

405 Lexington Ave. | Suite 5304 | New York, NY 10174 | (646) 676-4290

September 16, 2024

Guidance Note on the EMTA RUB Template Terms and the Publication of RUB MOEX (RUB05)

EMTA issues this Guidance Note solely to address provisions contained or incorporated into the EMTA RUB Template Terms. This Guidance Note does not purport to address the status of MOEX (www.moex.com) as an affected entity or its rate publication (or other business) practices under the applicable sanctions mentioned below.

In the aftermath of sanctions issued June 2024 by each of the *Office of Foreign Asset Controls (OFAC)* of the US government and the *Office of Financial Sanctions Implementation of HM Treasury*, Ruble/US Dollar and Ruble/Euro foreign exchange trading were suspended on the MOEX (Moscow Exchange). MOEX daily produces a USD/Ruble exchange rate (TOM rate) in accordance with a published methodology¹, which rate was first referenced as the primary settlement rate option and then, more recently, as a fallback reference price in the EMTA RUB Template Terms. Following the imposition of the sanctions referenced above, MOEX suspended USD/RUB and EUR/RUB trading and appeared to revert to the fallback mechanisms within its published methodology for the rate calculation by publishing the same daily rate on its website as is published on the Central Bank of Russia website. The MOEX fallback mechanisms for the rate calculation in its published methodology provide for relying on data of the Central Bank of Russia. Other commercial outlets for distribution of this rate have been suspended.

As a consequence, it appears that, at present, the RUB MOEX (RUB05) rate continues to be reported by MOEX. This is currently relevant for non-deliverable FX and currency option transactions under the (now superseded) RUB EMTA Template Terms published in 2018 (which referenced the MOEX rate as a primary settlement rate option) and any attendant assessment of whether a Price Source Disruption per the 1998 FX and Currency Option Definitions has occurred in connection with the foregoing circumstances. Under the current RUB EMTA Template Terms published in 2022, the RUB MOEX (RUB05) rate appears as a fallback reference price to the primary settlement rate option of WMR/Refinitiv (WMR03)².

For clarity, the RUB MOEX (RUB05) rate, defined in Annex A to the 1998 FX and Currency Option Definitions, is:

“RUB MOEX” or “RUB05” each means that the Spot Rate for a Rate Calculation Date will be the Russian Ruble/U.S. Dollar spot rate, expressed as the amount of Russian Ruble per one U.S. Dollar, for settlement in one Business Day, reported by the Moscow Exchange

¹ The methodology was most recently updated in December 2023 and can be found here: <https://fs.moex.com/files/4225>.

² As defined in Annex A to the 1998 FX and Currency Options Definitions.

(MOEX) (www.moex.com/en/fixing/) as the MOEX USD/RUB FX Fixing at 12:35 p.m., Moscow time, on that Rate Calculation Date.

However, circumstances surrounding the MOEX rate publication may change in the future and so, market participants may wish to closely monitor for these changes³. A change in the circumstances surrounding the calculation or publication of the rate (how, relative to the methodology, for example) and by whom (by one or both of MOEX and the Central Bank of Russia, for example) may, in turn, affect the legal conclusions that can be drawn regarding the status or use of the rate in the context of the applicable EMTA RUB Template Terms. This may necessitate additional analysis and guidance at that time.

This Guidance is provided in the interest of mitigating market risk and promoting orderly and efficient valuation and settlement of positions by market participants and is not binding upon any EMTA Member or other market participant. EMTA Members and other market participants are free to agree on such interpretations of the EMTA Template Terms and this Guidance as they deem appropriate and suitable for their transactions. This Guidance is not legal advice and market participants should consult their legal advisors in connection with the application of this Guidance to any term, condition or actual transaction, and EMTA bears no responsibility for actions taken or not taken based on this Guidance. This Guidance does not address terms and provisions other than those set forth in the EMTA Template Terms and explicitly addressed above.

Defined terms used in the preceding paragraphs have the meanings set forth in the 1998 FX and Currency Option Definitions (including Annex A thereto) published by the ISDA, Inc. and EMTA, Inc. and to the EMTA Template Terms for RUB/USD Deliverable FX and Currency Option Transactions.

³ Future changes might include (among other things) (i) a resumption by MOEX of a rate publication based on its primary methodology (versus a fallback calculation) and/or (ii) a change in the reporting or publication by MOEX (in parallel with or independently of the Central Bank of Russia reporting of its own rate based upon its own methodology).