

**The Foreign Exchange Committee
The Financial Markets Lawyers Group**

**33 Liberty St., 7th Floor
New York, NY 10045**

Commodity Exchange Act § 4s
Commission Regulation 23.431(a)(3)

April 17, 2013

Gary Barnett
Director, Division of Swap Dealer and Intermediary Oversight
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: The Foreign Exchange Committee and Financial Markets Lawyers Group – Request for No-action Relief Regarding Obligation to Provide Pre-Trade Mid-Market Quote

Dear Mr. Barnett:

The Foreign Exchange Committee (the “**FXC**”) is an industry group that has been providing guidance and leadership to the global foreign exchange market since 1978. The Committee includes representatives of major financial and non-financial institutions engaged in foreign currency trading in the United States.¹ The Financial Markets Lawyers Group (“**FMLG**”) is composed of lawyers who support foreign exchange and other financial markets trading in leading worldwide financial institutions.² Both the FXC and the FMLG are sponsored by the Federal Reserve Bank of New York.³

I. Introduction

Beginning May 1, 2013, registered swap dealers and major swap participants, including FXC and FMLG member financial institutions, will be required to comply with the core provisions of the external business conduct standards (the “**Business Conduct Standards**”).⁴ The Business Conduct Standards require swap dealers and major swap participants, among other things, to provide each counterparty or

¹ The FXC includes members from the sell-side and buy-side. The FXC firms signing on to this letter are: Banco Itau BBA; Bank of America Merrill Lynch; Barclays; BlackRock; Citigroup; CLS Bank International; Credit Agricole CIB; Deutsche Bank; EBS; Fischer Francis Trees & Watts; FX Concepts; Goldman Sachs & Co.; HSBC; JP Morgan Chase; Mellon Capital; Microsoft Corporation; Mizuho Corporate Bank; QFR Capital Management; Standard Chartered; State Street Bank and Trust Company; TD Securities; The Royal Bank of Scotland plc; Thomson Reuters; UBS; and Wells Fargo.

² The FMLG includes members from the following institutions signing on to this letter: Bank of America, NA; Barclays; BNP Paribas; Citigroup Global Markets Inc.; CLS Bank International; Credit Suisse; Deutsche Bank; Goldman Sachs & Co.; HSBC Securities (USA) Inc. (affiliate member); JP Morgan Chase & Co.; Morgan Stanley; Royal Bank of Canada; Standard Chartered Bank; State Street Bank and Trust Company; The Bank of New York Mellon; UBS AG; U.S. Bank National Association; and Wells Fargo.

³ Although the FXC and the FMLG are sponsored by the Federal Reserve Bank of New York, this request letter is not endorsed by the Federal Reserve Bank of New York or the Federal Reserve System.

⁴ 17 C.F.R. §§ 23.400—23.451. *See* Business Conduct and Documentation Requirements for Swap Dealers and Major Swap Participants; Extension of Compliance Date, 78 Fed. Reg. 17 (Jan. 2, 2013); Business Conduct Standards for Swap Dealers and Major Swap Participants With Counterparties, 77 Fed. Reg. 9734 (Feb. 17, 2012) (the “**Business Conduct Release**”).

potential counterparty with whom the swap dealer or major swap participant intends to enter into an FX Transaction in the over-the-counter market: “[a]t a reasonably sufficient time prior to entering into [the FX Transaction]... the price of the [FX Transaction]... and the mid-market mark of the [FX Transaction]...” (the “**Pre-Trade Mid-Market Mark**” and such requirement, the “**Pre-Trade Mid-Market Mark Requirement**”).⁵

On December 6, 2012, the Commission’s Division of Swap Dealer and Intermediary Oversight (“**DSIO**”) issued a no-action letter⁶ in response to a request from the FXC and FMLG. In that letter, the Division granted no-action relief from the Pre-Trade Mid-Market Mark Requirement with respect to “Covered Forex Transactions”, subject to the conditions stated in the letter. The DSIO stated that it would consider extending the no-action relief to other transactions, if sufficient data and other relevant information are submitted to it establishing the appropriateness of an extension.⁷

II. Request for No-action Letter

The FXC and FMLG believe that the data submitted in Exhibits A and B establishes that an extension of the transactional scope of CFTC Letter No. 12-42 is warranted. Therefore, we request that the DSIO provide no-action relief from the Pre-Trade Mid-Market Mark Requirement in connection with: (i) foreign exchange forwards or swaps, whether deliverable or non-deliverable, where each currency is one included among the top 31 currencies (by percentage share of average daily turnover) described in the Bank for International Settlements’ Triennial Central Bank Survey Report on global foreign exchange market activity in 2010 (“**BIS 31 Currencies**”)⁸ and the transaction has a stated maturity of two years or less, (ii) vanilla, foreign exchange options, whether deliverable or non-deliverable, where each currency is one included among the BIS 31 Currencies and the option has a stated maturity of two years or less, and (iii) multi-component transactions comprised entirely of a combination and/or series of the foregoing transactions (collectively, “**Covered BIS 31 Forex Transactions**”).

III. Discussion

As reflected in the data attached as Exhibit B, the standard deviation of individual dealers’ mids (derived as the arithmetic mean of the dealer’s indicative bid and ask quotations provided to Bloomberg) from the publicly available mid (i.e., the arithmetic mean of the composite bid and the composite ask displayed on Bloomberg) in respect of Covered BIS 31 FX Transactions is well-bounded by the average bid-ask spread (as derived from the composite bid and ask quotations displayed on Bloomberg). This result demonstrates that the additional informational content that would be provided by the Pre-Trade Mid-Market Mark is minimal. Although the Covered BIS 31 Forex Transactions extend both into less

⁵ 17 C.F.R. §23.431(a)(3). The Pre-Trade Mid-Market Mark Requirement is not specifically required by the Act but was adopted by the Commission pursuant to Section 4s(h)(3)(B)(ii) of the Act. That provision requires a swap dealer and major swap participant to disclose “any material incentives or conflicts of interest that the swap dealer or major swap participant may have in connection with the swap.” See Business Conduct Release at 9765.

⁶ CFTC Letter No. 12-42 (Dec. 6, 2012).

⁷ *Id.* at 4.

⁸ These are composed of the following: US dollar, Euro, Japanese yen, Pound sterling, Australian dollar, Swiss franc, Canadian dollar, Hong Kong dollar, Swedish krona, New Zealand dollar, Korean won, Singapore dollar, Norwegian krona, Mexican peso, Indian rupee, Russian rouble, Chinese renminbi, Polish zloty, Turkish lira, South African rand, Brazilian real, Danish krone, New Taiwan dollar, Hungarian forint, Malaysian ringgit, Thai baht, Czech koruna, Philippine peso, Chilean peso, Indonesian rupiah, Israeli new shekel. See Triennial Central Bank Survey - Report on Global Foreign Exchange Market Activity in 2010, Bank for International Settlements, page 12, Table B.4 (available at www.bis.org/publ/rpfxfl0t.pdf) (reproduced as Exhibit A hereto).

liquid currencies and less liquid tenors than Covered Forex Transactions, we chose a cutoff in both tenors and currencies such that the data analysis appeared to us to yield results that are qualitatively consistent with the BIS 13 analysis (albeit with larger spreads in some cases).

Our data analysis did not include multi-component transactions described in prong (iii) of the definition of Covered BIS 31 Forex Transactions. Because the Pre-Trade Mid-Market Mark for a multi-component transaction is derivable by simple arithmetic from the Pre-Trade Mid-Market Mark for each of its components, the conclusion above regarding the lack of informational content applies equally to such transactions.

The graphs and calculations shown in Exhibit B are the result of the FMLG's efforts to present the data in a meaningful manner by exhibiting results from across the range of BIS 31 currencies (ranked by average daily turnover) and for a range of tenors.⁹ All raw data and calculations are included in Confidential Exhibit C to facilitate verification and review by the DSIO.

IV. Conclusion

For the reasons stated above and as described in more detail in the Exhibits, the FXC and FMLG respectfully request the DSIO issue the requested no-action relief.

Please do not hesitate to contact the FXC's and the FMLG's legal counsel, Joshua Cohn of Mayer Brown LLP, at 212-506-2539 or jcohn@mayerbrown.com, should you have any questions regarding our request.

⁹ The graphs in Exhibit B are presented for illustrative purposes only and should not be regarded as an exhaustive examination of the raw data set.

Gary Barnett
April 17, 2013
Page 4

Sincerely,

The Foreign Exchange Committee

By: _____
Jeff Feig, ~~Committee Chair~~

By: _____
Adnan Akant, Buy Side Chair

The Financial Markets Lawyers Group

By: _____
Jeff Lillian

cc: Hon. Gary Gensler, Chairman
Hon. Jill E. Sommers, Commissioner
Hon. Bart Chilton, Commissioner
Hon. Scott D. O'Malia, Commissioner
Hon. Mark P. Wetjen, Commissioner
Commodity Futures Trading Commission
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Gary Barnett
April 17, 2013
Page 4

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1155 21st Street NW
Washington, DC 20581

Gary Barnett
April 17, 2013

UNDERTAKING AND CERTIFICATION

I, the undersigned, a representative member of the FMLG who has been duly appointed to sign this Undertaking and Certification on behalf of the FMLG, hereby undertake that I will notify U.S. Commodity Futures Trading Commission staff promptly if any of the representations made in connection with or related to the FXC's and FMLG's Request for No-action Relief dated April 17, 2013 cease to be true or correct, or become incomplete or misleading.

I hereby certify that the material facts set forth in the attached letter dated April 17, 2013 are true and complete to the best of my knowledge.


Signed: 
Name: Jeff Buller
Date: April 17, 2013

EXHIBIT A

BIS 31 CURRENCIES

Currency distribution of global foreign exchange market turnover¹
Percentage shares of average daily turnover in April

Currency	1998	2001	2004	2007	2010
US dollar	86.8	89.9	88.0	85.6	84.9
Euro	...	37.9	37.4	37.0	39.1
Japanese yen	21.7	23.5	20.8	17.2	19.0
Pound sterling	11.0	13.0	16.5	14.9	12.9
Australian dollar	3.0	4.3	6.0	6.6	7.6
Swiss franc	7.1	6.0	6.0	6.8	6.4
Canadian dollar	3.5	4.5	4.2	4.3	5.3
Hong Kong dollar	1.0	2.2	1.8	2.7	2.4
Swedish krona	0.3	2.5	2.2	2.7	2.2
New Zealand dollar	0.2	0.6	1.1	1.9	1.6
Korean won	0.2	0.8	1.1	1.2	1.5
Singapore dollar	1.1	1.1	0.9	1.2	1.4
Norwegian krone	0.2	1.5	1.4	2.1	1.3
Mexican peso	0.5	0.8	1.1	1.3	1.3
Indian rupee	0.1	0.2	0.3	0.7	0.9
Russian rouble	0.3	0.3	0.6	0.7	0.9
Chinese renminbi	0.0	0.0	0.1	0.5	0.9
Polish zloty	0.1	0.5	0.4	0.8	0.8
Turkish lira	...	0.0	0.1	0.2	0.7
South African rand	0.4	0.9	0.7	0.9	0.7
Brazilian real	0.2	0.5	0.3	0.4	0.7
Danish krone	0.3	1.2	0.9	0.8	0.6
New Taiwan dollar	0.1	0.3	0.4	0.4	0.5
Hungarian forint	0.0	0.0	0.2	0.3	0.4
Malaysian ringgit	0.0	0.1	0.1	0.1	0.3
Thai baht	0.1	0.2	0.2	0.2	0.2
Czech koruna	0.3	0.2	0.2	0.2	0.2
Philippine peso	0.0	0.0	0.0	0.1	0.2
Chilean peso	0.1	0.2	0.1	0.1	0.2
Indonesian rupiah	0.1	0.0	0.1	0.1	0.2
Israeli new shekel	...	0.1	0.1	0.2	0.2
Colombian peso	...	0.0	0.0	0.1	0.1
Romanian leu	0.0	0.0	0.1
Saudi riyal	0.1	0.1	0.0	0.1	0.1
Argentine peso	0.1	...	0.0	0.0	0.0
Peruvian nuevo sol	...	0.0	0.0	0.0	0.0
Lithuanian litas	0.0	0.0	0.0
Other currencies	8.7	6.6	6.5	7.6	4.6
All currencies	200.0	200.0	200.0	200.0	200.0

¹ Because two currencies are involved in each transaction, the sum of the percentage shares of individual currencies totals 200% instead of 100%. Adjusted for local and cross-border inter-dealer double-counting (ie "net-net" basis).

Table B.4

BIS 31



EXHIBIT B

MID-PRICE DATA ANALYSIS

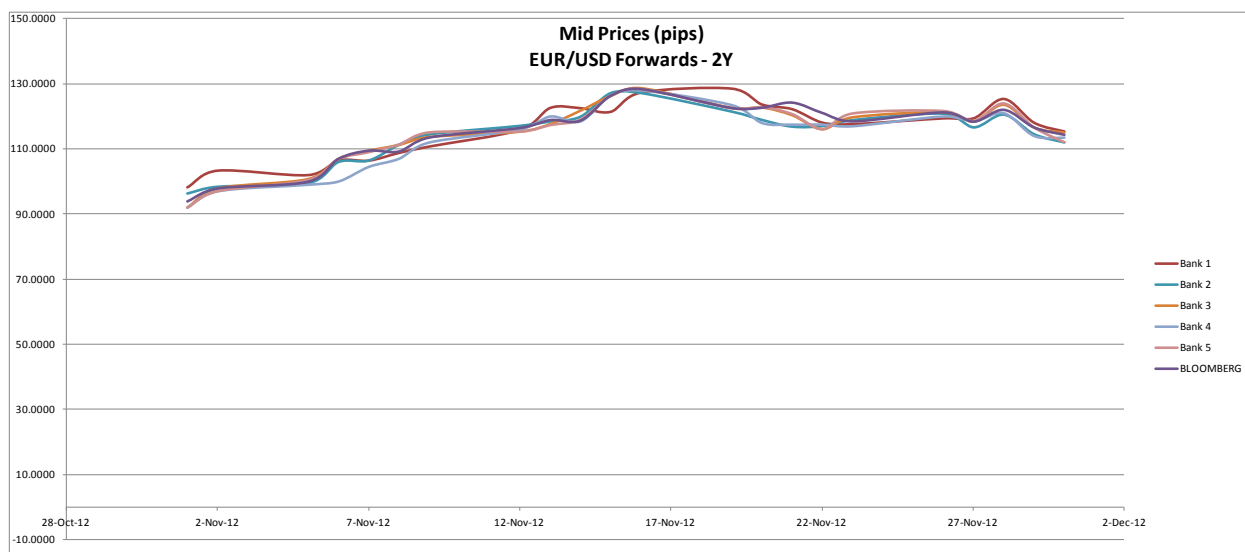
MID MARKET RESULTS

We extend the analysis performed for BIS 13, for the top 31 currencies according to market share, and considering tenors out to two years. Please refer to the BIS 13 data analysis document for details on the calculations and analysis.

This time, we used banks' contributions to Bloomberg for the analysis, as opposed to requesting data to individual banks. We analyze quotes for both options and forwards compiled by Bloomberg for the month of November of 2012.

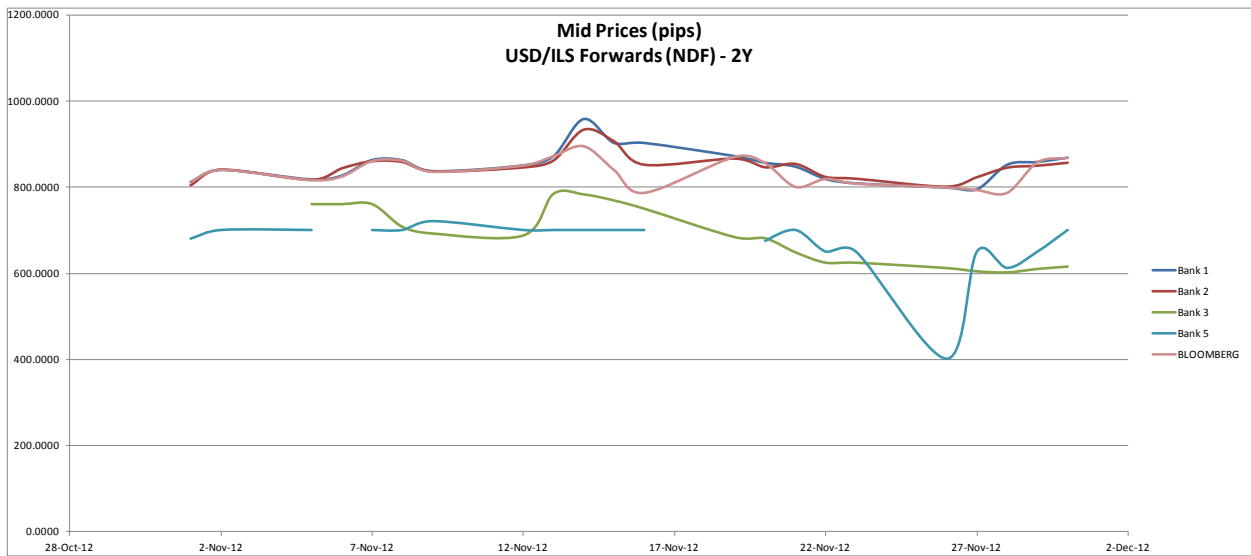
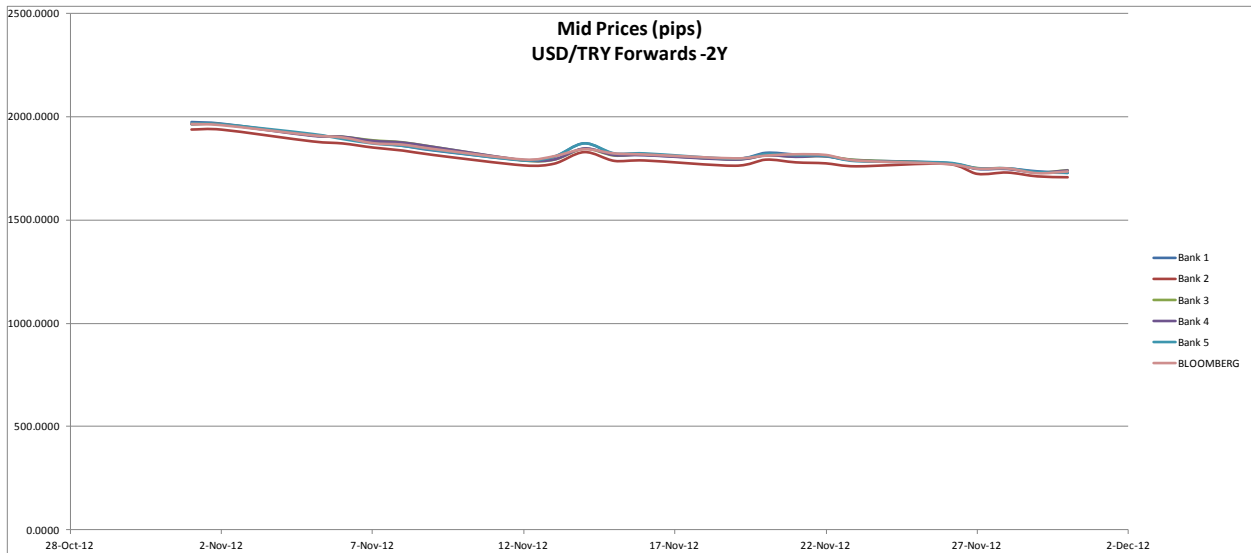
FORWARDS

This is for instance how Euro (EUR) forwards look like at 2Y tenors:

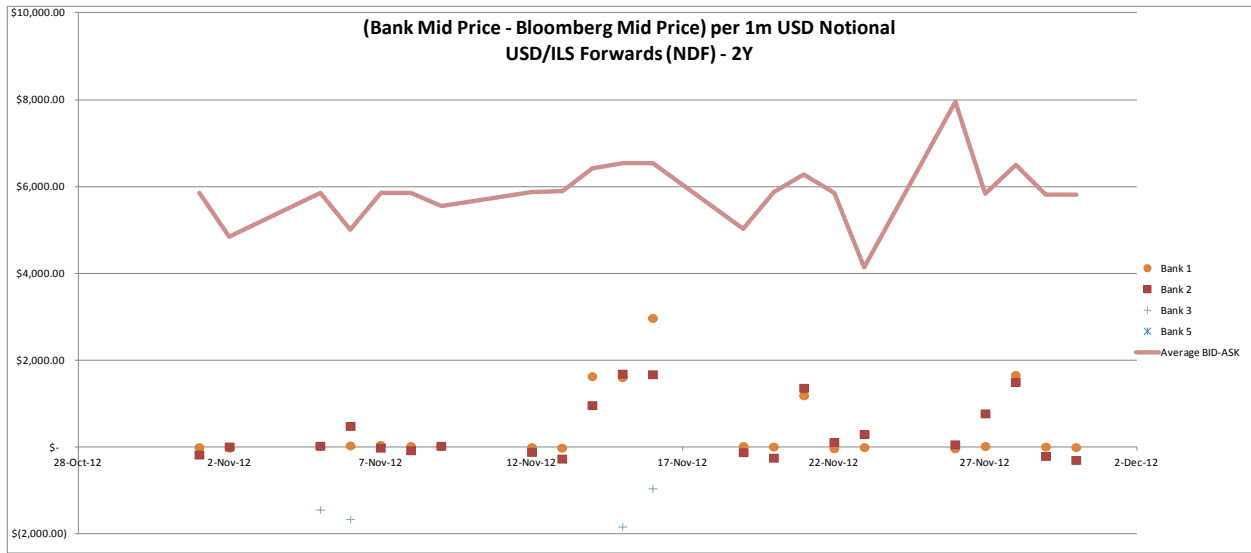


Similarly to the 1Y EUR forward quotes shown for BIS 13, all mids here are very close to each other, but a bit more dispersed, because it is a longer tenor, so the market is not as deep as for 1Y.

