

**STANDARD AGREEMENT RELATING TO THE
INDIAN CREDIT DERIVATIVES DETERMINATIONS
COMMITTEE RULES**

Dated _____ 2023



Mumbai | Delhi | Bangalore

**STANDARD AGREEMENT RELATING TO THE
INDIAN CREDIT DERIVATIVES DETERMINATIONS COMMITTEE RULES**

This Standard Agreement (this **Agreement**) is made and entered into as of _____, 202_____

BY AND BETWEEN:

- (1) The Fixed Income Money Market and Derivatives Association of India ("**FIMMDA**", or the **DC Secretary**); and
- (2) Each of the entities listed in Schedule 1 hereto (each such entity, a "**DC Member**", and such entities, together with any other entities that may accede to this Agreement, the "**DC Members**").

WHEREAS:

- (A) The Indian Credit Derivatives Determinations Committee (the **Committee**) is a committee established by FIMMDA for the purposes of making determinations in connection with Credit Derivative Transactions in respect of which the Confirmation is entered into under a Master Credit Derivatives Confirmation Agreement for Indian Credits as published by the International Swaps and Derivatives Association, Inc. (the "**MCA**").
- (B) The Committee is governed by the Indian Credit Derivatives Determinations Committee Rules, as amended from time to time in accordance with the terms thereof and as published by FIMMDA (the "**Rules**").
- (C) Section 1.5(b) of the Rules provides that, as of the Initial List Review Date (or, if later, the date a Designated DC Member has been identified as a Designated DC Member), the DC Secretary shall cause to have in place a standard agreement, pursuant to which Designated DC Members (or, with respect to any particular Designated DC Member, an Affiliate of such Designated DC Member representing such Designated DC Member on the Committee) and the DC Secretary will each acknowledge and agree to their respective rights and responsibilities as described in the Rules.
- (D) This Agreement will serve as the Standard Agreement pursuant to which each party hereto acknowledges and agrees to its respective rights and responsibilities as described herein and in the Rules.

Any capitalised term used but not defined herein shall have the meaning set forth in (a) the 2014 ISDA Credit Derivatives Definitions ("**Definitions**") as further supplemented and amended by Annex 2 (Amendments to the Credit Derivatives Definitions) of the MCA or (b) the Rules, as applicable. In the event of any inconsistency between the Definitions, the Rules and this Agreement, this Agreement shall govern.

1. AGREEMENT TO COMPLY WITH THE RULES

Each party to this Agreement hereby (a) acknowledges, accepts and agrees to its rights and obligations as described in the Rules and (b) assumes and agrees to perform and fulfill its obligations as described in the Rules.

2. OTHER AGREEMENTS

Each party to this Agreement hereby:

- (a) (i) acknowledges, accepts and agrees to its rights and obligations as described herein and (ii) assumes and agrees to perform and fulfill its obligations as described herein;
- (b) agrees that no party to this Agreement and no legal counsel or other third-party professional hired by a party to this Agreement in connection with such party's performance of its obligations hereunder and/or under the Rules, shall be liable whether for negligence or otherwise, to any other party to this Agreement for any form of damages whether direct, indirect, special, consequential or otherwise, that might arise in connection with such party's performance of its obligations hereunder and/or under the Rules or any advice given by legal counsel or any other third-party professional hired by such party in connection with such party's performance of its obligations hereunder and/or under the Rules, except in the case of fraud or wilful misconduct on the part of such party, legal counsel or other third-party professional, as applicable; provided that the foregoing shall not be applicable as between a party to this Agreement and legal counsel or any other third-party professional hired by such party in connection with such party's performance of its obligations hereunder and/or under the Rules. For sake of clarity, with respect to the representations in paragraph 4. of this Agreement, no claim against a DC Member shall arise for any reason including in the case of fraud or wilful misconduct on the part of such DC Member, other than a claim by the DC Secretary as against such DC Member and with respect to any such claim by the DC Secretary, solely in the case of fraud or wilful misconduct on the part of such DC Member;
- (c) agrees to waive any claim, whether for negligence or otherwise, that might arise against any other party to this Agreement, and any legal counsel or other third-party professional hired by such other party in connection with such other party's performance of its obligations hereunder and/or under the Rules, except in the case of fraud or wilful misconduct on the part of such other party, legal counsel or other third-party professional, as applicable, provided that the foregoing shall not be applicable as between a party to this Agreement and legal counsel or any other third-party professional hired by such party in connection with such party's performance of its obligations hereunder and/or under the Rules; and
- (d) agrees to and acknowledges the disclaimers set out in Section 5.1(b) of the Rules as amended or replaced in any subsequent version of the Rules.

