

September 5, 2019

## Implications of Argentine Capital Controls for

### Disruption Events and Fallback Mechanisms in the EMTA ARS Template Terms

On September 1, 2019, the Central Bank of the Argentine Republic issued Communiqué “A” 6770 in accordance with Decree No. 609/2019 imposing certain currency restrictions with respect to the Argentine Peso (ARS), which will be effective from September 1, 2019 until December 31, 2019. Under these circumstances a review of the EMTA Argentine Peso Template Terms for Non-Deliverable FX Forward and Currency Option Transactions may be useful for market participants. Please note that, by itself, the imposition of currency controls or restrictions does not constitute a Disruption Event under the EMTA ARS Template Terms. However, currency controls or restrictions may possibly lead to or result in events or circumstances that produce a Disruption Event, as described in more detail below. A determination of whether a Disruption Event has occurred will be based on facts and circumstances at the time.

**DISRUPTION EVENTS AND FALLBACKS:** The applicable Disruption Events and Disruption Fallbacks under the EMTA ARS Template Terms dated January 1, 2018, are the following:

The applicable Disruption Events are:

“Price Source Disruption,” and

“Exchange Rate Divergence” (a subset of Price Source Disruption)

*“Exchange Rate Divergence means that, in the **reasonable** opinion of not less than **5 unaffiliated EMTA Members** notified to EMTA (or its successor) by not later than 4 p.m., Buenos Aires time on the Scheduled Valuation Date, ARS MAE (ARS05) has failed, **for a period of not less than three consecutive Business Days in Buenos Aires** (for any reason, including due to a split in the currency exchange rate or other event) **to reflect the current prevailing Argentine Peso bid and offer rates for a standard size Argentine Peso/U.S. Dollar financial transaction** for same-day settlement in the Buenos Aires marketplace on the Valuation Date.”*

Upon the occurrence of a Disruption Event, the next step would be to look at the Disruption Fallbacks to determine the proper course of action under the contract.

The applicable Disruption Fallbacks are:

“Valuation Postponement,” and

“Calculation Agent Determination.”

For clarity, a Fallback Reference Price is no longer included in the EMTA ARS Template Terms.

A Price Source Disruption may occur under a contract ONLY IF it occurs or is occurring on the specific Valuation Date for that contract.

CONSEQUENCES. If there is a Price Source Disruption (including an Exchange Rate Divergence), the valuation of the contract will first be postponed (Valuation Postponement) until the earlier of (i) the re-appearance of a valid ARS MAE (ARS05) and (ii) the lapse of a period of up to 30 calendar days (i.e., the contract will not be fixed or valued during this period). Upon the lapse of these 30 calendar days and provided that the Price Source Disruption (including an Exchange Rate Divergence) has not been “cured” or has ceased by that time, the Calculation Agent for that contract is tasked with determining the Settlement Rate for that contract. The cessation of a Price Source Disruption before the lapse of the 30 calendar days will halt the Valuation Postponement period and the contract would be valued using the ARS MAE (ARS05) rate, the current primary Settlement Rate Option in the ARS Template Terms.

SUBMITTING NOTICES: Following are suggested administrative procedures for an Exchange Rate Divergence event:

#### NOTICE REQUIREMENTS:

EMTA Members submitting notices relating to the observation of Exchange Rate Divergence must be unaffiliated (with each other), acting independently of each other and be Members in good standing. Full, Buyside and Associate Members (i.e., EMTA Members with EMTA member voting privileges) may submit notices.

“Unaffiliated” EMTA Members means EMTA members that are not within the same business group, under common control, or are related corporate entities. “Good standing” implies fully paid up EMTA dues for the relevant year at the time of the submission of the notice.

A notice may be submitted when the EMTA Member determines, in its reasonable opinion, that Exchange Rate Divergence is observed. For the avoidance of doubt, an Exchange Rate Divergence may be notified only after three consecutive Buenos Aires Business Days of continuous observation of the event by the EMTA Member.

EMTA Members must have a reasonable basis for making an Exchange Rate Divergence given the facts and circumstances and provide written evidence to support this determination.

Notices should be submitted in the form below and sent to EMTA by email (attn.: Leslie Payton Jacobs (lpjacobs@emta.org)) by not later than 4 p.m., Buenos Aires time, on the Buenos Aires Business Day after which Exchange Rate Divergence observation is completed (meaning, the Business Day after the third consecutive Buenos Aires Business Day of observation of an Exchange Rate Divergence).

Notices will be valid as of the Buenos Aires Business Day received by EMTA and for each Buenos Aires Business Day thereafter. Notices received after the close of business Buenos Aires time will be deemed received on the next Business Day.

#### EMTA PUBLICATION:

Upon the receipt of 5 notices that meet the criteria above and are in the form below, EMTA will notify its membership by publication on its website (or other reasonable alternative means) of the occurrence of an Exchange Rate Divergence. EMTA will use best efforts to publish the notice of Exchange Rate Divergence on its website by not later than the next Buenos Aires Business Day after receipt of the notices. This will be designated the first day of Exchange Rate Divergence.

**In the interest of market transparency, all notices submitted by EMTA Members regarding an Exchange Rate Divergence will be published on the EMTA website.**

**NOTICE OF EXCHANGE RATE DIVERGENCE**

**To: EMTA, Inc.**

**From: [INSERT: Name of EMTA Member and Name of Sender]**

**Observation Days for Exchange Rate Divergence: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_**

**Notice Dated: \_\_\_\_\_**

**We confirm that that (i) we are an EMTA Member in good standing, acting independently, and (ii) in our reasonable opinion, an Exchange Rate Divergence has been observed for the three consecutive Buenos Aires Business Days referenced above as follows:**

**[provide the details (incl numerical) behind your Exchange Rate Divergence Determination]**