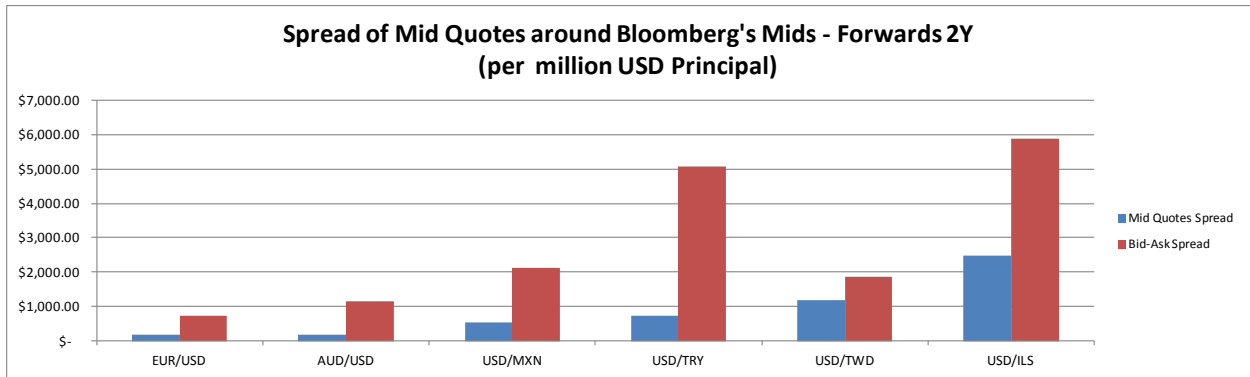
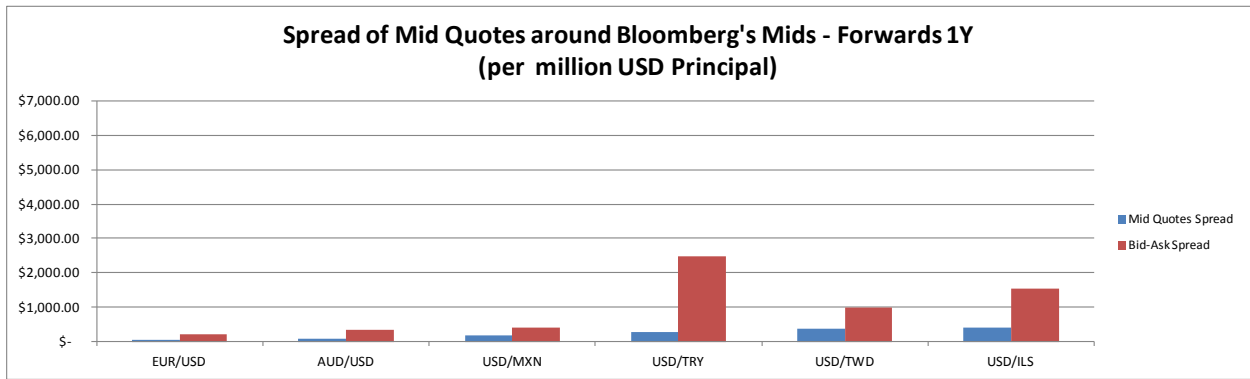
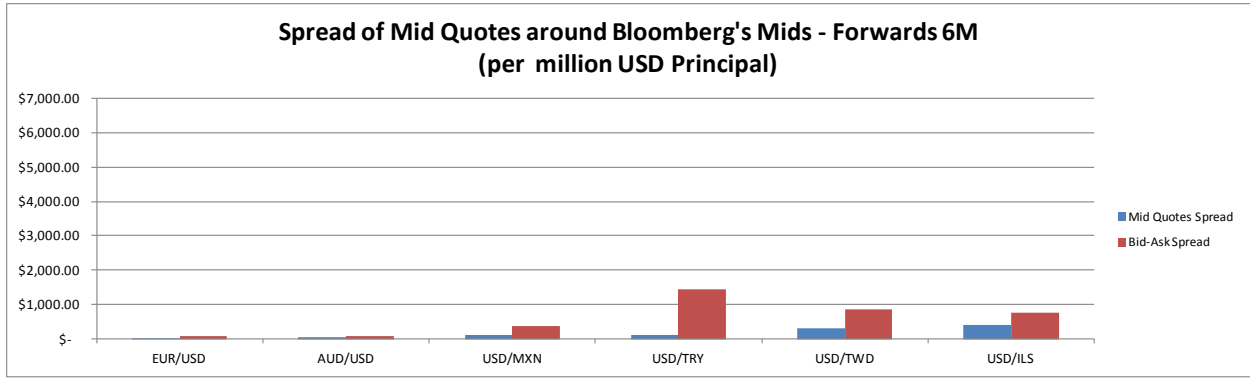
As we move to less liquid currencies, the mids are less close to each other, but still highly correlated and clustered around publically available data. We next show Turkish Lira (TRY, around the middle of the BIS 31 list, as sorted by market share), and Israeli Shekel (ILS, at the bottom of the list).



As in BIS 13, in order to make these differences more tangible, we take each bank's mid-point (arithmetic mean of bid and ask), and compare it with Bloomberg's mid-point. The difference between the two quotes is turned into a dollar amount (per million USD of traded notional) as described in the BIS13 document. This is how it looks for the least liquid currency (ILS) at the longest tenor (2Y):



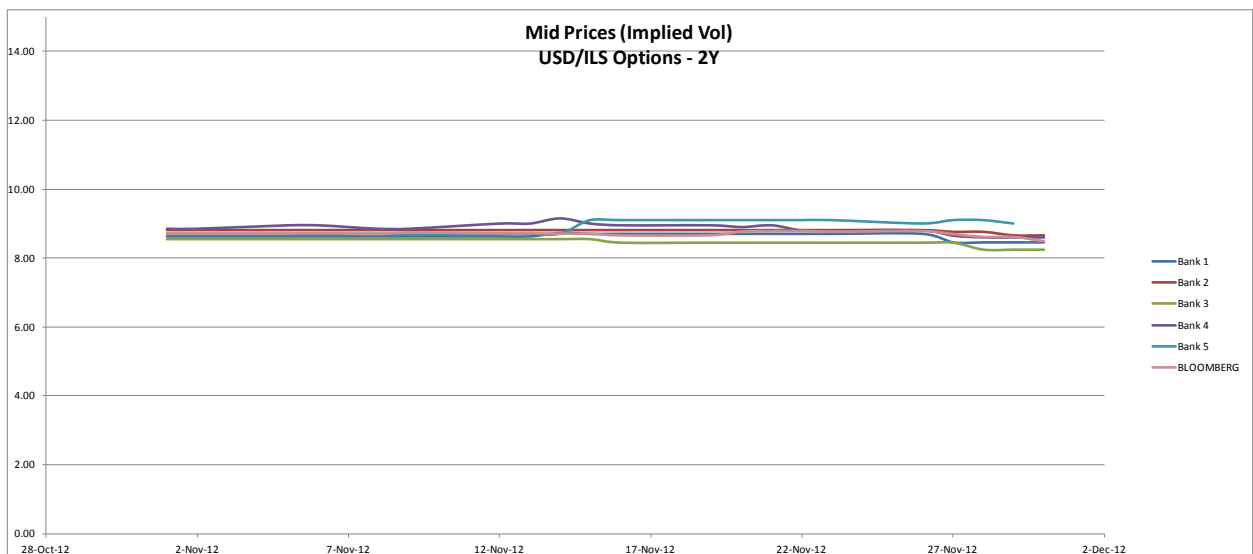
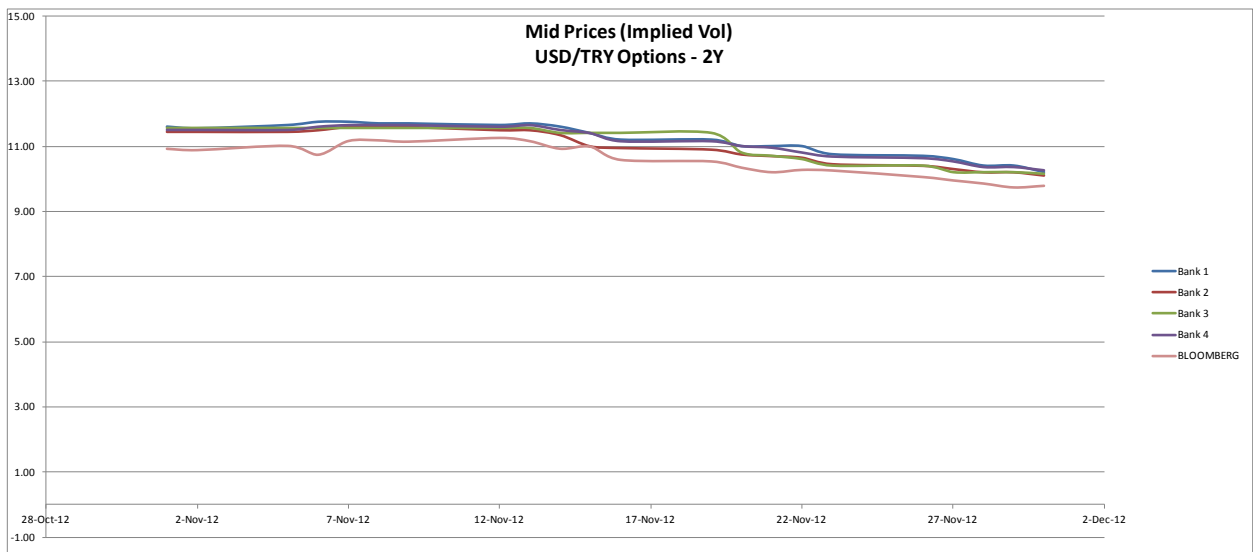
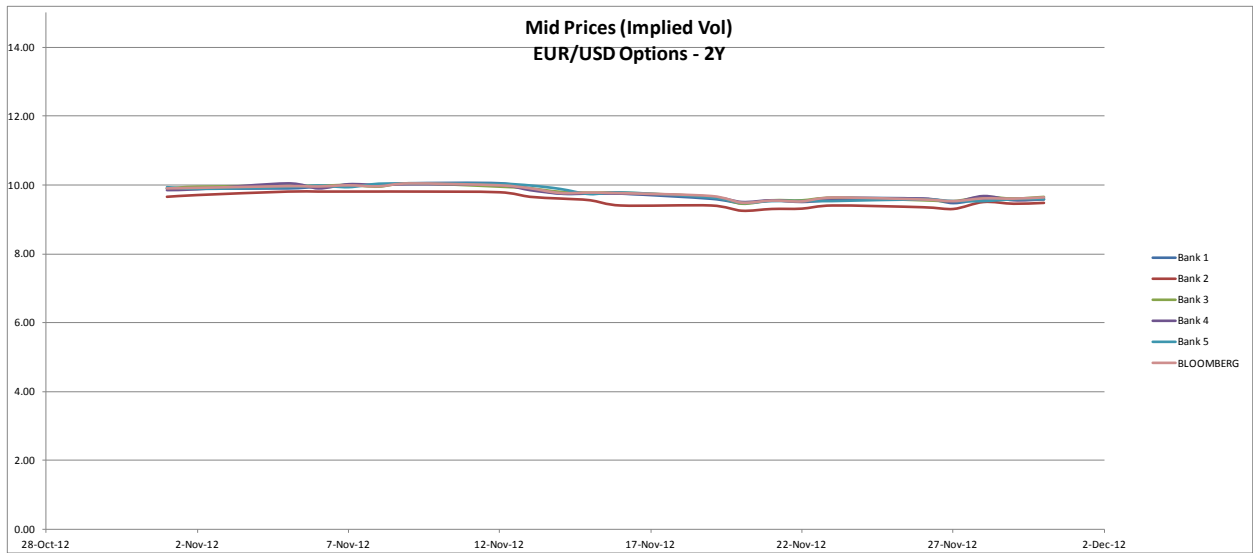
Note that, as a reference, we show the average bid-ask spread for each day, also as a dollar amount per million USD. In order to summarize this information, we compute the standard deviation of all these midpoint values (relative to Bloomberg), and the average bid-ask spread for each currency pair, to obtain:

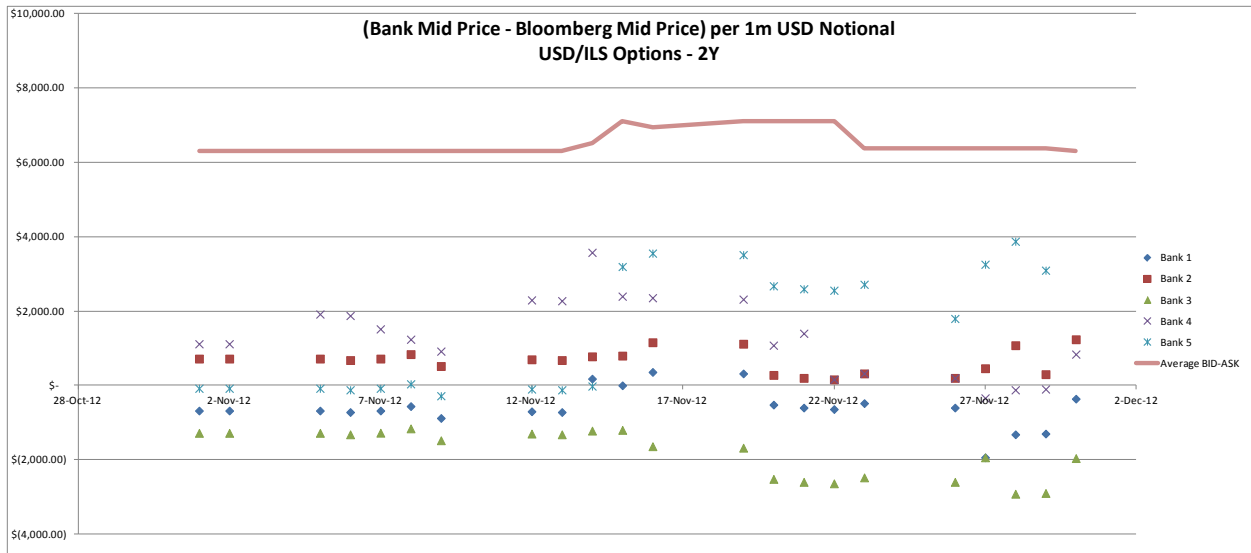


Note that the mids are well bounded (or predicted) by the bid ask spread in all cases.

OPTIONS

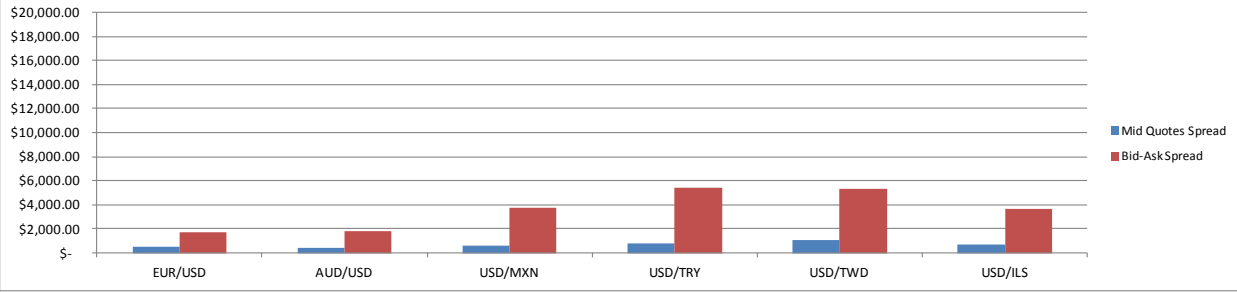
For options, a similar pattern is observed. We attach all the plots in the Appendix below. Here we just summarize with a sample of representative plots, corresponding to the ones in the previous section



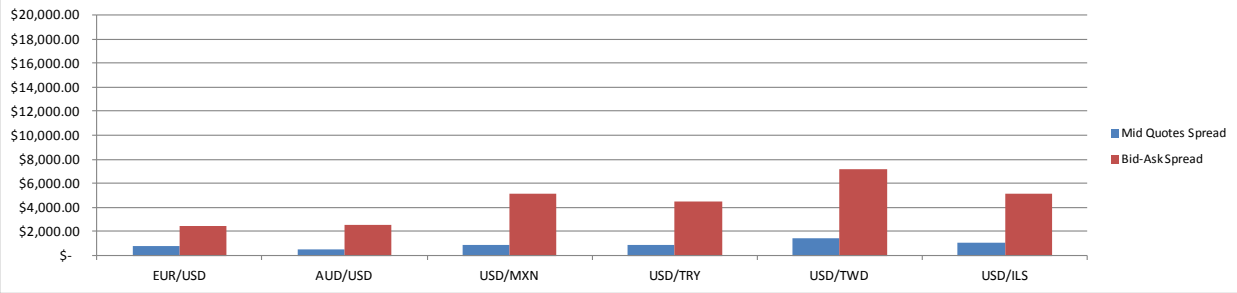


The pattern is very similar to what we see with the forwards, but the spreads are all larger in dollar amounts, because options are riskier than forwards. The summary of the mid dispersion illustrates that:

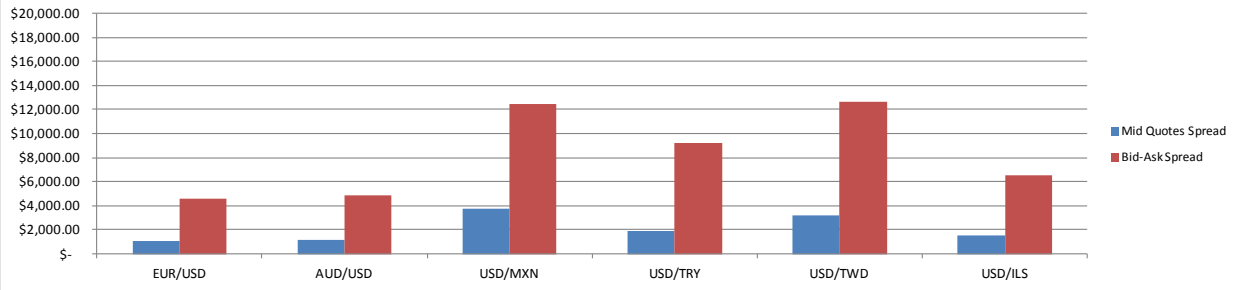
**Spread of Mid Quotes around Bloomberg's Mids - Options 6M
(per million USD Principal)**