3. AFFILIATES OF A DC MEMBER SERVING ON A CONVENED DC

- (a) Each party to this Agreement agrees that any DC Member may be represented on a Convened DC by an Affiliate of such DC Member.
- (b) Each DC Member agrees that (i) if it is represented on a Convened DC by an Affiliate, such DC Member will procure from such Affiliate compliance, and performance in accordance, with the terms of this Agreement and/or the Rules and (ii) any breach by

any such Affiliate of the terms of this Agreement and/or the Rules shall constitute a breach by the relevant DC Member of this Agreement and/or the Rules, as applicable.

4. REPRESENTATIONS

- (a) Each party to this Agreement hereby represents that (i) it is 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, (ii) it has the power to execute this Agreement and to perform its obligations as contemplated herein and in the Rules, (iii) it has the power to execute any other documentation relating to the performance of its obligations as contemplated herein and in the Rules and has taken all necessary action to authorize such execution and performance, (iv) such execution 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, (v) all governmental and other consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such consents have been complied with and (vi) its obligations under this Agreement 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)).
- (b) Each DC Member hereby represents that it has the power to procure from any Affiliate representing it on a Convened DC compliance, and performance in accordance, with the terms of this Agreement and/or the Rules pursuant to paragraph 3 of this Agreement.
- (c) Each DC Member hereby represents that it has written policies and/or procedures reasonably designed/ formulated to identify and manage conflicts of interest arising from its role as a DC Member and the potential profits or losses from trading or holding economic positions in the Transactions whose price may be impacted by a DC Resolution, and further represents that its written policies and/or procedures :
 - (i) require a DC Decision-maker to Resolve DC Questions based on commercially reasonable analysis of the information described in Section 2.5(b) (*DC Resolutions*) of the Rules;
 - (ii) include limitations on which individuals may serve as DC Decision-maker. These limitations, at minimum, provide that Excluded Individuals may not act as DC Decision-makers. An "**Excluded Individual**" means any individual who is part of a department, division, group, or personnel of a DC Member or any of its affiliates, whether or not identified as such, that performs, or exercises authority over the performance of, any pricing (excluding price verification for risk management purposes), trading, sales, purchasing, marketing, advertising, solicitation, structuring, or brokerage activities (each

such activity, a "**Business Activity**") on behalf of the DC Member in respect of credit trading, credit derivatives trading or other business lines that enter into or hold instruments whose price may be impacted by a DC Resolution, such as hedging, lending, investing, advisory or similar functions (each such business line, a "**Relevant Business Line**"); provided that if a DC Member determines that certain functions are part of a Relevant Business Line but are sufficiently independent of the Business Activities of that Relevant Business Line or for any reason such that individuals fulfilling such functions would be able to act as DC Decision-makers without creating an unmanageable conflict of interest, then the written policies and/or procedures may permit such individuals to act as DC Decision-makers provided the DC Member maintains a written record of the reasons for such determination;

- (iii) may explicitly permit DC Decision-makers to discuss with any individuals, including Excluded Individuals, within the DC Member's or the DC Member's professional advisers, information relevant to a DC Question, **provided that** any such express permission, to the extent included, shall remain subject to the general requirement to have written policies and/or procedures reasonably designed to identify and manage conflicts of interest and the standard applicable to DC Decision-makers in paragraph 4(c)(i) above, and subject to any applicable requirements relating to the handling of material non-public information and Confidential Material. Examples of information relevant to a DC Question that DC Decision-makers, might need to discuss with Excluded Individuals may include, without limitation, information related to the appropriate timing for an Auction, appropriate Initial Market Quotation Amount and Maximum Initial Market Bid-Offer Spread for an Auction and information on the debt obligations of a Reference Entity; and
- (iv) may explicitly provide that if an individual knows the economic position of the DC Member or of a Relevant Business Line that might be impacted by a DC Resolution, then such knowledge would not by itself prevent that individual from acting as a DC Decision-maker with respect to that DC Resolution, provided that such individual acts in accordance with the standard required for DC Decision-makers in paragraph 4. (c)(i) above and such written policies and/or procedures shall remain subject to the requirements of paragraph 4(c)(ii) above.

