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## CFTC Orders Deutsche Bank Securities Inc. to Pay \$70 Million Penalty for Attempted Manipulation of U.S. Dollar ISDAFIX Benchmark Swap Rates

**Washington, DC** – The Commodity Futures Trading Commission (CFTC) today issued an Order filing and settling charges against **Deutsche Bank Securities Inc.** (DBSI) for attempted manipulation of the ISDAFIX benchmark and requiring DBSI to pay a \$70 million civil monetary penalty.

The CFTC Order finds that over a five-year period, beginning in at least January 2007 and continuing through May 2012 (the Relevant Period), DBSI made false reports and through the acts of multiple traders attempted to manipulate the U.S. Dollar International Swaps and Derivatives Association Fix (USD ISDAFIX), a leading global benchmark referenced in a range of interest rate products, to benefit its derivatives positions, including positions involving cash-settled options on interest rate swaps.

### CFTC's Enforcement Director Comments

James McDonald, CFTC Director of Enforcement, commented: "This action reflects the CFTC's continued and vigilant commitment to protect those who rely on the integrity of critical financial benchmarks. There is no room in our markets for manipulation—we will continue to work hard to stamp it out, wherever we find it."

During the Relevant Period, USD ISDAFIX was set each day in a process that began at 11:00 a.m. Eastern Time with the capture and recording of swap rates and spreads from a U.S. based unit of a leading interest rate swaps broking firm ("Swaps Broker").

ISDAFIX rates and spreads are published daily and are meant to indicate the prevailing mid-market rate, at a specific time of day, for the fixed leg of a standard fixed-for-floating interest rate swap. They are issued in several currencies and are published for various maturities of U.S. Dollar-denominated swaps. The most widely used USD ISDAFIX rates and spreads, and the ones at issue in this Order, are those that are intended

to indicate the prevailing market rate as of 11:00 a.m. Eastern Time. The 11:00 a.m. USD ISDAFIX rate is used for the cash settlement of options on interest rate swaps, or swaptions, and as a valuation tool for certain other interest rate products.

The Order finds that certain DBSI options and/or swaps traders understood and employed two primary means in their attempts to manipulate USD ISDAFIX rates: trading attempted manipulation and submission attempted manipulation.

### **Trading Attempted Manipulation**

According to the Order, DBSI attempted to manipulate the USD ISDAFIX by bidding, offering, and executing transactions in targeted interest rate products, including swap spreads and U.S. Treasuries at or near the critical 11:00 a.m. fixing time to affect rates on the electronic interest rate swap screen known as the “19901 screen” and thereby increase or decrease the Swaps Broker’s reference rates and influence the final published USD ISDAFIX. As evidenced in recorded calls and electronic communications, DBSI traders talked about “pushing” or “moving” the fix, or “getting the print” at a price, to benefit DBSI’s positions.

In order to effect these goals—through communications involving multiple DBSI traders, on more than one DBSI trading desk, spanning several years—DBSI Swap traders would tell the Swaps Broker their need for a certain swap level at 11:00 a.m. or their need to have the level moved up or down. On at least one occasion, the Swaps Broker expressed the need to know how much “ammo” certain DBSI traders had to use in order to move the screen at 11:00 a.m.

On February 28, 2007, for example, the Swaps Broker told a DBSI Swaps trader: “I had to do what I had to do to keep ‘em down, right...We got the print...50 is not going to hold it.” As this conversation demonstrates, the Swaps Broker fully understood that the DBSI trader wanted to keep the price down and get the print that would benefit DBSI’s position.

### **DBSI Traders Knew Their Conduct Was Illegal**

The Order finds, further, that DBSI traders knew their conduct in attempting to manipulate the USD ISDAFIX was illegal. On one occasion, when a DBSI Swaps trader stated to a broker, “I really have no desire to ever trade equities. It’s just a field day for the feds,” the broker responded: “this will be over soon as well and if they ever figured out exactly how

pricing happened through [the Swaps Broker] on a daily basis a lot of people would actually do jail time.”

### **Submission Attempted Manipulation**

The Order also finds that on certain days in which DBSI had a trading position settling or resetting against the USD ISDAFIX, certain DBSI Swaps Desk employees responsible for making USD ISDAFIX submissions (the “Submitter” or “Submitters”) attempted to manipulate the final published USD ISDAFIX rates by submitting rates that were false, misleading, or knowingly inaccurate because they purported to reflect DBSI’s honest view of the true costs of entering into an interest rate swap in particular tenors, but in fact reflected traders’ desire to move USD ISDAFIX higher or lower in order to benefit DBSI’s positions. Submitters made false submissions for DBSI by skewing the rates and spreads submitted to the Swaps Broker in the direction that could have moved the USD ISDAFIX setting to benefit DBSI’s trading positions.

DBSI memorialized its manipulative submissions conduct in a Swap Desk Guide, authored by a Submitter, which stated that: “Swap dealer desks submit 11 a.m. levels of rate and spreads for option striking purposes. The options desk may ask for specific levels.” The then-Head of the Swaps Desk at DBSI understood that if an Options trader asked the Swaps Desk for specific levels and the Submitter complied with that request, that would be wrong because that would be “fixing the rate.”

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DBSI has taken specified steps to implement and strengthen its internal controls and procedures relating to the fixing of interest-rate swaps benchmarks, including measures to detect and deter trading or other conduct potentially intended to manipulate directly or indirectly swap rates, including benchmarks based on interest-rate swaps and to ensure the integrity of the fixing of any interest-rate swap benchmark.

In the Order, the Commission advised that, under the circumstances, disqualification from making certain offerings should not arise under Rule 262(a) of Regulation A and Rule 506(d)(1) of Regulation D of the Securities and Exchange Commission (SEC), 17 C.F.R. §§ 230.262(a), 230.506(d)(1) (2017), as a consequence of the Order. In offering this advice, the Commission considered factors similar to those used by the SEC when it considers waivers of disqualification under Regulation A and Regulation D, as well as the previous waivers granted by the CFTC and the SEC in prior CFTC actions. Finally, the Commission’s advice is