**Spread of Mid Quotes around Bloomberg's Mids - Options 1Y
(per million USD Principal)**

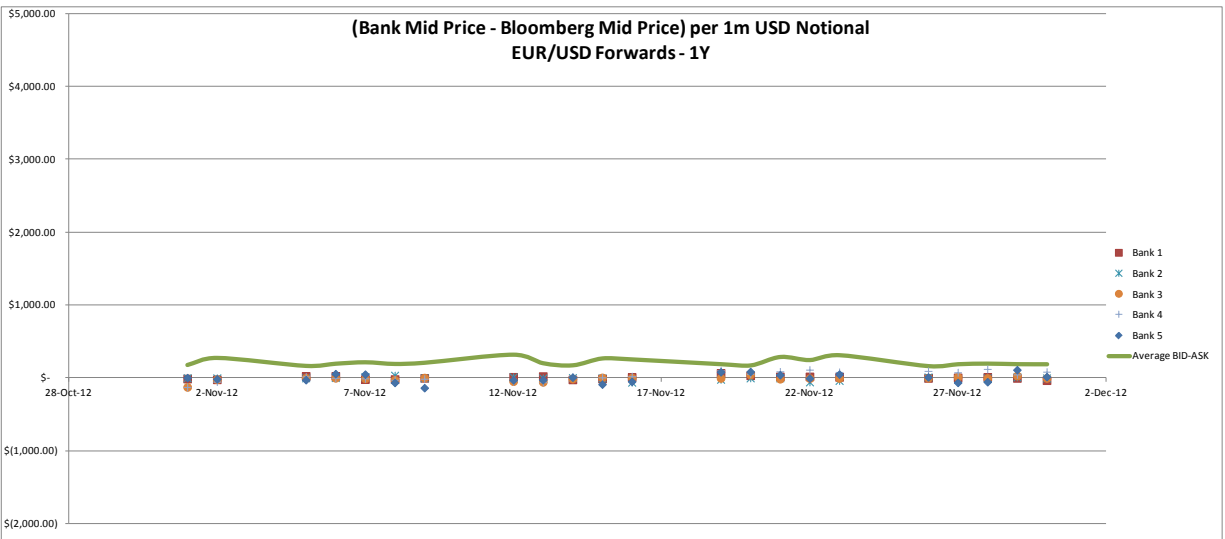
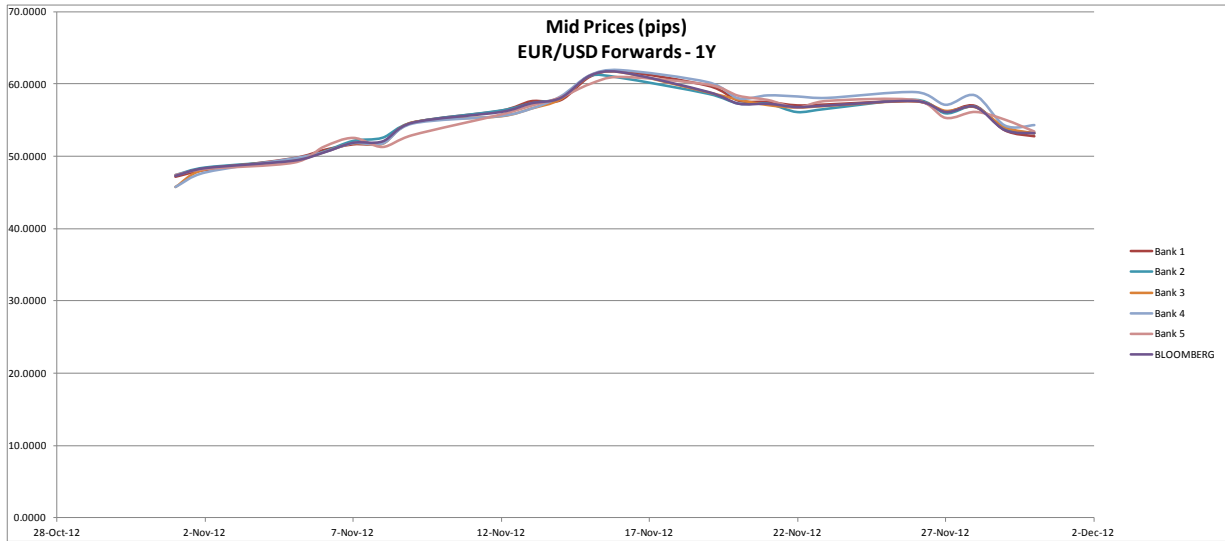
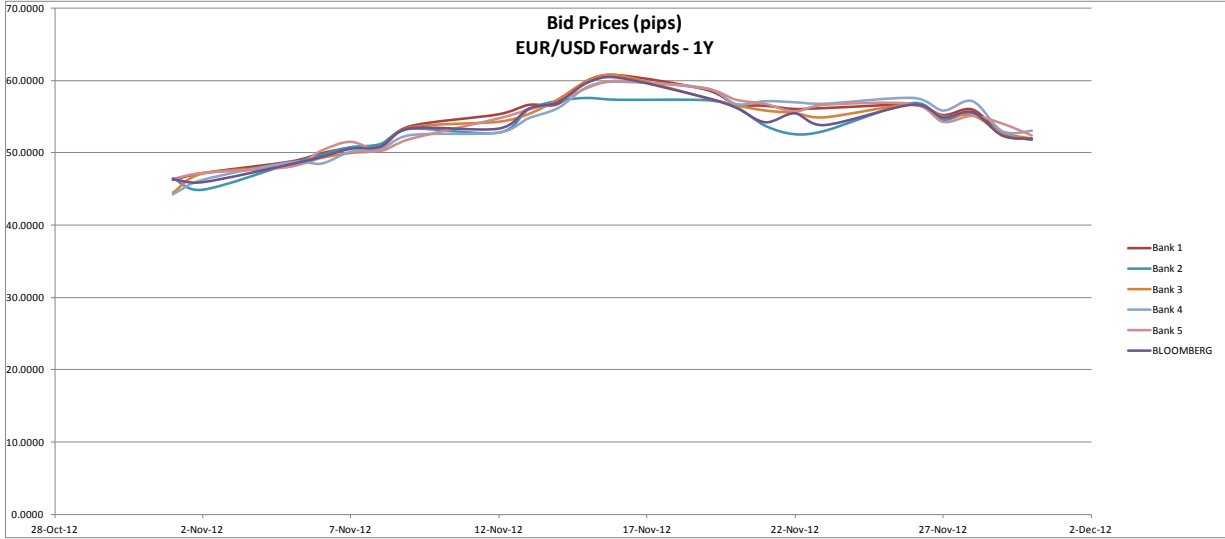


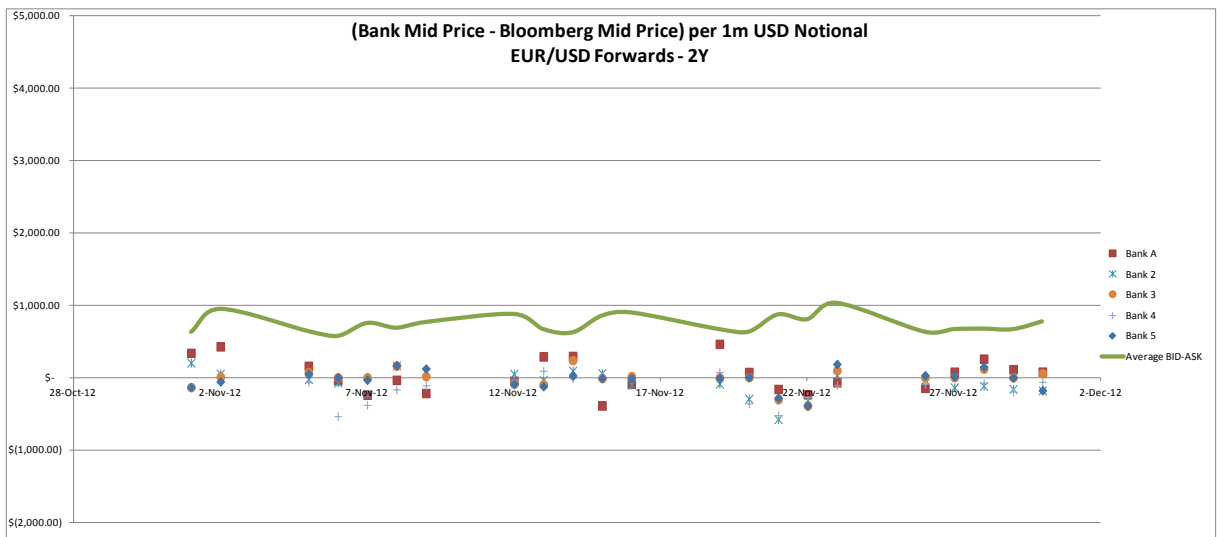
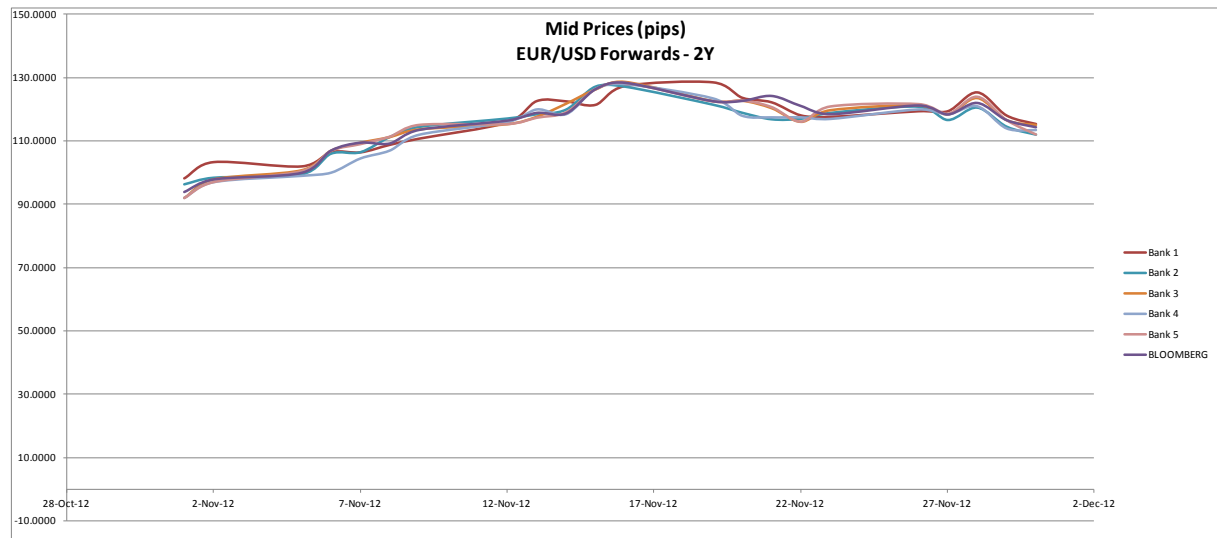
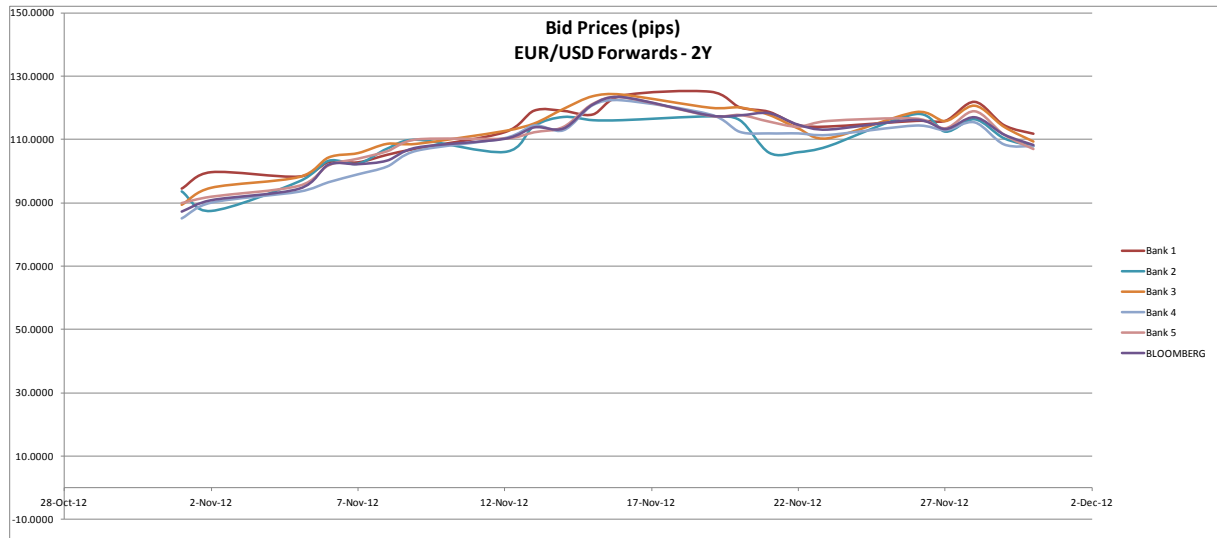
**Spread of Mid Quotes around Bloomberg's Mids - Options 2Y
(per million USD Principal)**

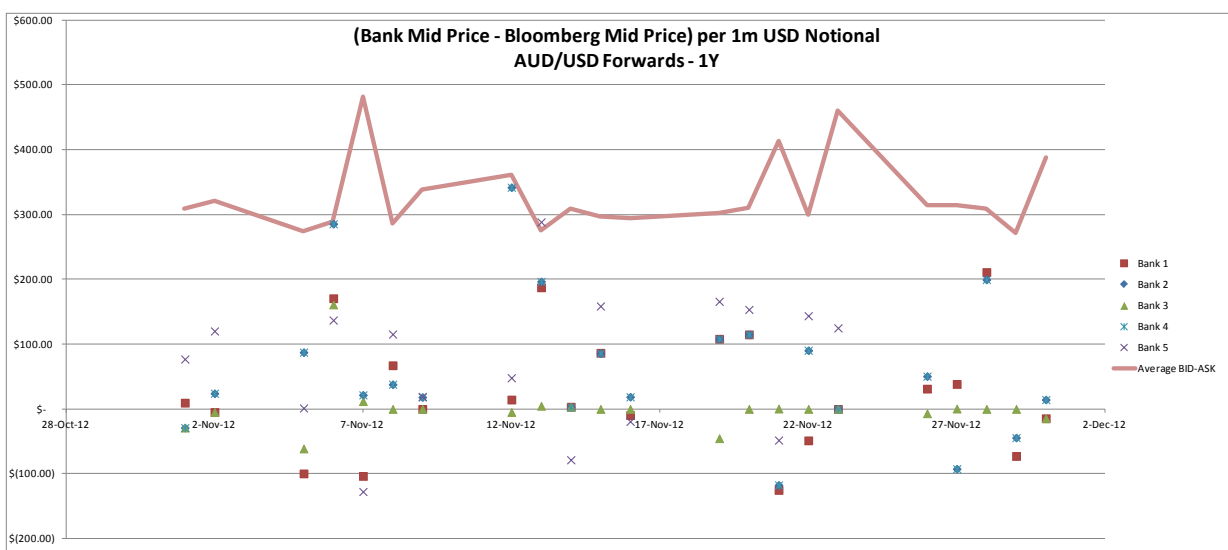
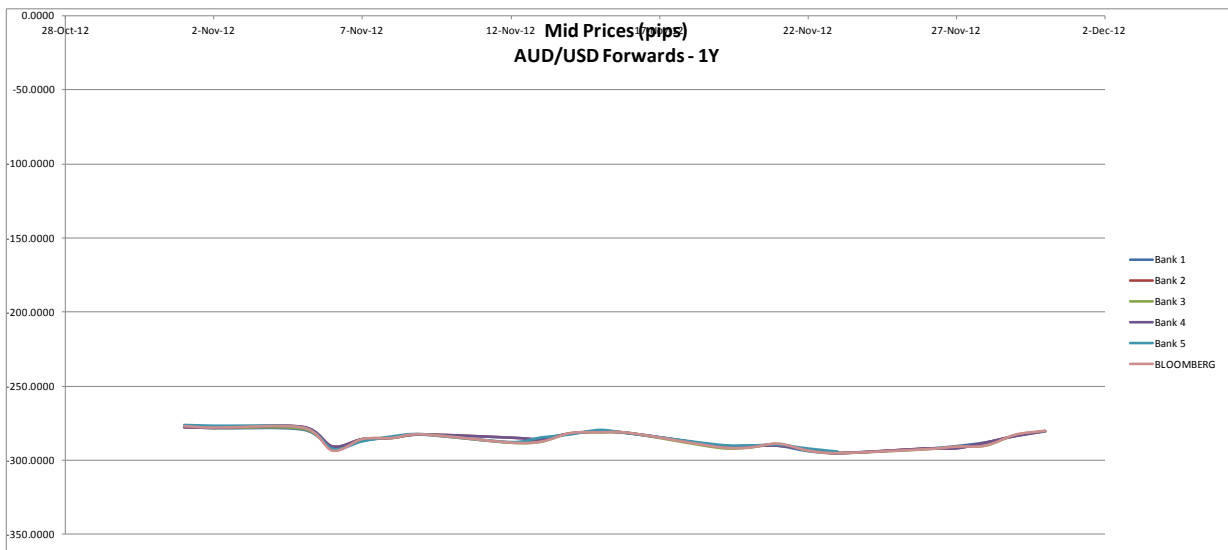
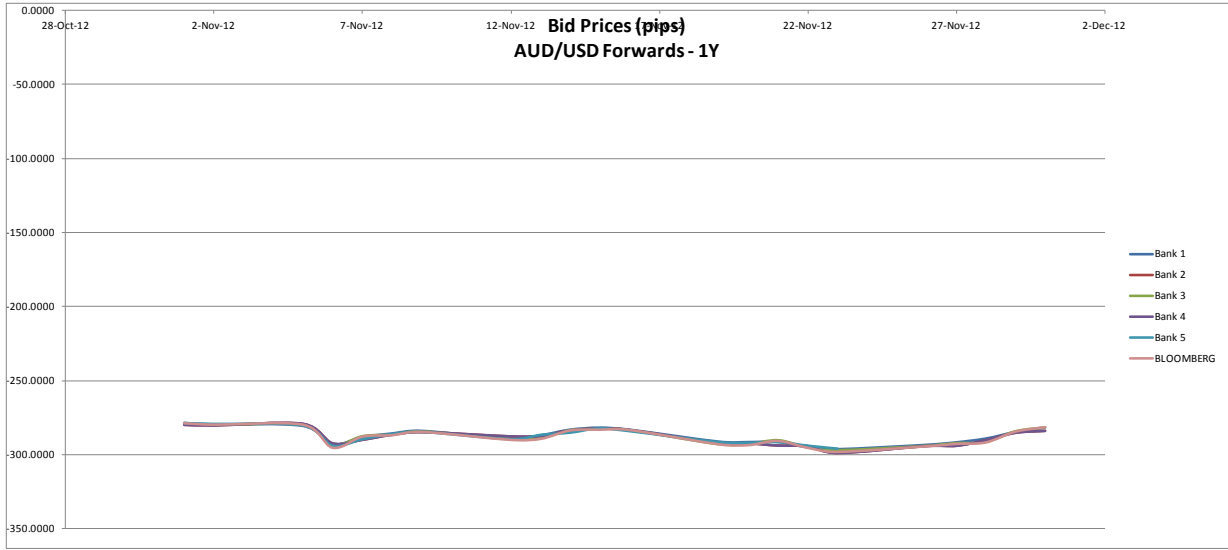