For purposes of the representation in this paragraph 4. (c), written policies and/or procedures of a DC Member that require each DC Decision-maker to be part of such department, division, group, or function of such DC Member or any of its affiliates, as may be deemed appropriate by the DC Member and to have required domain experience and comply with paragraph 4. (c)(i) above shall constitute written policies and/or procedures that are reasonably designed to identify and manage conflicts of interest, and for the avoidance of doubt, any such DC Decision-maker is not required to be (i) prevented from advising, supporting or regularly interacting with Excluded Individuals (including, without limitation, in connection with matters relating to DC

Resolutions) or (ii) unaware of the economic positions, interests or relationships of the DC Member, any of its affiliates or any Relevant Business Line.

- (d) Each DC Member represents to the DC Secretary that it has written policies and/or procedures governing the process by which the DC Member casts its vote on any DC Question, including: responsibilities of staff for vote submissions including the seniority level and experience deemed appropriate by the DC Member, identification of roles and responsibilities of staff who may decide how the DC Member will vote, how the decision-making process is governed where multiple decision-makers may be involved, and any vote submission sign-off procedures or staff oversight required by the DC Member.
- (e) Each DC Member hereby represents to the DC Secretary that it recognizes that participation in meetings of a Convened DC may result in representatives of the DC Member receiving material non-public information, and the DC Member further represents to the DC Secretary that the DC Member has written policies and/or procedures reasonably designed to ensure appropriate handling of any such material non-public information in accordance with any applicable securities laws or similarly applicable regulations.
- (f) Each DC Member hereby represents to the DC Secretary that it has written policies and/or procedures or other mechanisms in place to provide for ongoing internal oversight of its compliance with the requirements of the Rules and any related policies and procedures, including any staff training on those requirements that the DC Member considers appropriate.
- (g) Each DC Member hereby represents to the DC Secretary that the DC Member's written policies and/or procedures require the DC Member to retain copies of any written policy or procedure used to satisfy the applicable requirements in paragraphs 4. (c), 4. (d), 4. (e) and 4. (f), and that such copies shall be kept for a period of five (5) years from the first date on which such DC Member relied on such written policy and/or procedure to satisfy such requirements.

5. MISCELLANEOUS

5.1 Cooperation

Each party to this Agreement will, in connection with its service on the Convened DC, cooperate with the other parties to this Agreement and will take such other reasonable actions, or procure that such other reasonable actions are taken, as may be reasonably requested from time to time by such other parties as are necessary to accomplish the intended purposes of this Agreement and/or the Rules.

5.2 Termination

This Agreement will terminate:

- (a) with respect to each DC Member, at the end of the relevant DC Member's term of membership as set forth in the Rules, provided that this Agreement will cease to be binding on any DC Member that, pursuant to of the Rules, is replaced on the relevant DC Committee by a Replacement DC Member other than itself due to removal, recusal or resignation as of the effective date of such removal, recusal or resignation, as applicable; and
- (b) with respect to FIMMDA, upon effective appointment of a successor DC Secretary following nomination by Reserve Bank of India and provisions of paragraph 5.13(b) below will apply as regards each DC Member.

Notwithstanding the foregoing sentence, FIMMDA and each DC Member will remain bound by any duties of confidentiality that apply pursuant to Section 5.2(a) of the Rules as amended or replaced in any subsequent version of the Rules.

5.3 Notices

Without prejudice to the notice provisions under the Rules, any notice or other communication to a party to this Agreement with respect to this Agreement may be given in any manner described below and will be deemed effective as indicated:

- (a) if in writing and delivered in person or by courier, on the date it is delivered to the address of such party as set out immediately beneath its name on the relevant signature page below or such other address of which such party shall have notified the DC Secretary for such purpose (the “**Notification Address**”);
- (b) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date it is delivered to the Notification Address; or
- (c) if sent by email, on the date it is delivered to the email address of such party as set out immediately beneath its name on the relevant signature page below or such other email address of which such party shall have notified the DC Secretary for such purpose,

unless the date of that delivery is not a Mumbai Business Day or that communication is delivered or received, as applicable, after 5:30pm (Mumbai time) on a Mumbai Business Day, in which case that communication will be deemed given and effective on the first following day that is a Mumbai Business Day.

5.4 Specific Performance

The parties hereto hereby agree and acknowledge that the rights of the parties under this Agreement are unique and, accordingly, money damages may not be an adequate remedy for any breach of the provisions of this Agreement and the parties shall, in addition to such other remedies as may be available to any of them at law or in equity, have the right to enforce their rights hereunder by seeking injunctive relief and other actions for specific performance to the extent permitted by applicable law.

5.5 Governing Law

This Agreement shall be governed by, and interpreted in accordance with, the laws of the Republic of India, without regard to the conflict of laws provisions thereof.

