommended Rate” includes only a rate recommended as the replacement for BSBY by the Administrator of BSBY. In its announcement of November 15, 2023, Bloomberg states that it will not be recommending a fallback replacement rate for BSBY.

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<sup>1</sup> It is expected that the first U.S. Government Securities Business Day immediately following Friday, November 15, 2024 will be Monday, November 18, 2024, unless Monday, November 18, 2024 is an unscheduled holiday.

*Calculation Agent Alternative Rate Determination:* Under all Versions of the Main Book, pursuant to this final fallback, the Calculation Agent will determine a commercially reasonable alternative to BSBY, taking into account all available information that in good faith it considers relevant including a rate implemented by central counterparties and/or futures exchanges (if any), in each case with trading volumes in derivatives or futures referencing BSBY that the Calculation Agent considers sufficient for that rate to be a representative alternative rate.

### **2006 Definitions**

The fallbacks described above also apply in respect of USD-BSBY as set out in Section 7.1(ab)(lxvii) (“USD-BSBY”) of the 2006 Definitions, as supplemented by Supplements 70 and 73.

*Supplement 73:* USD-BSBY was first included in the 2006 Definitions pursuant to Supplement number 73 to the 2006 Definitions (published on May 6, 2021). Subject to a difference in approach to the final fallback to Calculation Agent determination (described below), the fallbacks included in the definition of USD-BSBY pursuant to Supplement number 73 are consistent with the fallbacks set out in Versions 1.0 and 2.0 of the Main Book, including in relation to the definition of “BSBY Recommended Rate”.

*Supplement 87:* Supplement number 87 to the 2006 Definitions (published on November 10, 2021) updated the terms of USD-BSBY to reflect the same change to the definition of “BSBY Recommended Rate” as was included in Version 3.0 of the Main Book (see “2021 Definitions” above).

*Calculation Agent determination:* One difference of note between the BSBY fallbacks in the 2021 Definitions and the 2006 Definitions is that, under the 2006 Definitions, the final fallback will be to a commercially reasonable alternative for BSBY for a period of the Designated Maturity determined by the Calculation Agent in good faith and a commercially reasonable manner. Unlike the 2021 Definitions, this final fallback does not require the Calculation Agent to take into account the available information as described under “*Calculation Agent Alternative Rate Determination*” above.

### **ISDA Benchmarks Supplement**

If the ISDA Benchmarks Supplement applies to a Transaction that is documented under the 2006 Definitions and which incorporates both Supplements 70 and Supplements 73, then if an Index Cessation Event occurs in respect of BSBY, the “Priority Fallback” (as defined in Section 1.1 (*Specific provisions for certain Relevant Benchmarks*) of the 2006 ISDA Definitions Benchmarks Annex to the ISDA Benchmarks Supplement) will apply. This directs parties to apply the fallbacks for BSBY as set out in Supplement 73 and (if applicable) Supplement 87, as described under “2006 Definitions” above. The provisions of Section 1.2 (*Consequences of a Benchmark Trigger Event*) of the 2006 ISDA Definitions Benchmarks Annex to the ISDA Benchmarks Supplement will apply only to the extent the “Priority Fallback” fails to provide a means of determining the index level, at which point each party must seek to apply one or more “Alternative Continuation Fallbacks”, as set out in that Annex, prior to the date of cessation.