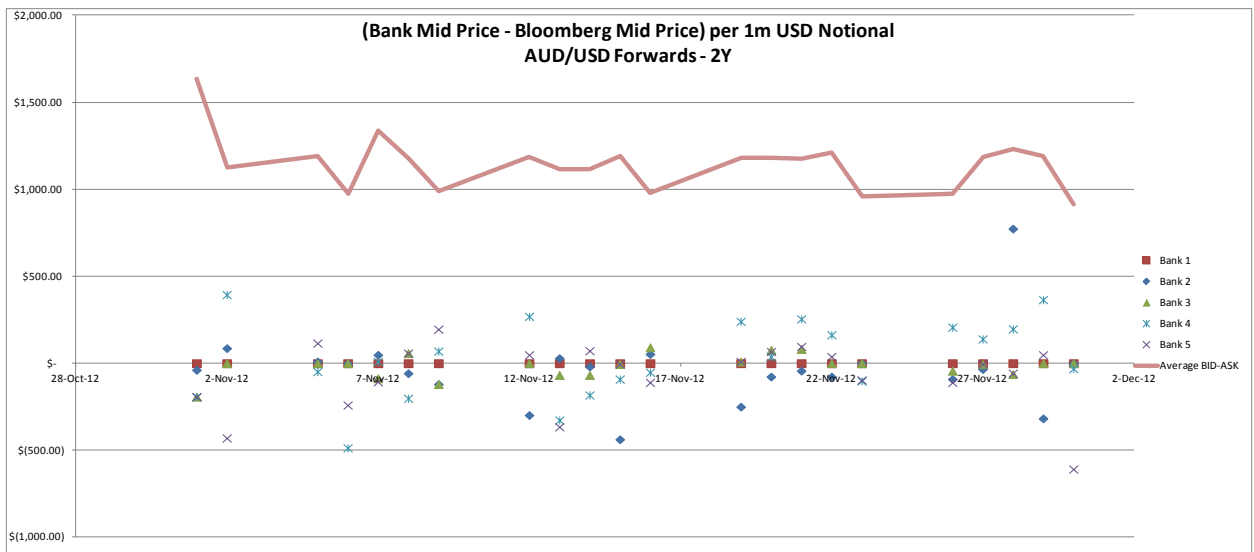
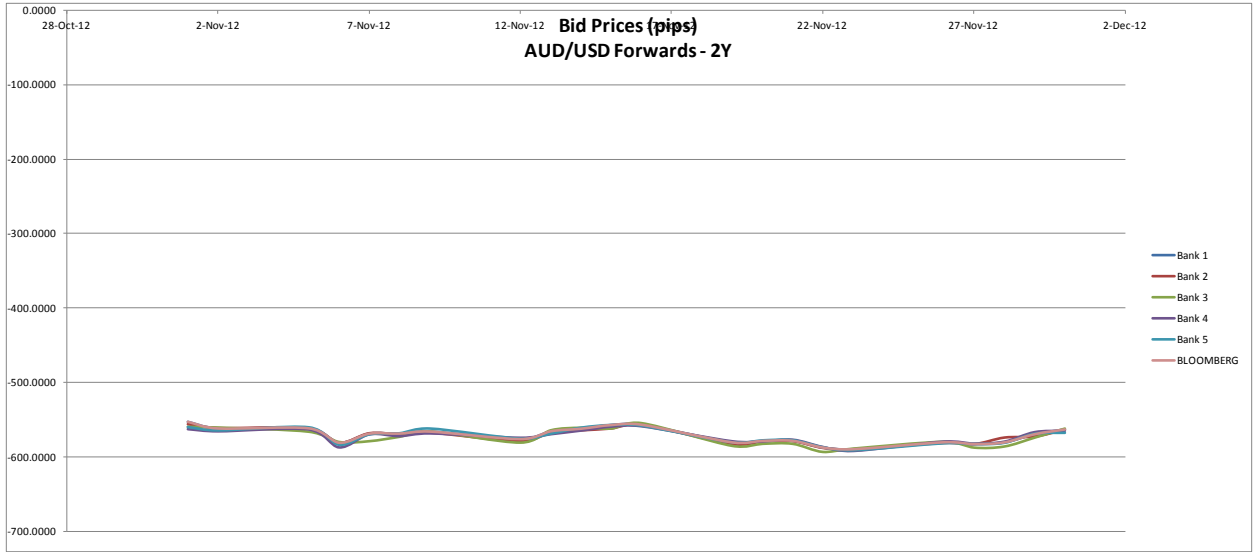
APPENDIX I, ALL FORWARDS

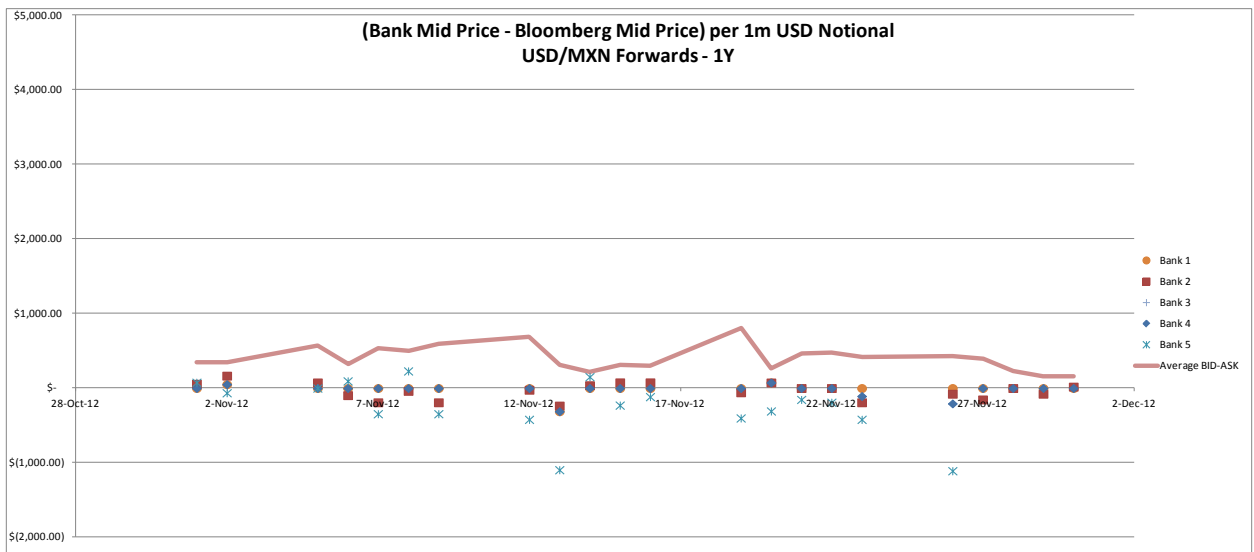
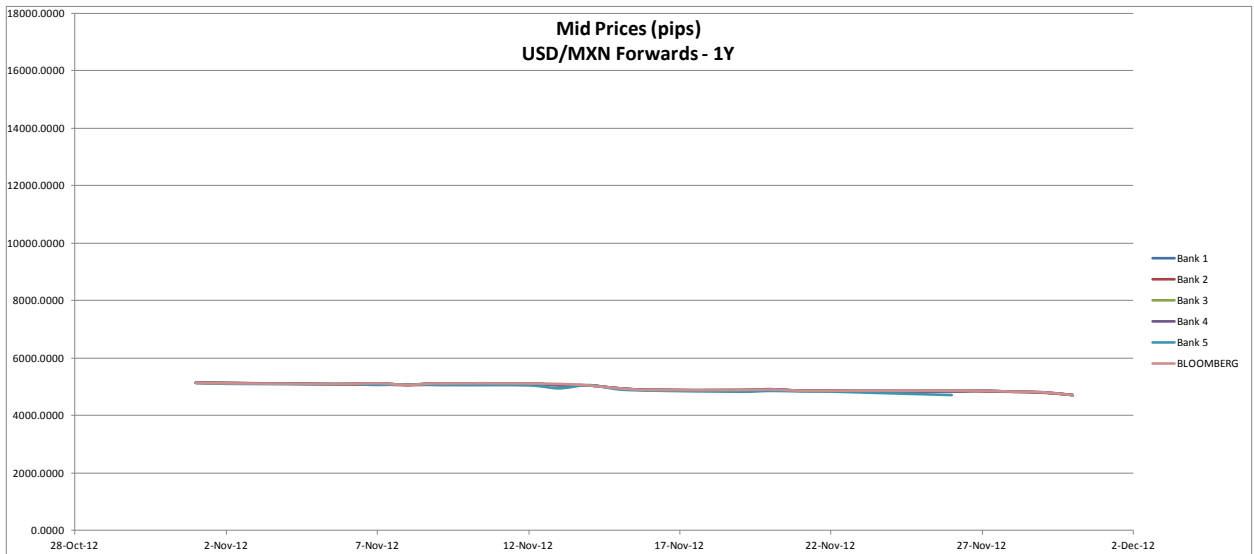
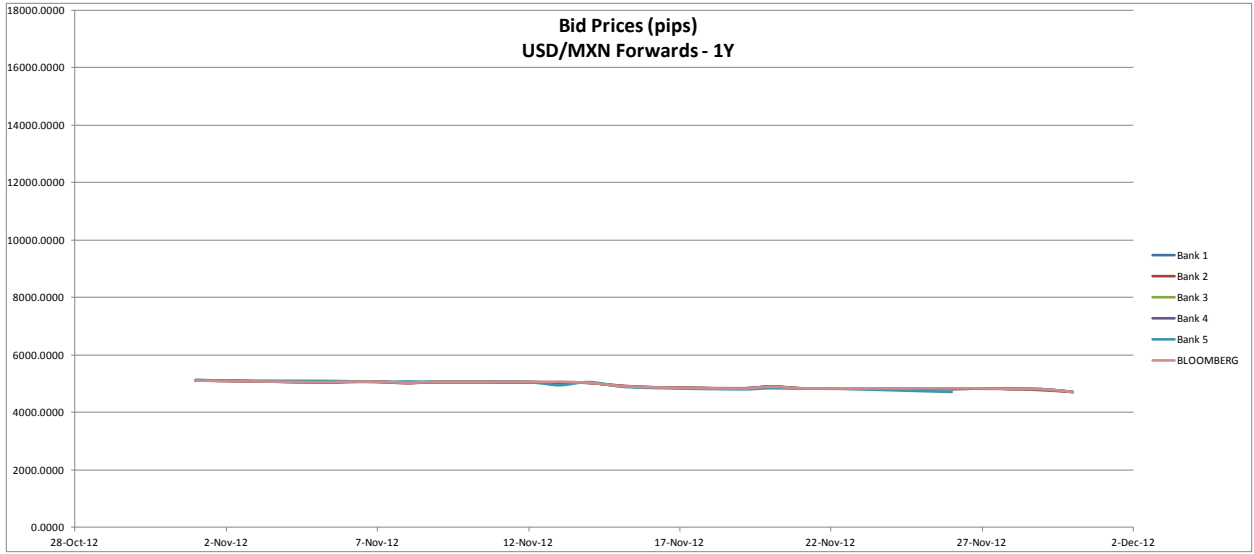
Here we attach the 1Y and 2Y plots for the analyzed currencies. Forwards are shown in this appendix, and options in the next one. The source spreadsheets, with the original data and calculations (and some additional), are attached to this submission.

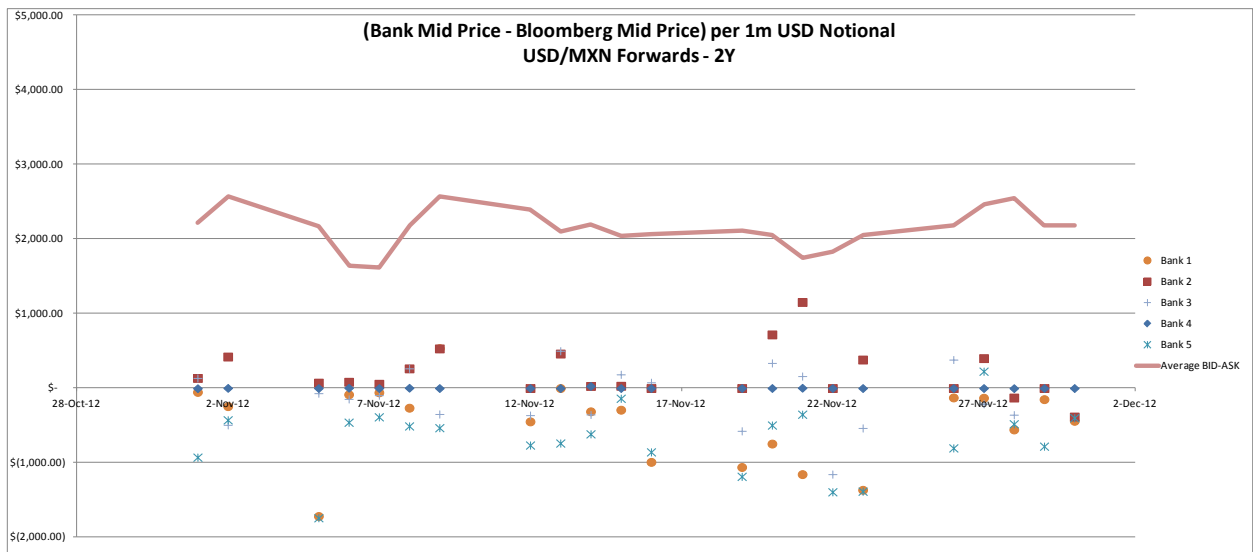
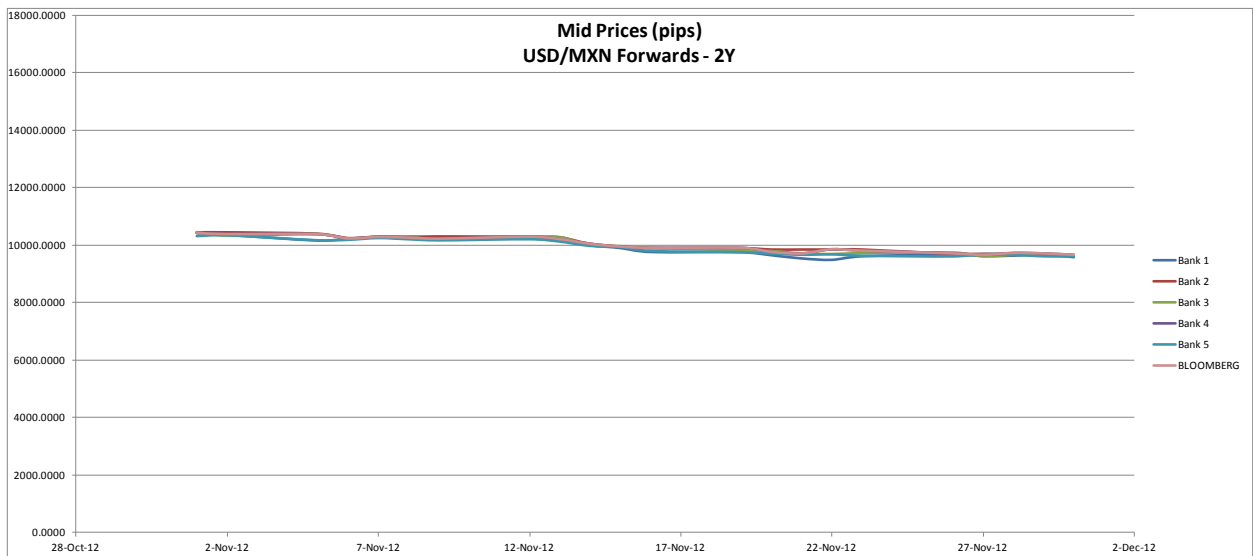
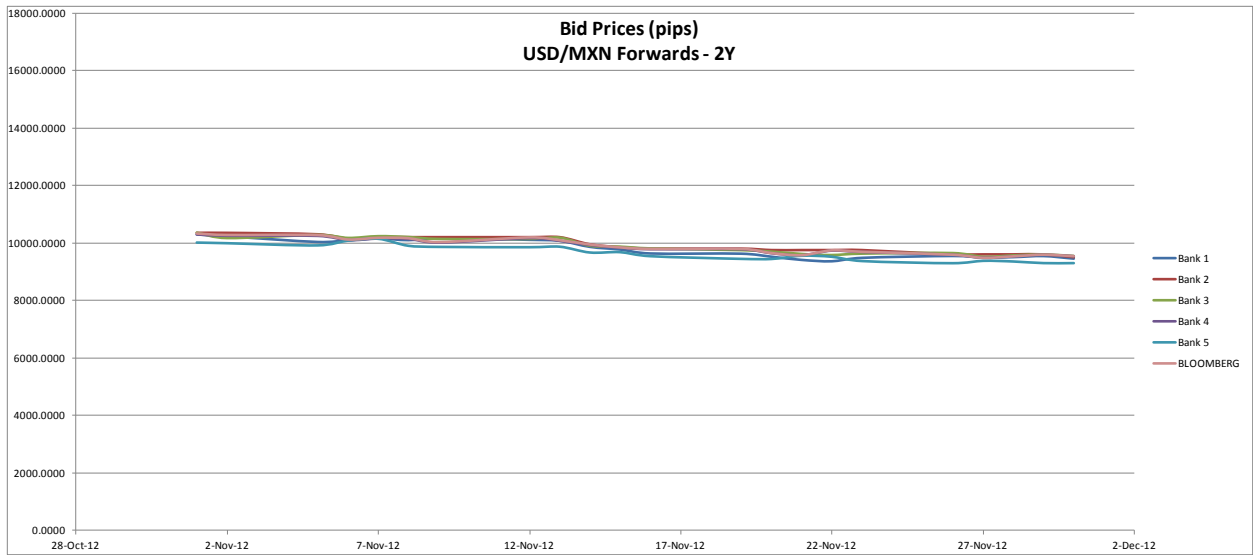