5.6 Jurisdiction

(a) Dispute Resolution:

- (i) In the event of any claim, difference, dispute or controversy between DC Secretary and the DC Member on the other hand, arising under this Agreement or / out of or in connection with this Agreement, including without limitation, the execution, validity, enforcement, breach, performance, interpretation, implementation, alleged material breach, termination or expiration of this Agreement, such claim, difference, dispute or controversy shall be referred to and settled by arbitration;
- (ii) The seat of the arbitration shall be in Mumbai and the arbitration shall be conducted in accordance with the Rules of Arbitration of the Mumbai Centre for International Arbitration (MCIA) (the “**Rules**”), which Rules, as modified from time to time, are deemed to be incorporated by reference into this Section (provided that, in the event of any conflict between the Rules and the provisions of this Part, the latter shall prevail);
- (iii) The Tribunal shall consist of one arbitrator that shall be appointed by the MCIA;
- (iv) The language of the arbitration shall be English, and the arbitrator shall be fluent in English; and
- (v) The Tribunal shall state the reason for its decisions in writing and shall not make such decisions on the basis of the principle of ex aequo et bono or as amiable compositeur.

(b) Jurisdiction

- (i) With respect to any action or proceedings in India relating to this Agreement including arbitration (“**Proceedings**”), subject to the provisions of sub-clause above, the courts and tribunals of competent jurisdiction at Mumbai shall have exclusive jurisdiction:
 - (A) as regards the Proceedings including any challenge, direct or indirect, to the arbitration, and
 - (B) for the purpose of enforcement of the arbitral award or any orders passed by the arbitral tribunal including any emergency arbitrator; and
- (ii) Each party irrevocably waives any objection which it may have at any time to the choice of arbitration as the parties preferred means of Proceedings and /or

to the laying of venue of any Proceedings brought before, or in any such arbitral tribunal or court, waives any claim that such Proceedings have been brought in an incompetent or inconvenient forum and further waives the right to object, with respect to such Proceedings, that such arbitral tribunal or court does not have any jurisdiction over such party and/or the subject matter of the Proceedings.

- (c) Notwithstanding the above provisions of this paragraph 5.6, the DC Secretary may provide for a revised dispute resolution mechanism as may be specified on the Website from time to time. The parties are deemed to have agreed such revised dispute resolution mechanism.

5.7 Severability

If any provision of this Agreement is held to be illegal, invalid or unenforceable, the parties agree that such provision will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the validity, legality and enforceability of the remaining provisions of this Agreement will not in any way be affected or impaired thereby. If necessary to effect the intent of the parties, the parties will negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that as closely as possible reflects such intent.

5.8 Accession

- (a) FIMMDA and each of the DC Members acknowledge and agree that, from time to time certain Designated DC Members may accede to this Agreement (“**Acceding DC Member**”) by executing the deed of accession between FIMMDA and the Acceding DC Member in the form mentioned in the **Schedule 2** below (“**Deed of Accession**”), and upon accession by such Designated DC Members to this Agreement, they shall be bound by the terms of this Agreement. Such Deed of Accession shall not amount to an amendment of this Agreement.
- (b) Procedure of admitting the Acceding DC Member shall be as under
 - (i) The Acceding DC Member and FIMMDA execute a duly stamped and completed Deed of Accession.
 - (ii) Each of the DC Members hereby provide their ‘no objection’ to FIMMDA to admit the Acceding DC Members by executing the Deed of Accession.

5.9 Amendment

This Agreement may only be amended, modified or supplemented by express written agreement among all the parties hereto.

5.10 Waivers

Any of the terms or conditions of this Agreement that may be lawfully waived may be waived in writing at any time by written agreement signed by all of the parties. Any waiver of any of the provisions of this Agreement by any party hereto shall be binding only if set forth in an

instrument in writing signed on behalf of such party. No failure to enforce any provision of this Agreement shall be deemed to or shall constitute a waiver of such provision and no waiver of any of the provisions of this Agreement shall be deemed to or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver.

5.11 Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be binding as of the date first written above, and all of which shall constitute one and the same instrument. Each such copy shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

5.12 Entire Agreement

This Agreement and the Rules contain the entire understanding of the parties with respect to the subject matter hereof and supersede all prior agreements, oral or written, and all other prior communications between the parties, other than those written agreements executed and delivered contemporaneously herewith.

