

## **BANCO ESPÍRITO SANTO: NOVO BANCO: ISDA DC TO REVIEW POSSIBLE SUBSTITUTE OBLIGATION OF SECURITIES TRANSFERRED TO BANCO ESPÍRITO SANTO**

The process of resolving part of Banco Espírito Santo, S.A (“**BES**”) that became Novo Banco S.A. continues, and with it, the various novel issues that it poses for participants in the credit derivatives market. The purpose of this brief note is to provide an update of the latest developments that impact credit derivatives.

The resolution process of BES/ Novo Banco S.A. started with two bail-outs, in 2014 and 2015 (each raising CDS issues, not the subject of this note).

In August this year: (1) Novo Banco S.A. made invitations to noteholders to tender their notes for purchase for cash or fixed term deposit accounts, (2) certain noteholders threatened to block the offer, and (3) on 4 October 2017, Novo Banco S.A. announced that the conditions for that offer have been waived and that the offer has been completed.

The question for the ISDA Determination Committee (“**DC**”) was firstly, whether the 4th October announcement amounted to a Restructuring Credit Event. That was answered in the positive (for the purposes of contracts under 2003 or 2014 Credit Derivatives Definitions).

The question that the DC had to decide was what assets may be delivered for the purposes of valuing the triggered contracts. That is because for European financials, the 2014 Credit Derivatives Definitions will permit certain obligations that were deliverable prior to the Restructuring to be used for valuation purposes, whatever the form they took after their amendment.

Therefore, DC considered the composition of the assets that the holders can receive (the “**Asset Package**”) in relation to the senior bond with ISIN XS0772553037 (the “**Senior Bond**”). The DC determined that the “**Asset Package**” in relation to the Senior Bond consists of (i) early redemption proceeds and (ii) option rights to deposit such proceeds into certain fixed-term deposit accounts with Novo Banco S.A. (the “**Deposit**”). Regarding the option rights on the Deposit, the DC further determined them to be a “**Non-Transferrable Instrument**”, deemed to have a cash value equal to its market value.

The DC is currently considering the appropriate methodology for determining the market value of those option rights. We will provide a further update when that methodology is published.