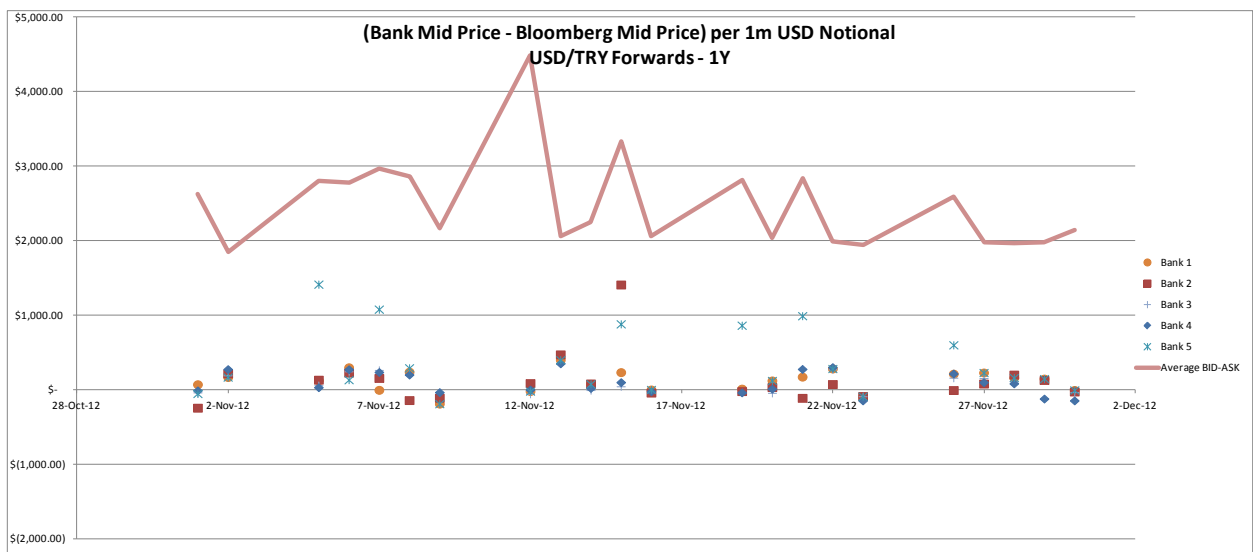
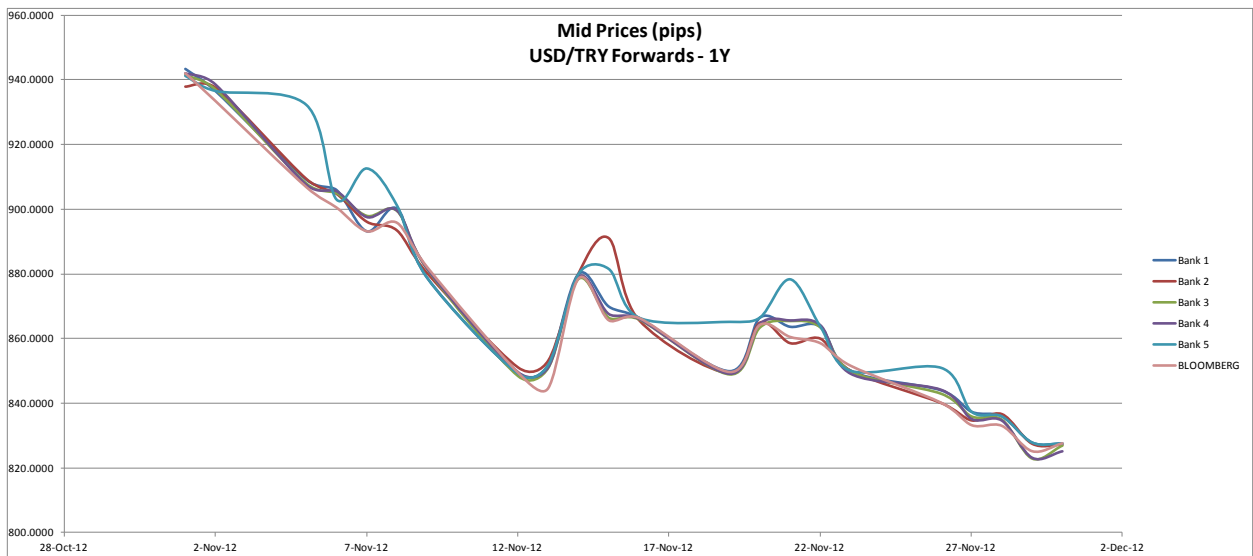
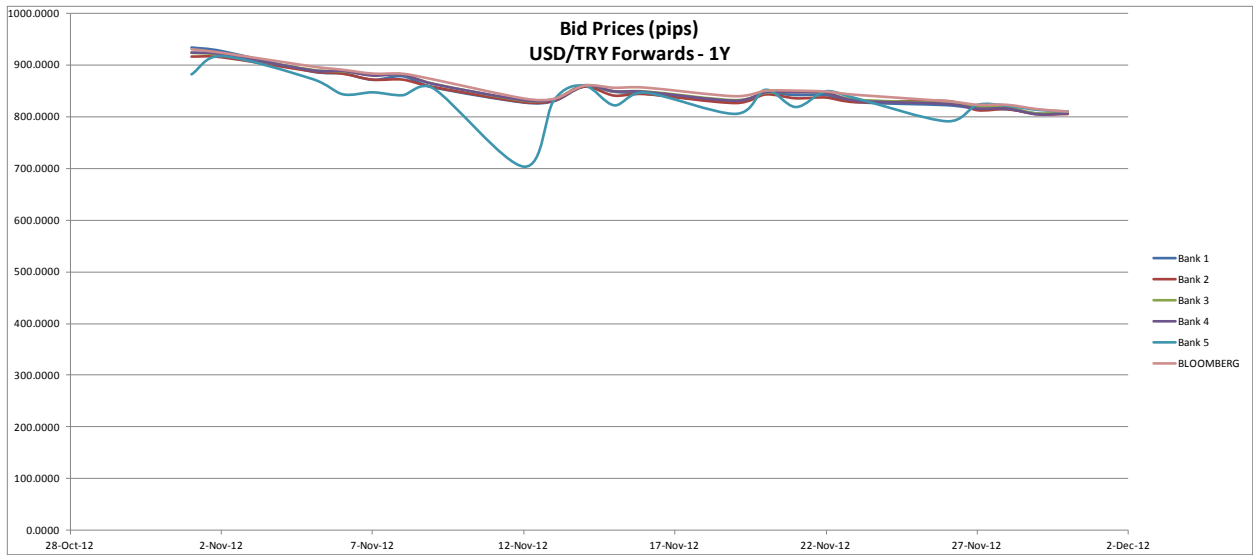


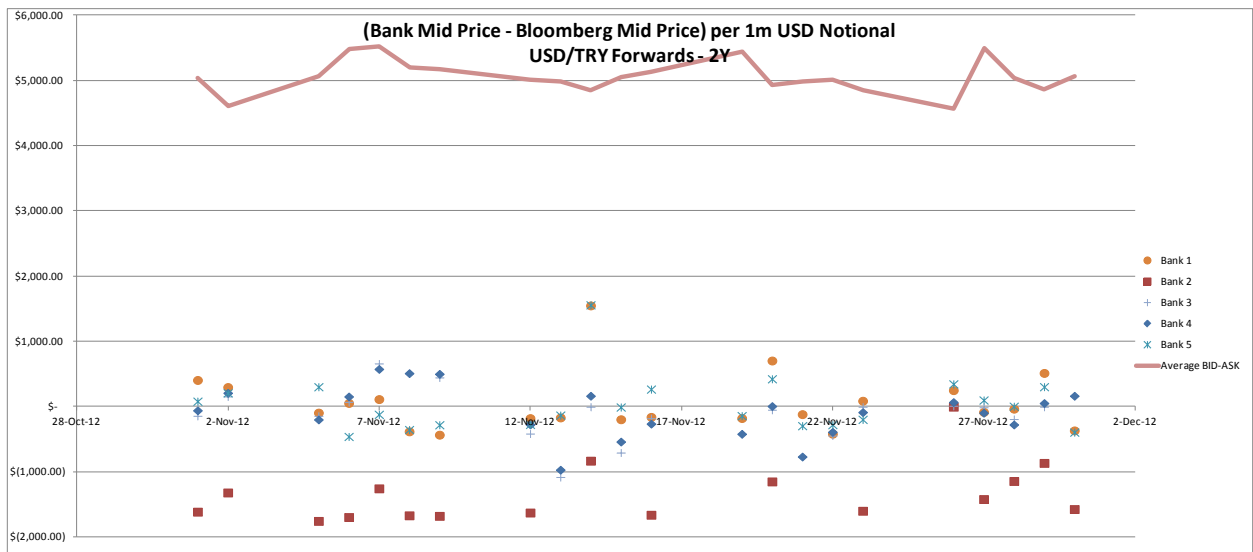
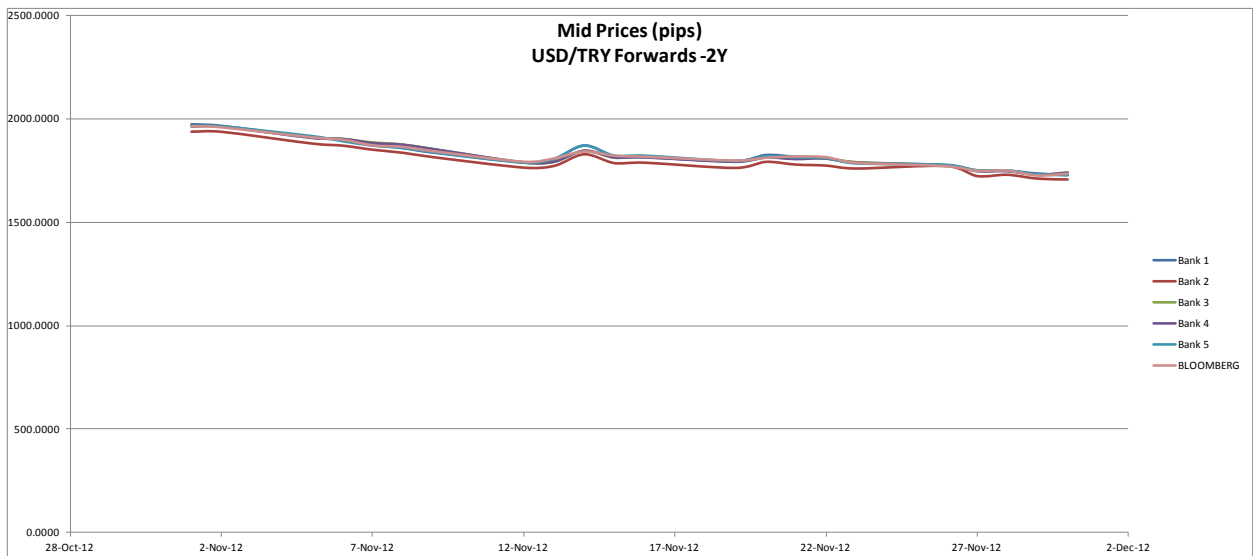
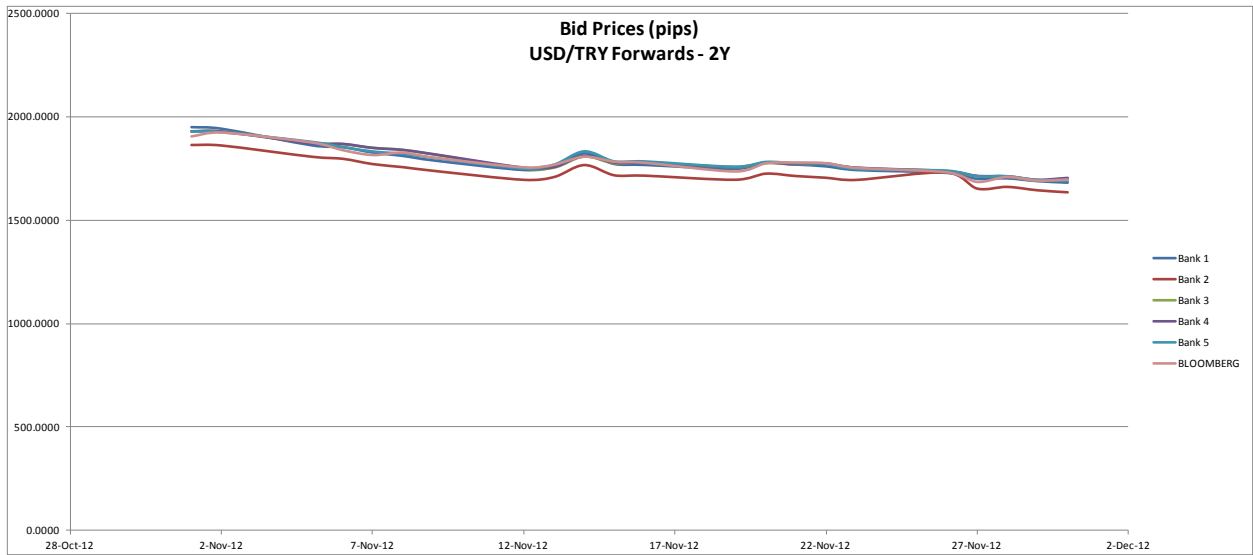


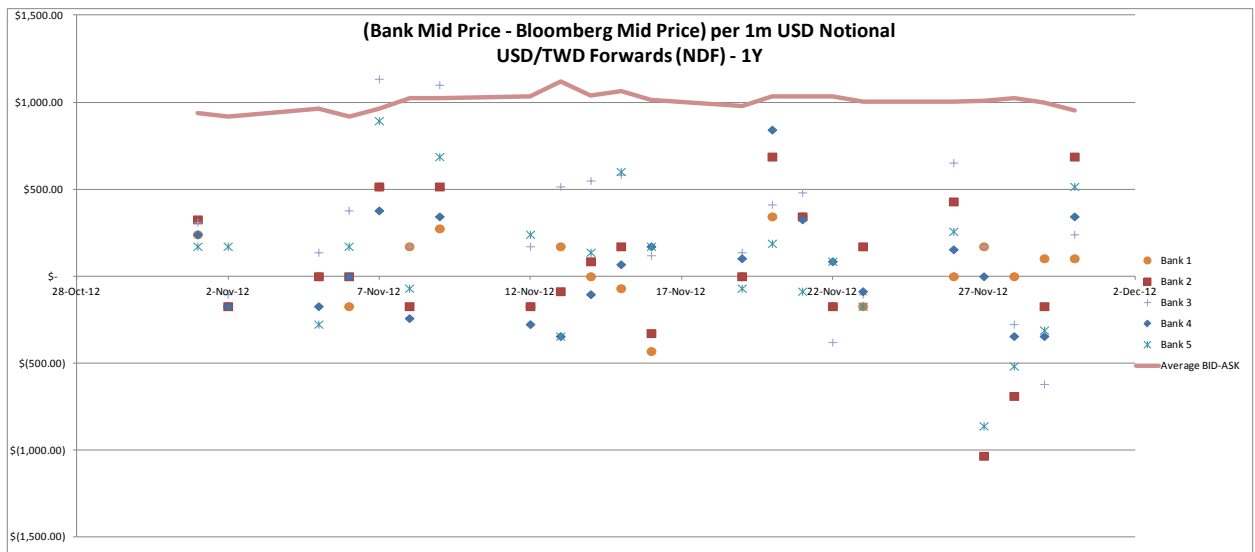
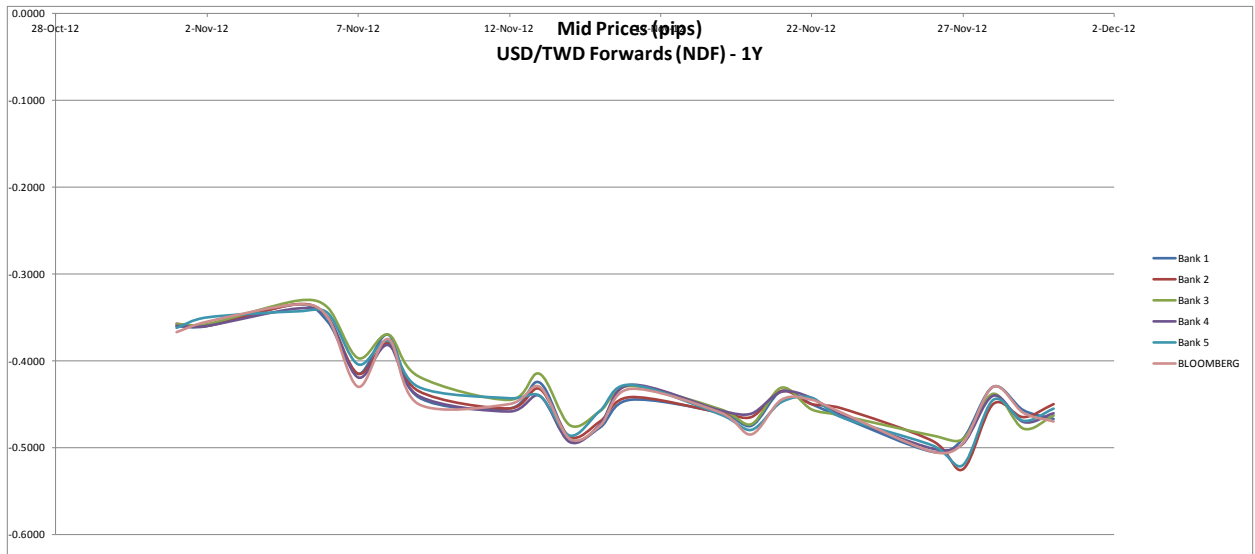
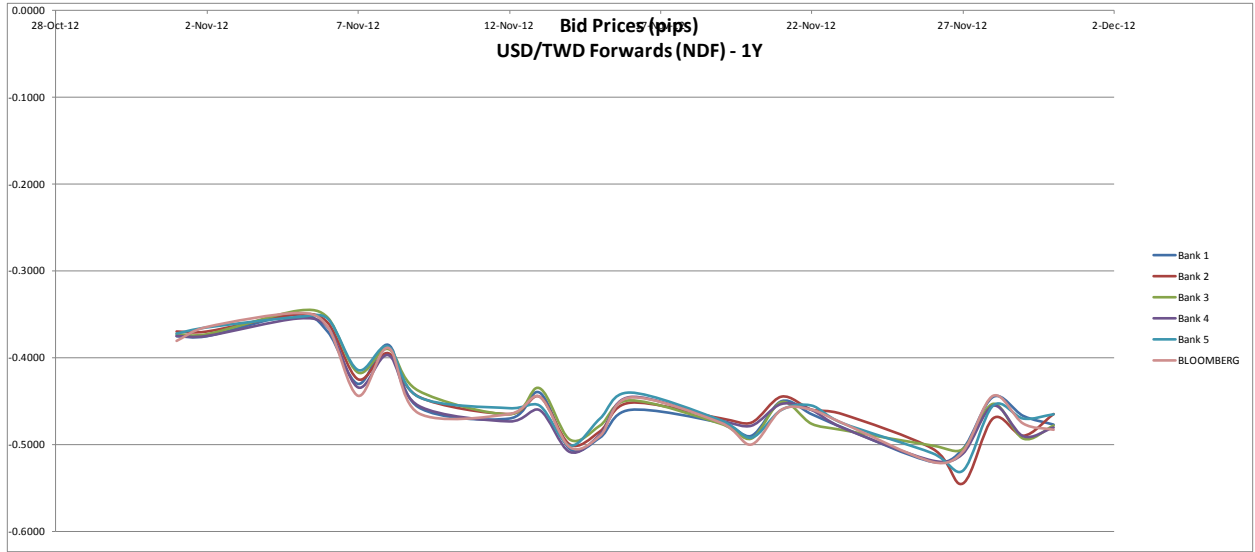