5.13 No Assignment; No Third-Party Beneficiaries

- (a) This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors of the parties. Subject to paragraph 3 above, nothing in this Agreement shall confer any rights upon any person other than the parties and their respective successors. No party shall assign this Agreement or any right, benefit or obligation hereunder. Any attempted assignment of this Agreement in violation of this paragraph 5.13 shall be void and have no effect.
- (b) In the event of appointment of any entity other than FIMMDA as the DC Secretary (such other DC Secretary referred to as “**Incoming DC Secretary**”), then irrespective of the provision of this Agreement (including especially in paragraph 5.2, 5.9 and clause (a) above of this paragraph 5.13), the following shall apply:
 - (i) FIMMDA will have right to elect to novate this Agreement in favour of Incoming DC Secretary by publishing a notice to that effect on the website of FIMMDA.
 - (ii) On FIMMDA so electing under (i) above, then on expiry of 30 days from the date of publishing such notice (not counting the day of actual publication), this Agreement shall stand novated with each of the DC Members as if each such DC Member had explicitly consented in writing to such novation being effected by FIMMDA in favour of Incoming DC Secretary.

SCHEDULE 1

LIST OF DC MEMBERS

The following entities are DC Members:

1. ICICI Bank Limited
2. Axis Bank Limited
3. State Bank of India Limited
4. Kotak Mahindra Bank Limited.

SCHEDULE 2

DEED OF ACCESSION

THIS Deed of Accession made at Mumbai on the _____ day of _____, _____ (hereinafter referred to as the “**Deed**” which expression shall include this Deed together with all schedules attached hereto, and shall include any written modifications, amendments, supplements or alterations made by the Parties after the date first above written) by and among:

The Fixed Income Money Market and Derivatives Association of India (“**FIMMDA**”, or the “**DC Secretary**”);

AND

_____, having its registered office at _____

_____ (hereinafter referred to as “the **Acceding DC Member**”, which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to include it’s successors and assigns);

WHEREAS:

- (i) The Acceding DC Member has been notified as a Designated DC Member in terms of the Indian Credit Derivatives Determinations Committee Rules, as amended from time to time in accordance with the terms thereof and as published by FIMMDA (“**Rules**”).
- (ii) Pursuant to Section 1.5(b) of the Rules, FIMMDA and the Adhered DC Members have entered into the Standard Agreement, wherein the parties acknowledge and agree to their respective rights and responsibilities as described in the Rules (“**Standard Agreement**”).
- (iii) Pursuant to Clause 5.8 of the Standard Agreement, new DC Members may accede to the Standard Agreement by executing the Deed of Accession.
- (iv) The Parties are now desirous of executing this Deed.

NOW THIS DEED OF ACCESSION WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. All expressions used in this Deed and which are defined in the Standard Agreement and the Rules shall have the same meaning and construction in this Deed.

2. All other rules of interpretation contained in Standard Agreement and the Rules shall, to the extent applicable, be applicable to this Deed.
3. Term Start Date shall mean the date of this Deed.
4. By executing this Deed, the Acceding DC Member hereby accedes to and accepts the terms, conditions and provisions of the Standard Agreement and the Rules and agrees to be bound by the obligations contained therein as though the Acceding DC Member was a Party thereto. Accordingly, by execution of this Deed, the Acceding DC Member shall be entitled to the rights, benefits, interests as a Adhered DC Member and also bound by the obligations of the DC Member under the Standard Agreement.
5. The Deed shall be supplemental to the Standard Agreement.
6. This Deed shall be binding upon all the DC Member and other parties to the Standard Agreement.
7. The Acceding DC Member hereby covenants that it shall do nothing that derogates from or contravenes the provisions of the Standard Agreement and the Rules.
8. This Agreement shall be governed by and interpreted in accordance with, the laws of the Republic of India, without regard to the conflict of laws provisions thereof. Any matter or issue or dispute shall be subject to the arbitration provisions as provided under the Standard Agreement.

IN WITNESS WHEREOF the Parties hereto have executed these presents the day, the month and the year first hereinabove written.

FIXED INCOME MONEY MARKET AND
DERIVATIVES ASSOCIATION OF INDIA

By: _____

Name:

Title:

Notification Address:

Email Address:

By: _____

Name:

Title:

Notification Address:

Email Address:

IN WITNESS WHEREOF, each of the undersigned parties, intending to be legally bound, has executed this Agreement as of the date first above written.

FIXED INCOME MONEY MARKET AND DERIVATIVES
ASSOCIATION OF INDIA

By: _____

Name:

Title:

Notification Address:

Email Address:

By: _____

Name:

Title:

Notification Address:

Email Address:

By: _____

Name:

Title:

Notification Address:

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