The **ISDA 2014 Collateral Agreement Negative Interest Protocol** (the “Protocol”) was developed to address the concerns of ISDA members that if negative interest rates were to set in OIS benchmarks used as the Interest Rate for cash collateral it may be unclear how such negative rates should be treated under ISDA collateral documentation. The Protocol is meant to provide derivative market participants with greater certainty as to how negative benchmark OIS rates which are used as Interest Rates in ISDA collateral agreements are to be applied.

The ISDA Collateral Steering Committee (the “Steering Committee”) commissioned a study group comprising representatives from derivative dealers and end users (the “Study Group”), which met between December 2012 and April 2013. The Study Group was asked by the Steering Committee to advise on the issue of negative interest rates used in ISDA collateral agreements and how these should be reflected in market practice. The Study Group advised the Steering Committee of the following observations:

a) In 2012 and 2013 (i) negative benchmark OIS rates were observed to set in certain wholesale funding markets, including CHF and DKK; (ii) negative yields have at various times been implied by repo market pricing in some currencies; and (iii) LCH.Clearnet Limited applies negative interest rates for variation margin in certain currencies.

b) From a commercial perspective the Study Group thought that it was important and desirable that negative benchmark OIS rates flow through ISDA collateral agreements under certain circumstances, so that there is economic consistency between the wholesale funding markets (where much collateral is funded), the repo market (where much collateral is sourced or deposited) and the cleared OTC derivative market (where many collateralized trades are hedged). Any lack of consistency may have detrimental effects on market pricing transparency, and derivative market liquidity may be adversely impacted.

From April 2013 to April 2014, ISDA’s external counsel worked with a legal drafting group (the “Drafting Group”) to develop the Protocol in order to address the recommendations of the Study Group. The Protocol will be made available for adherence to market participants in May 2014.

The [Frequently Asked Questions](#) section is a resource for helping parties to understand the Protocol and how and when they may use it.

The view of the Study Group was that, in general, negative interest rates should be addressed in ISDA collateral documentation. The variation amongst ISDA collateral agreements resulted in different amendments amongst those agreements being required to achieve this goal. For
example, the length of the Protocol is due in part to the fact that it covers six ISDA collateral agreements. Another issue is that in some bilaterally negotiated ISDA collateral agreements the parties have agreed to certain changes to the determination of Interest Amount. Because there is no way to know the intent of the parties making these amendments, the Protocol excluded certain types of amendments in which case the parties may decide bilaterally how to handle negative interest rates which may include a side letter between them. It is worth noting that it was not the intent of the Study Group that the final disposition of excluded ISDA collateral agreements should differ from that of included ISDA collateral agreements, merely that the Study Group believed that this would need to involve bilateral discussion and resolution. Rates in some currencies are still persistently negative and even in the main currencies transient fluctuations towards zero have been noted; and the future potential for negative rates remains undiminished. Therefore, the Study Group believes that the issue of negative Interest Rates remains an important and timely issue to resolve.