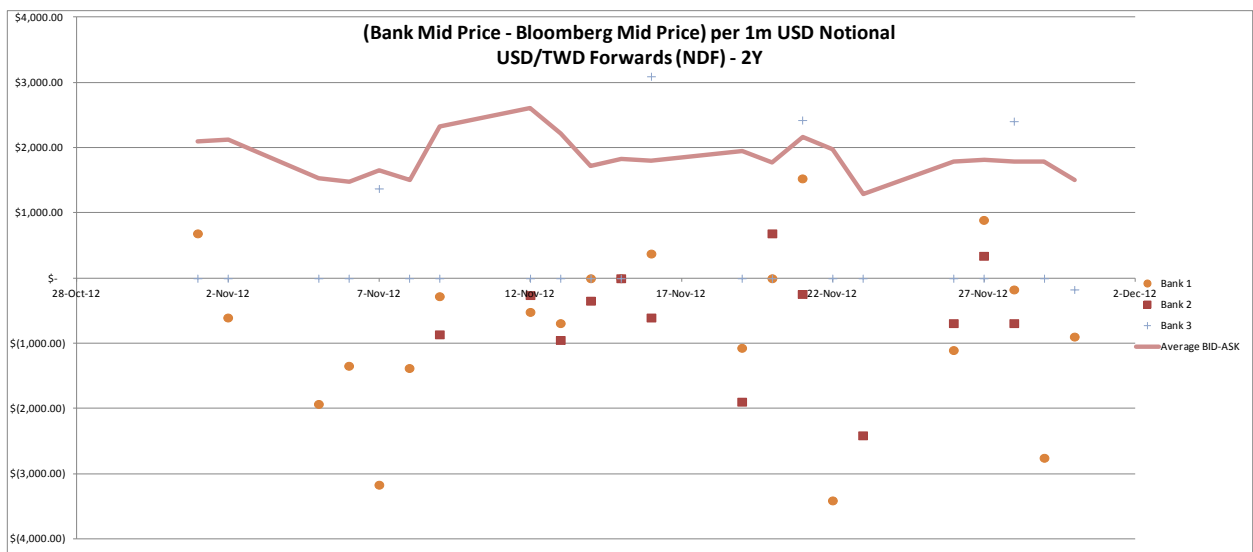
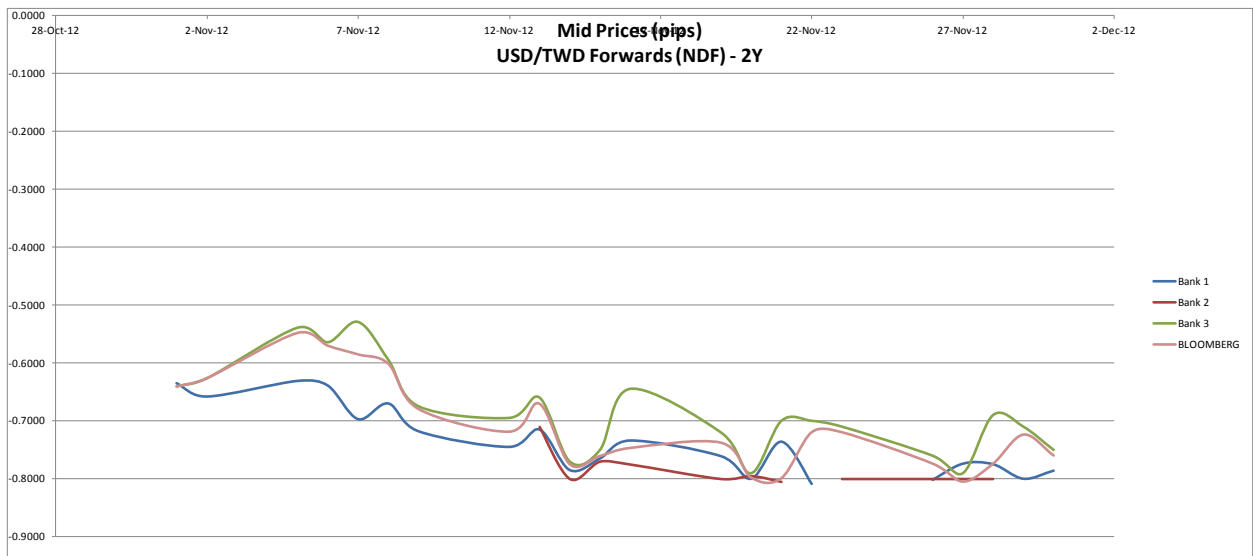
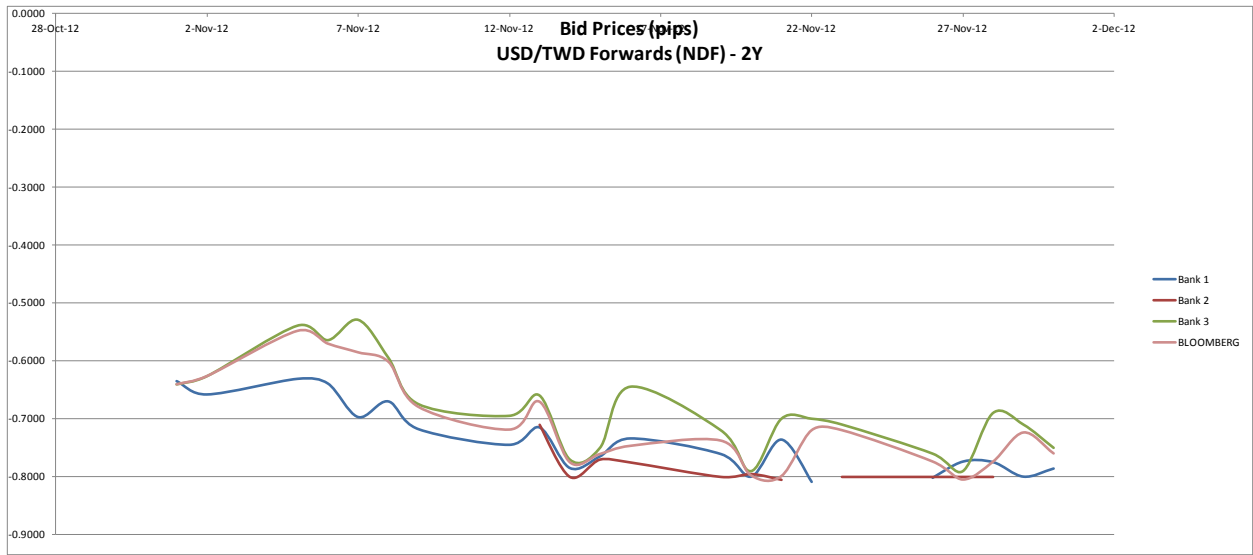


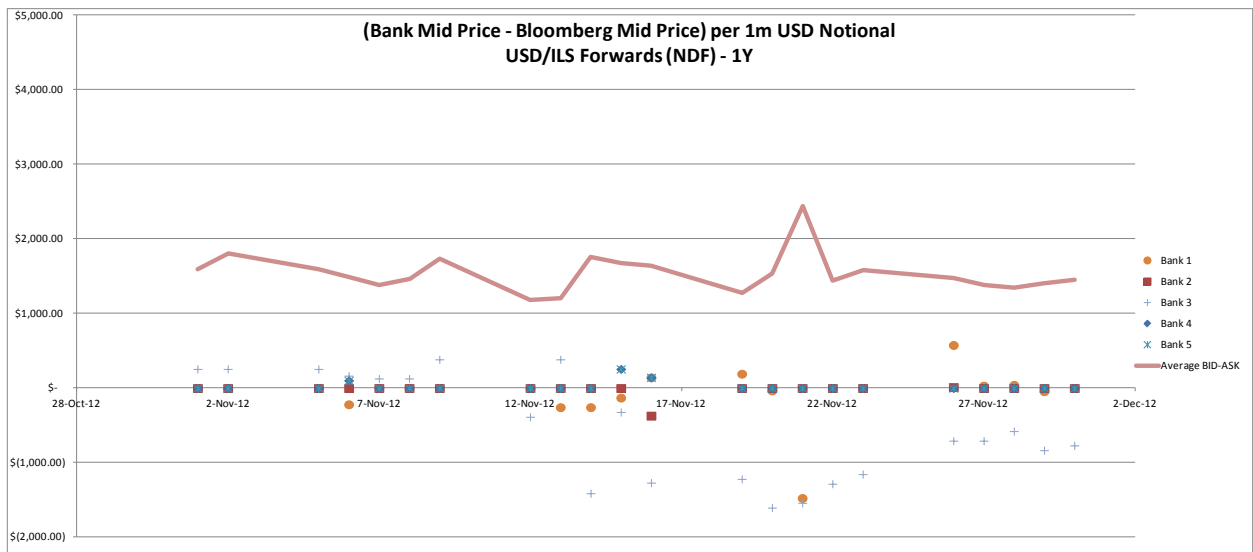
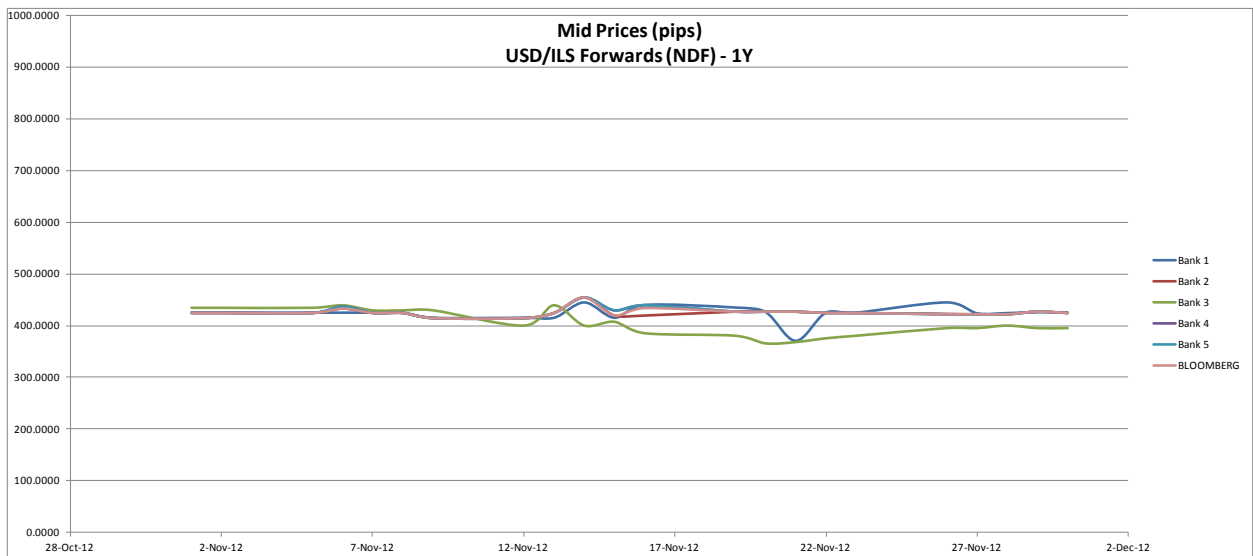
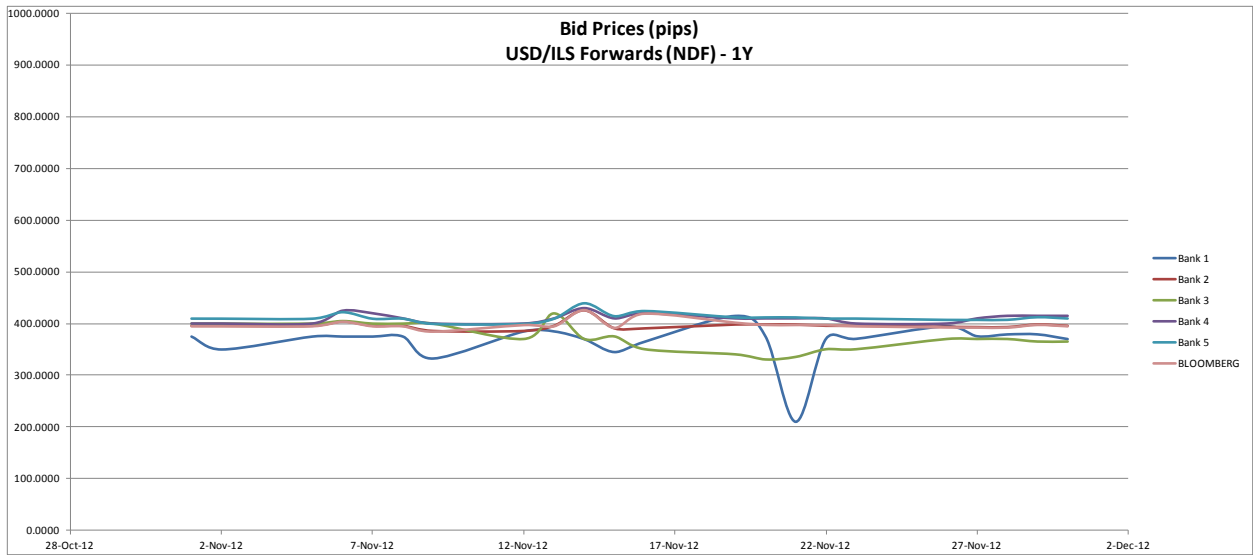


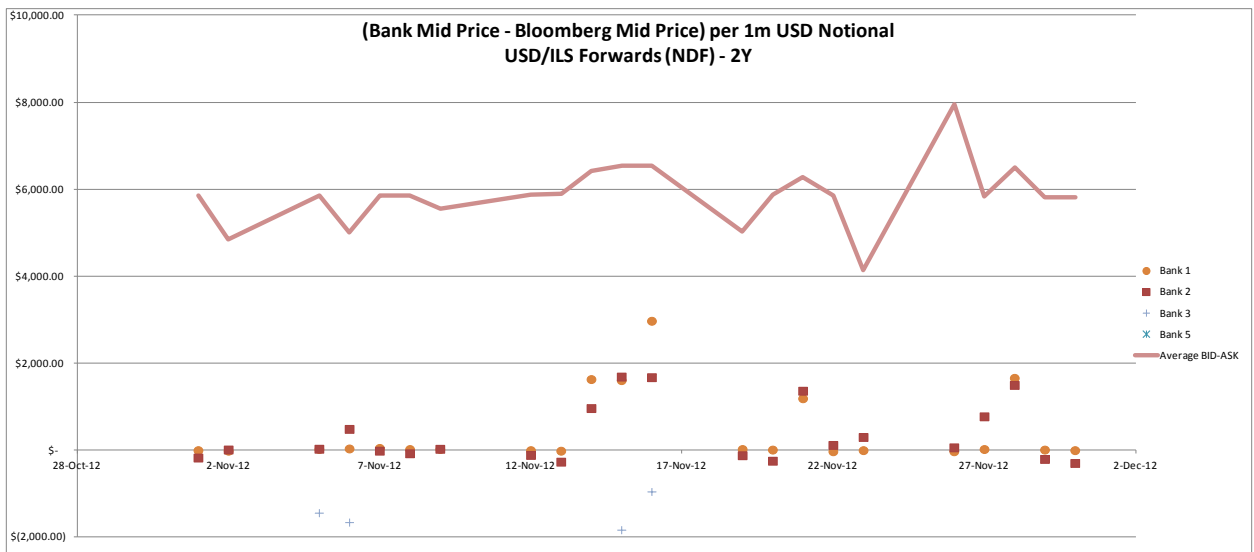
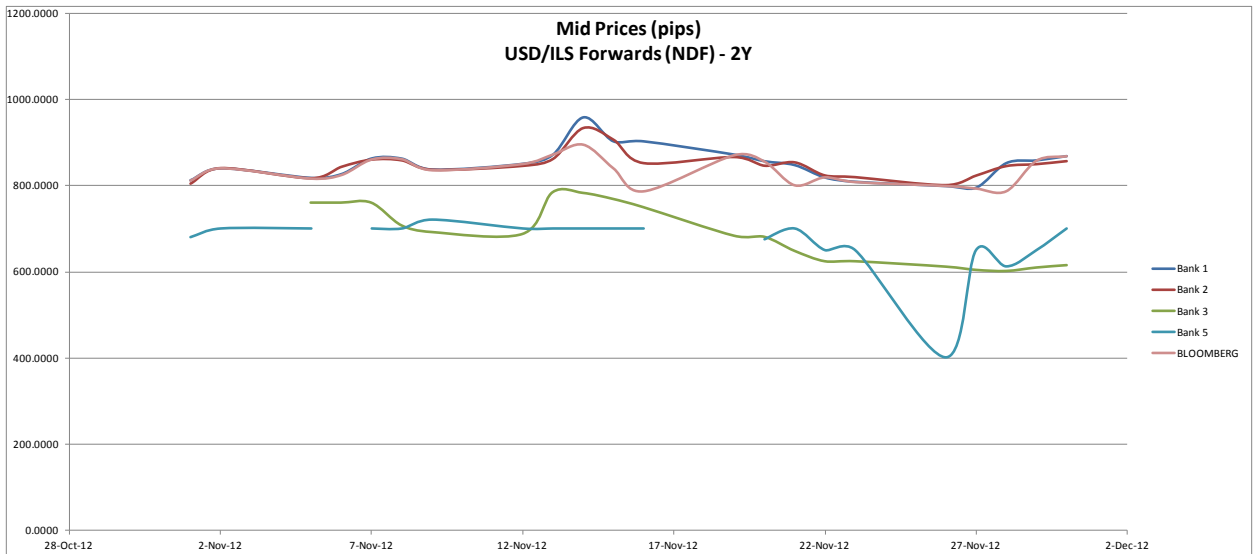
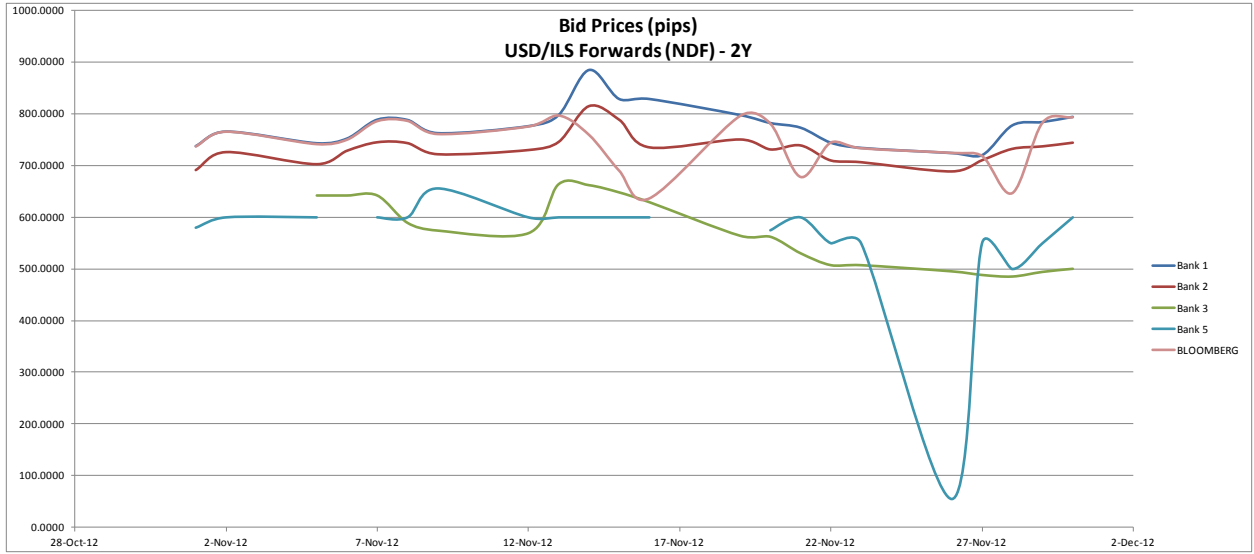




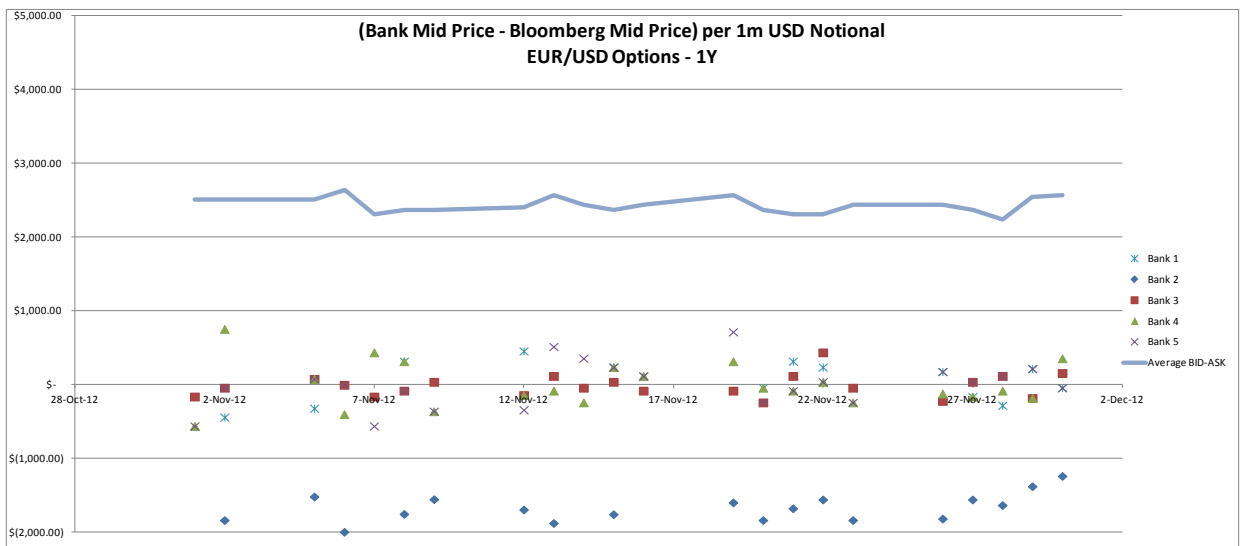
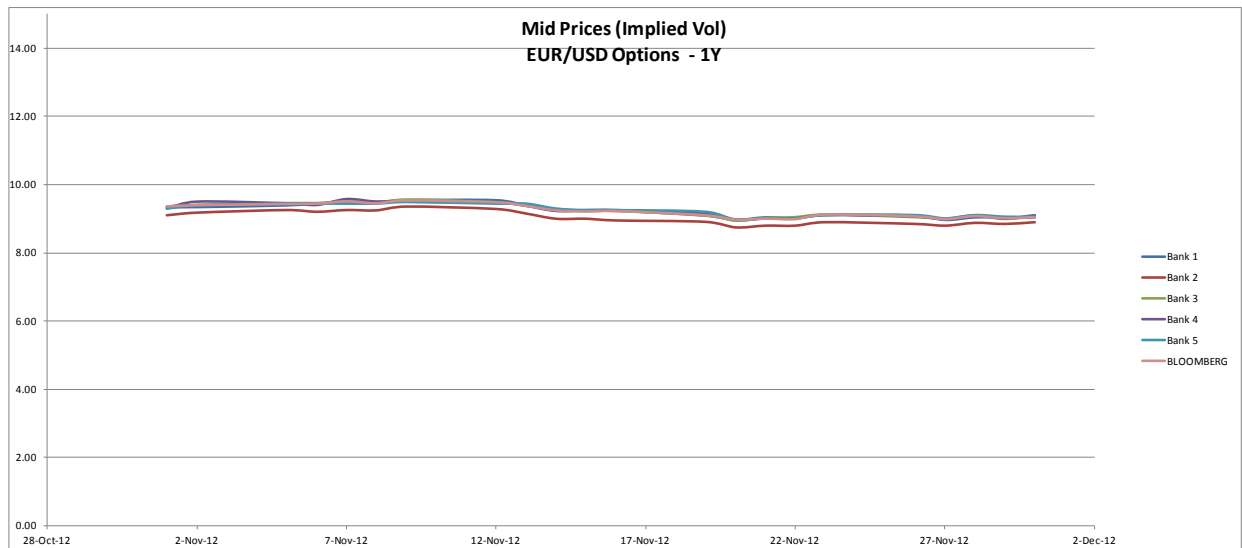
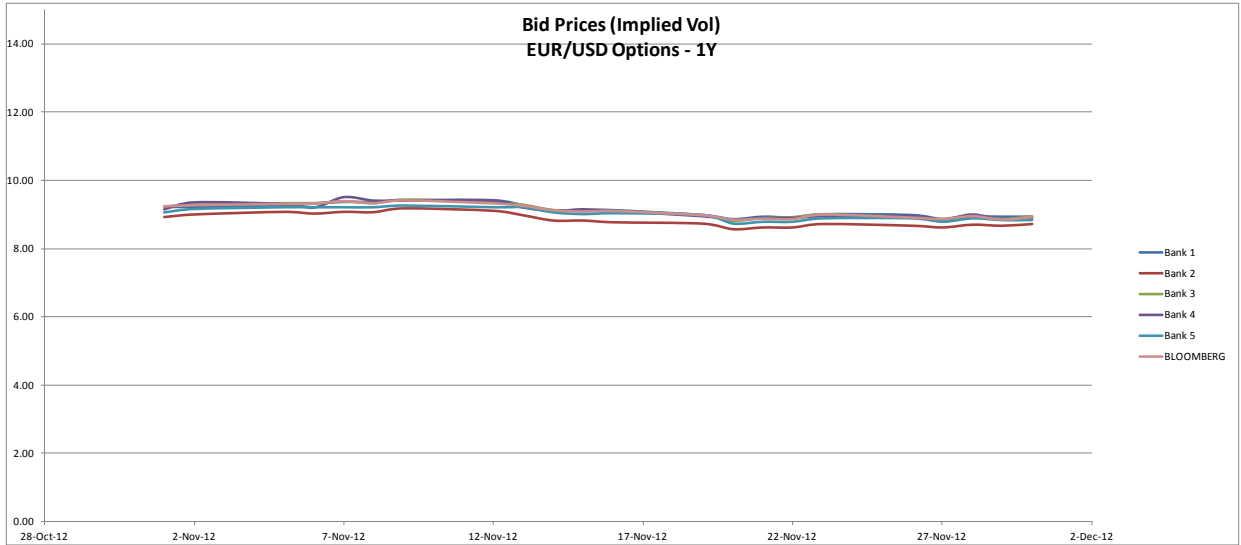


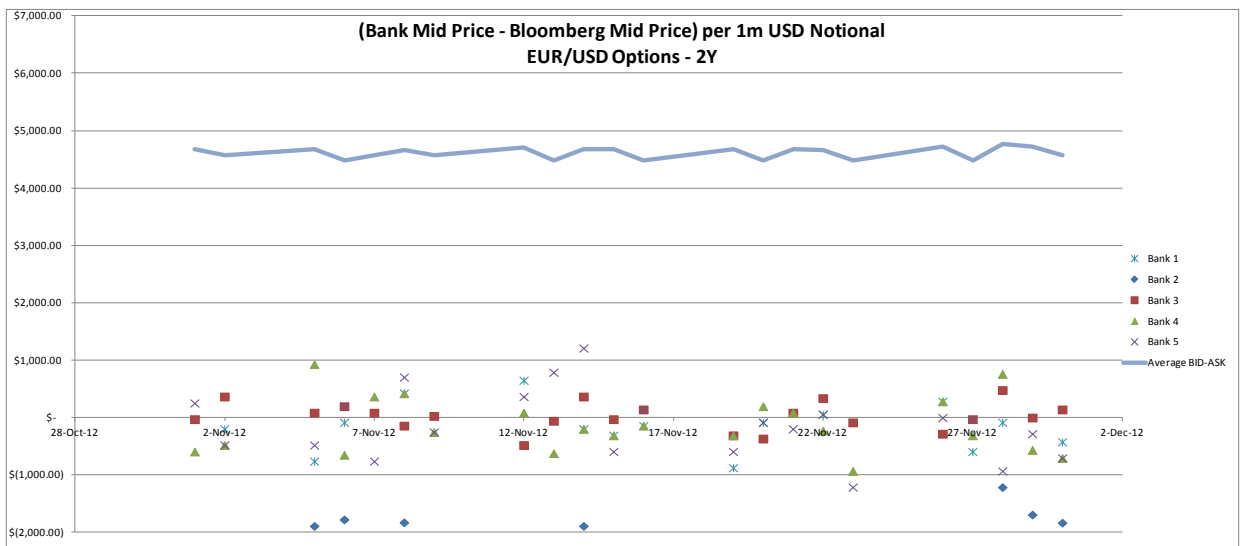
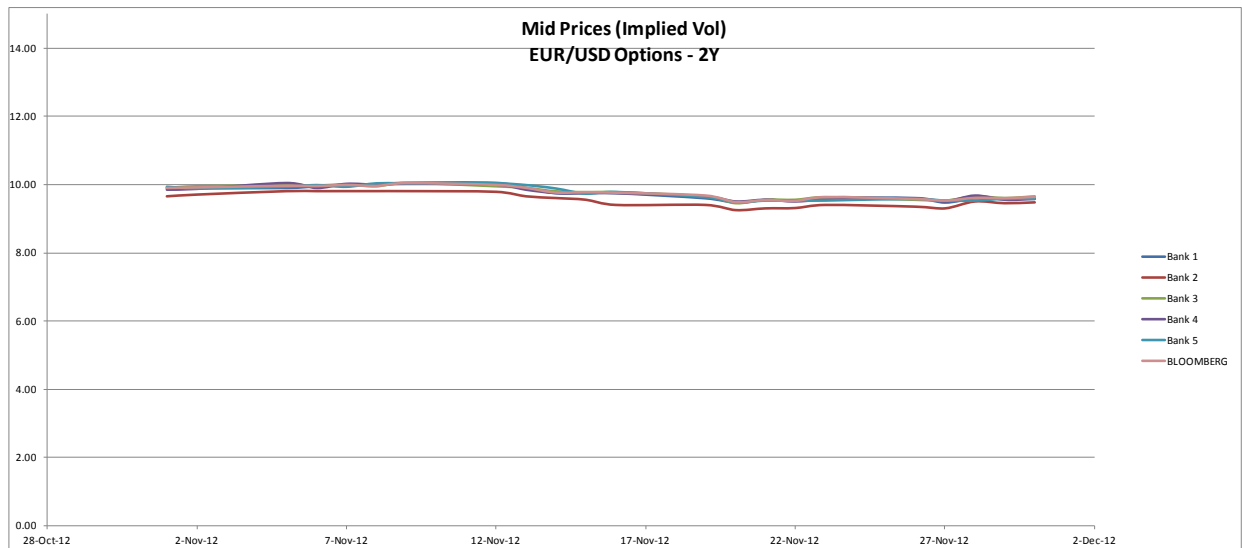
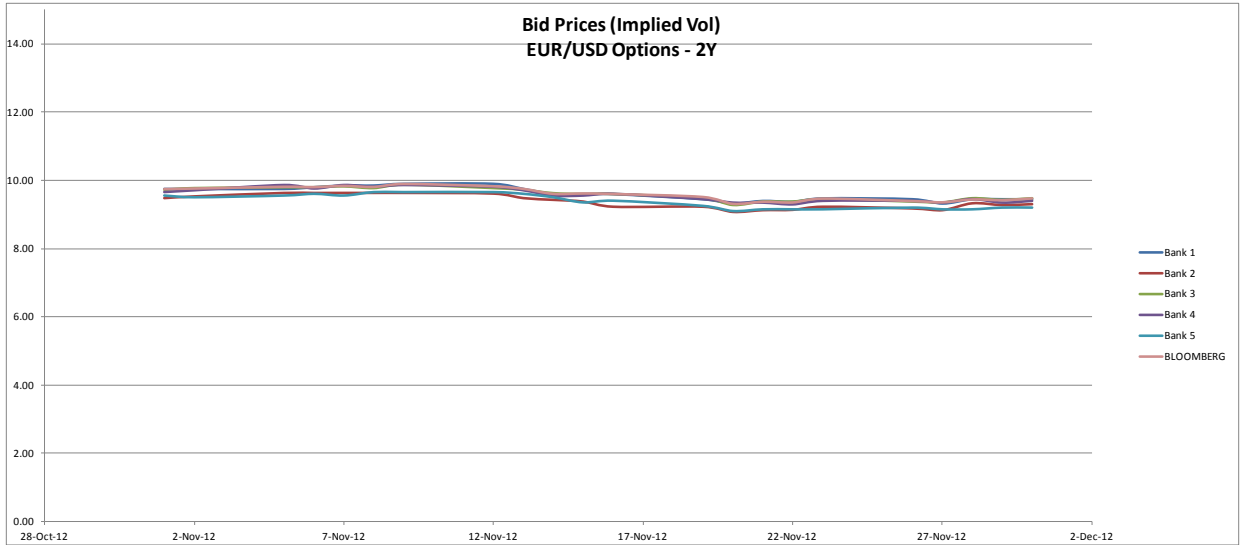


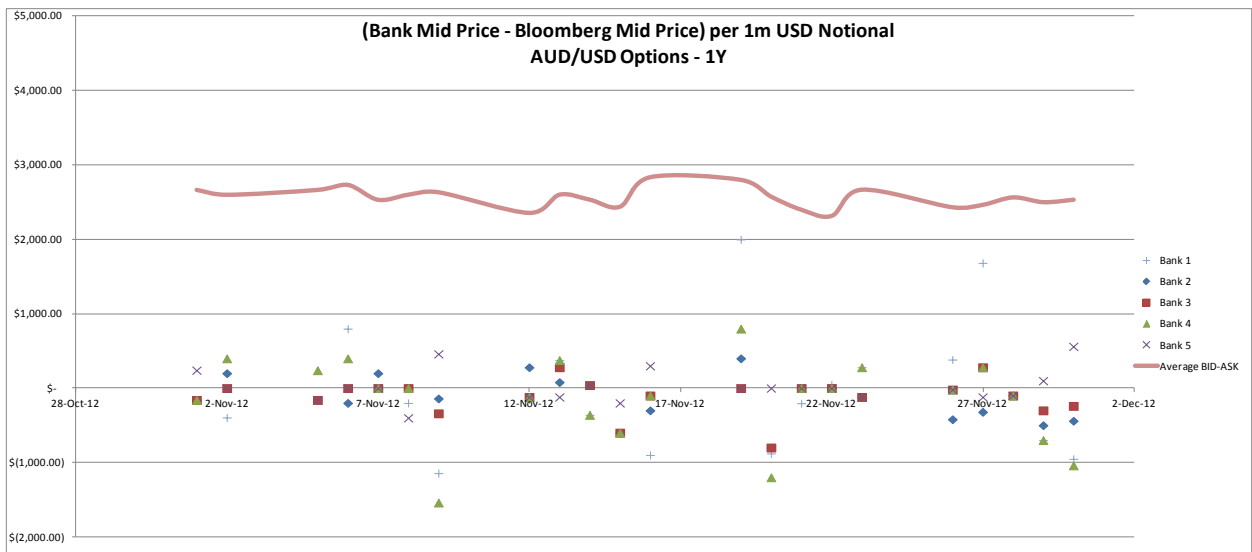
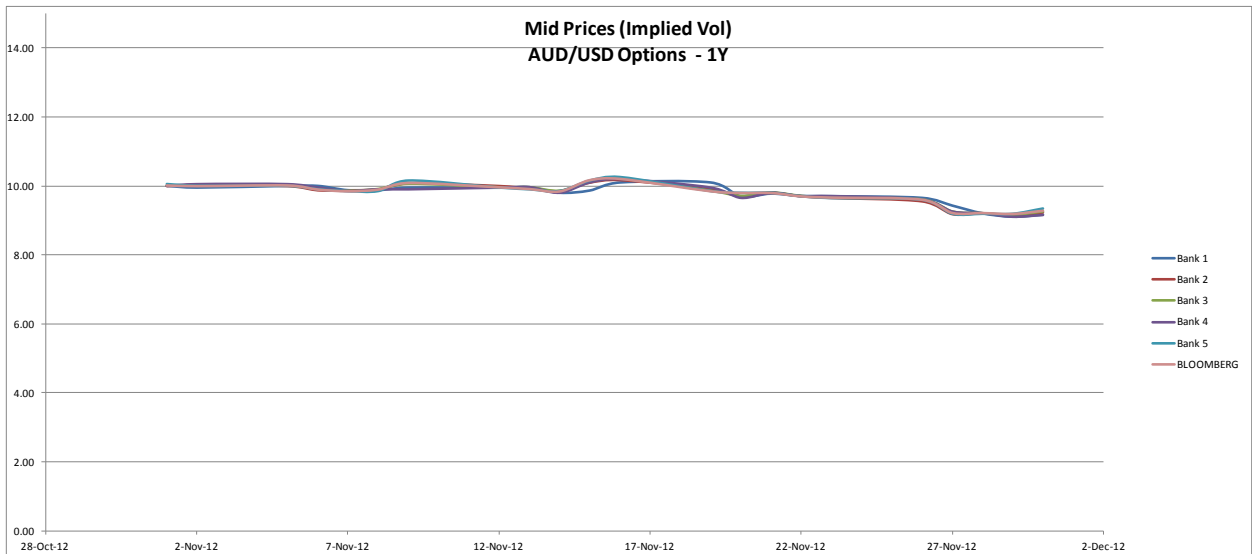
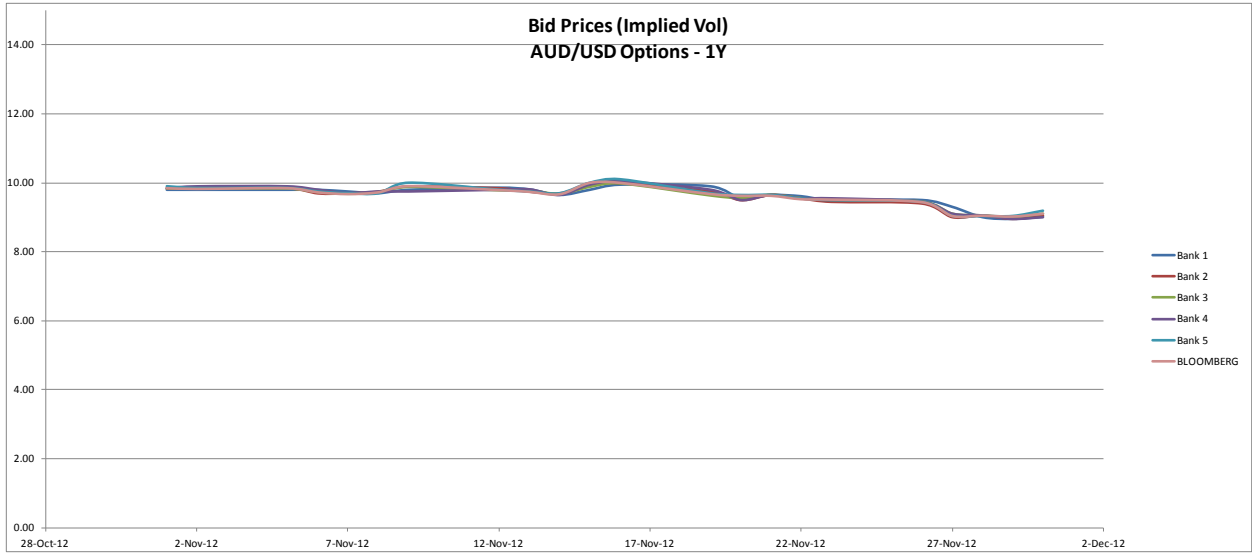


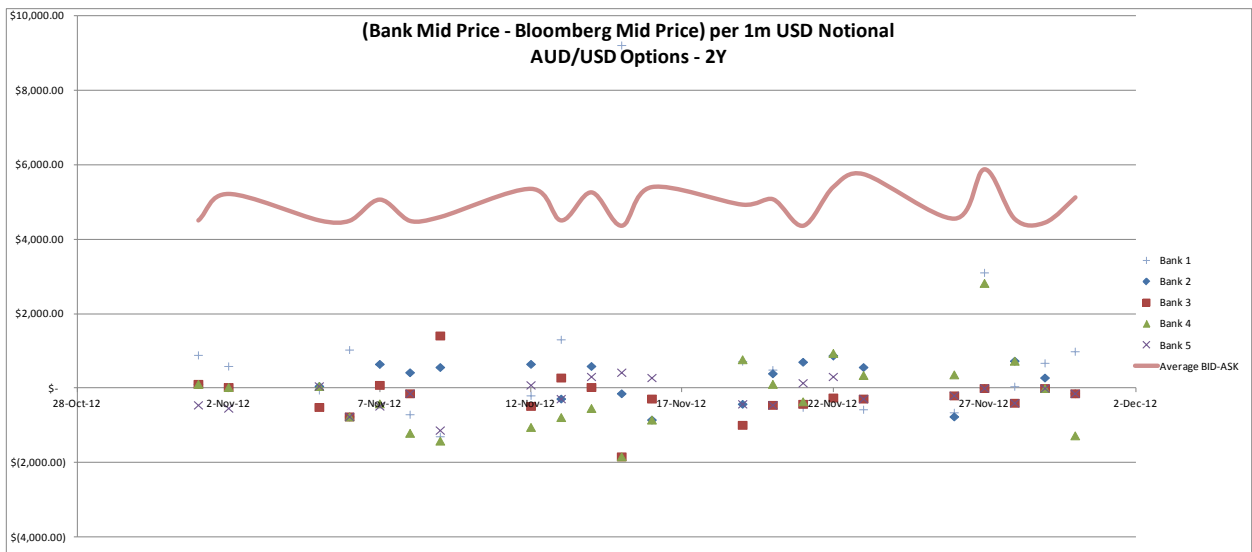
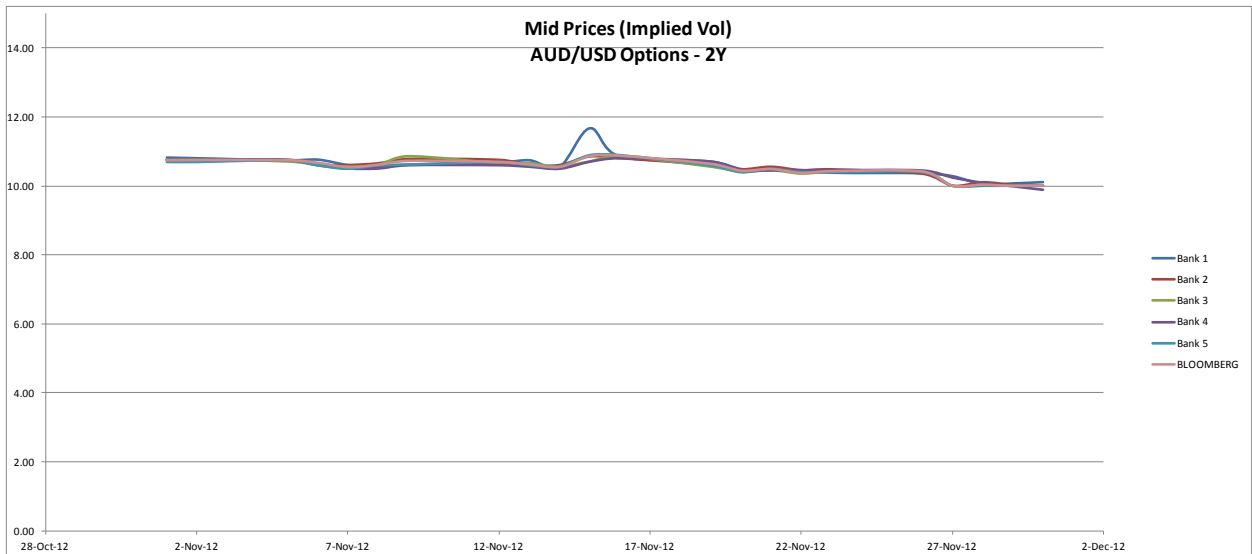
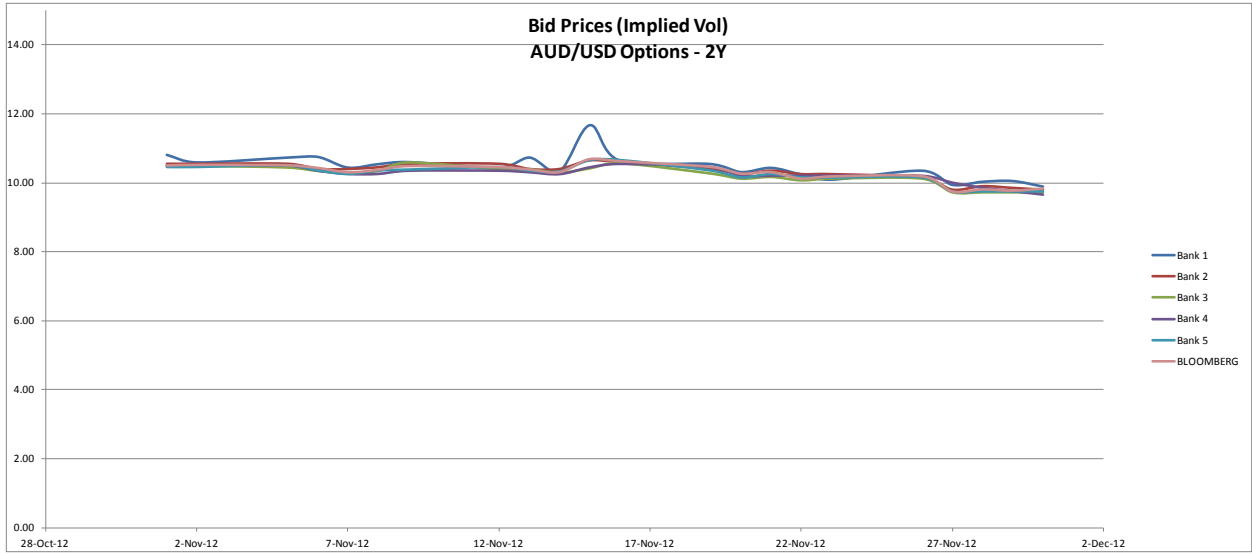


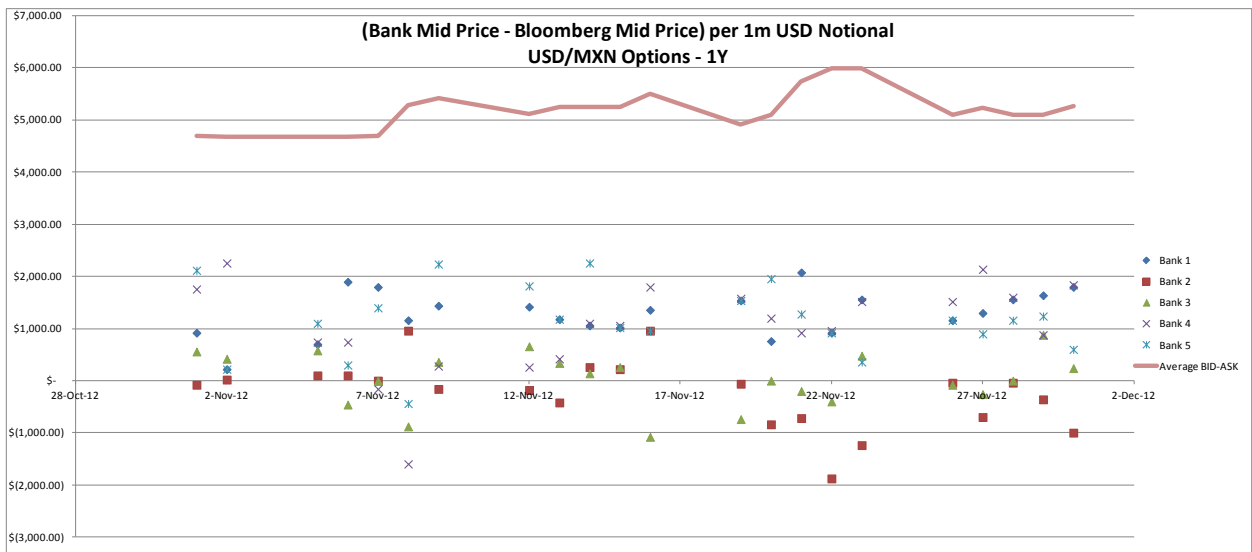
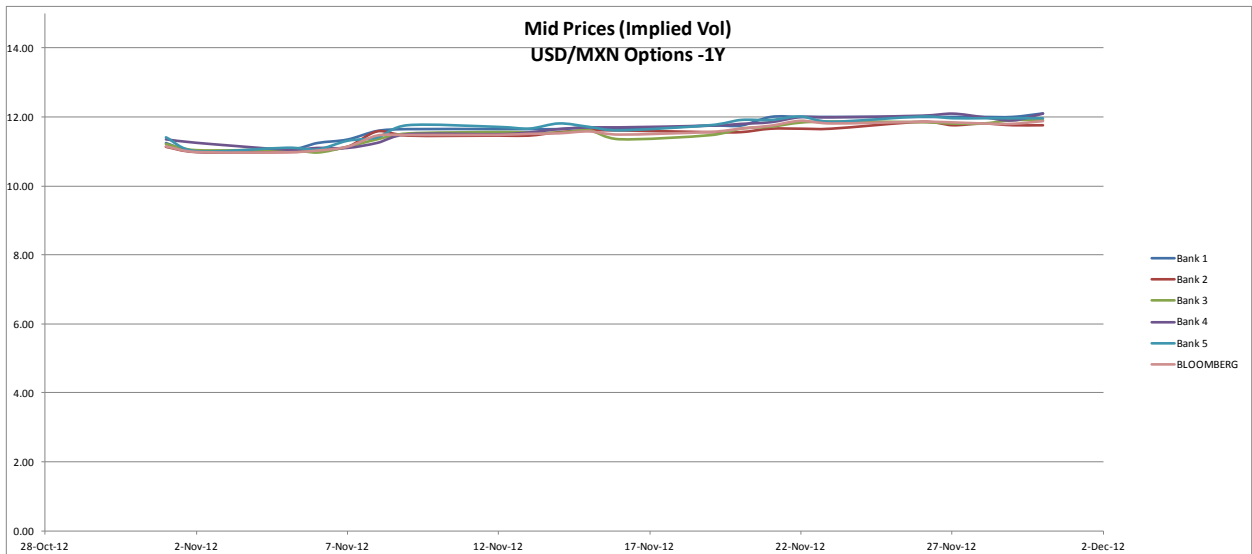
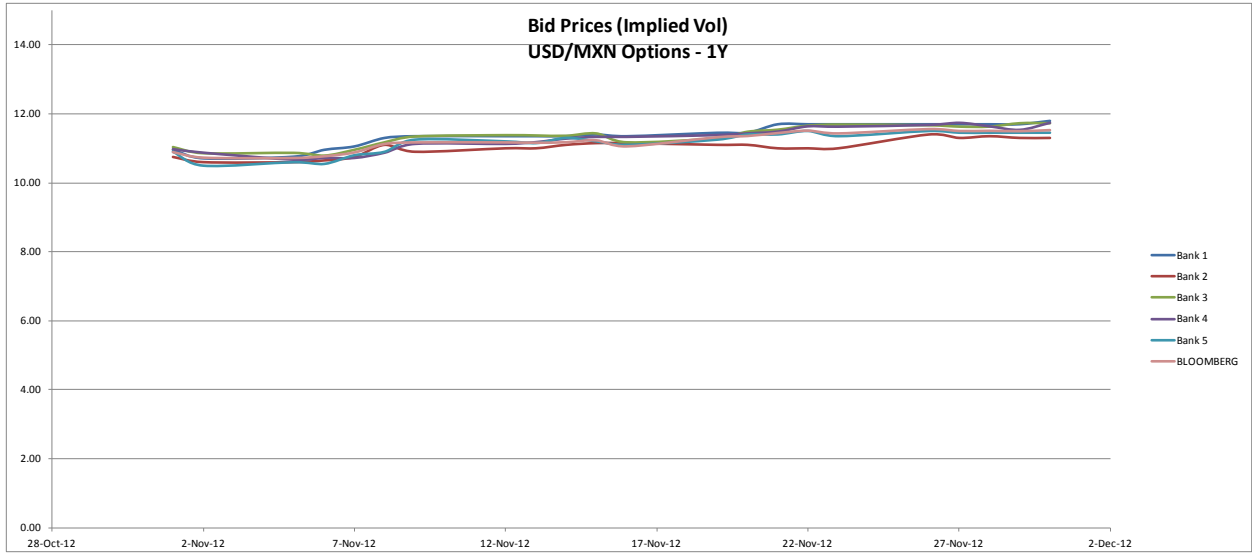
APPENDIX II, ALL OPTIONS PLOTS

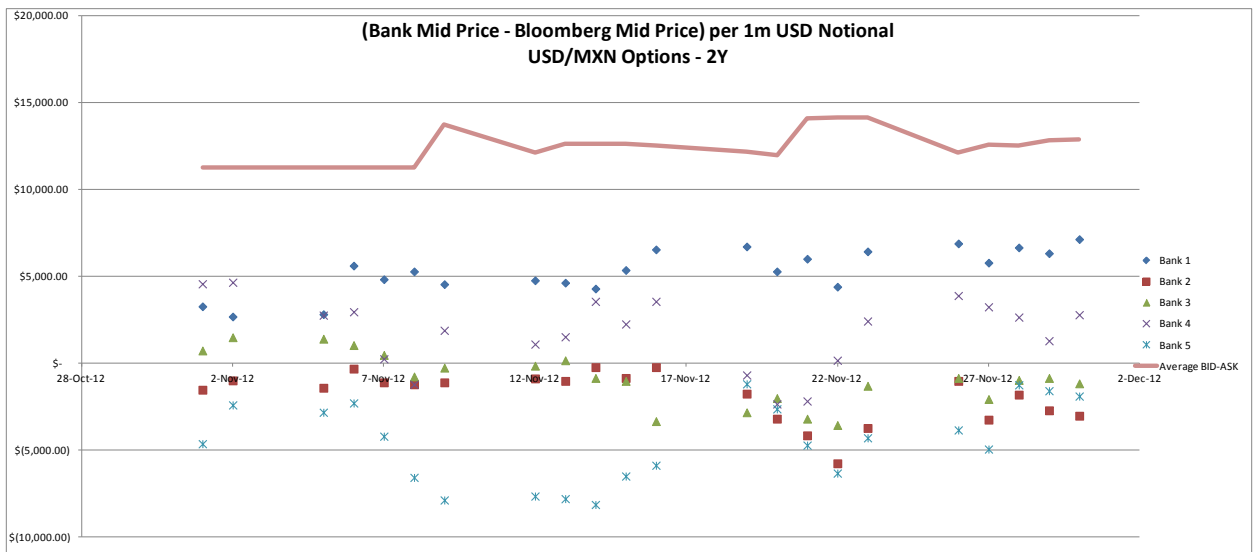
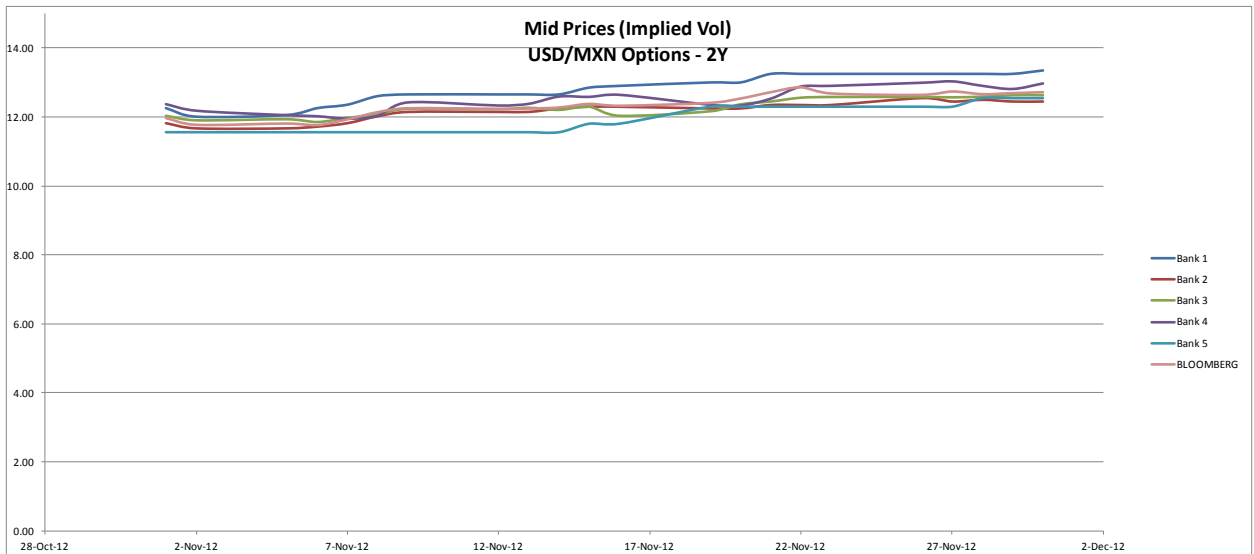
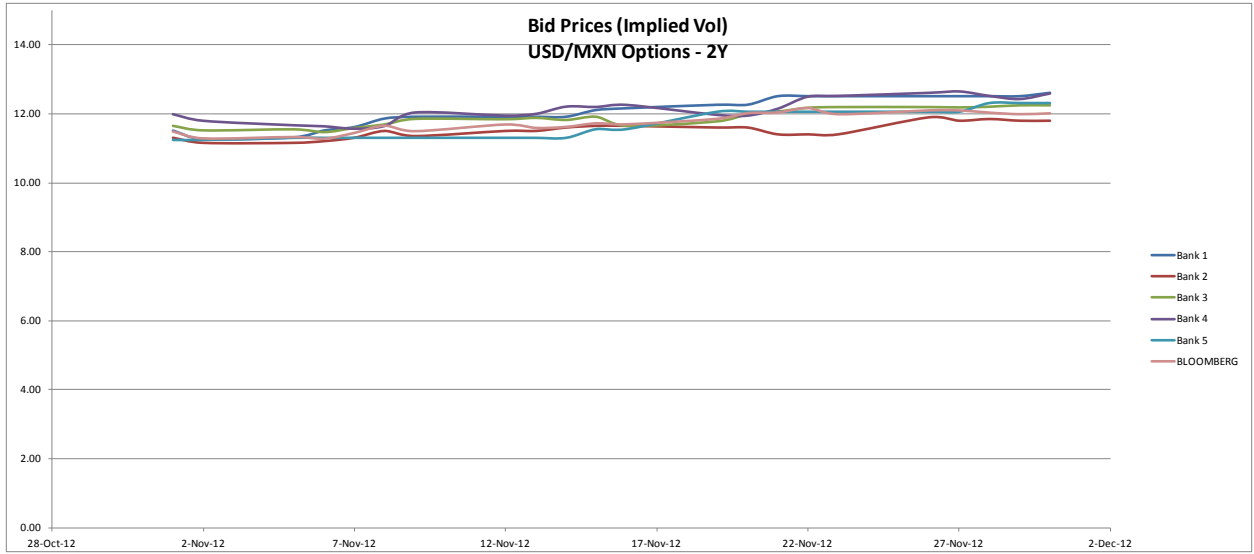


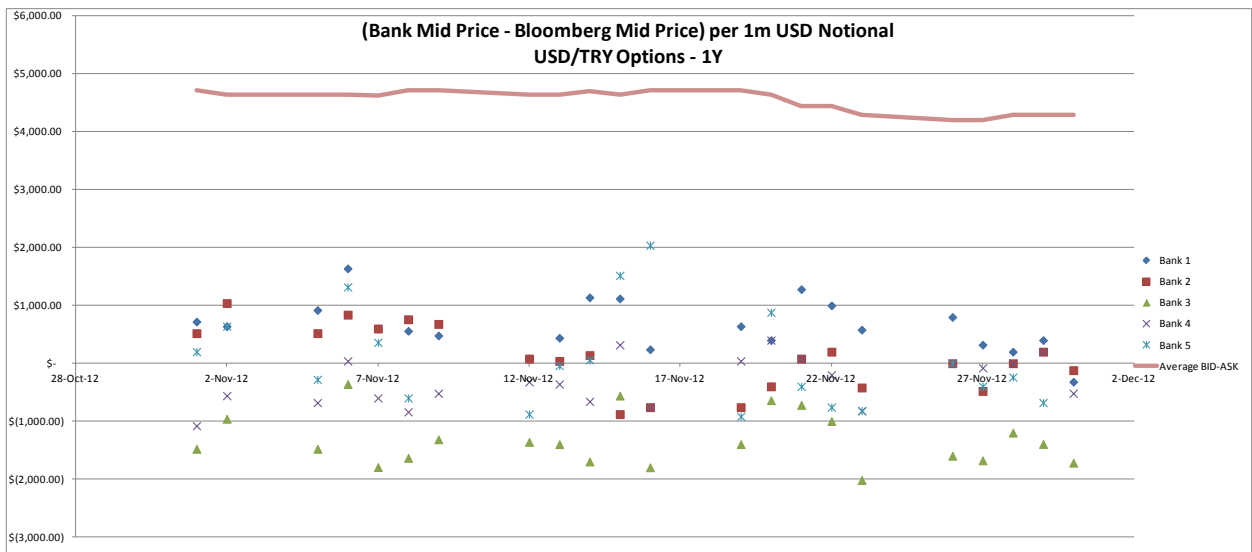
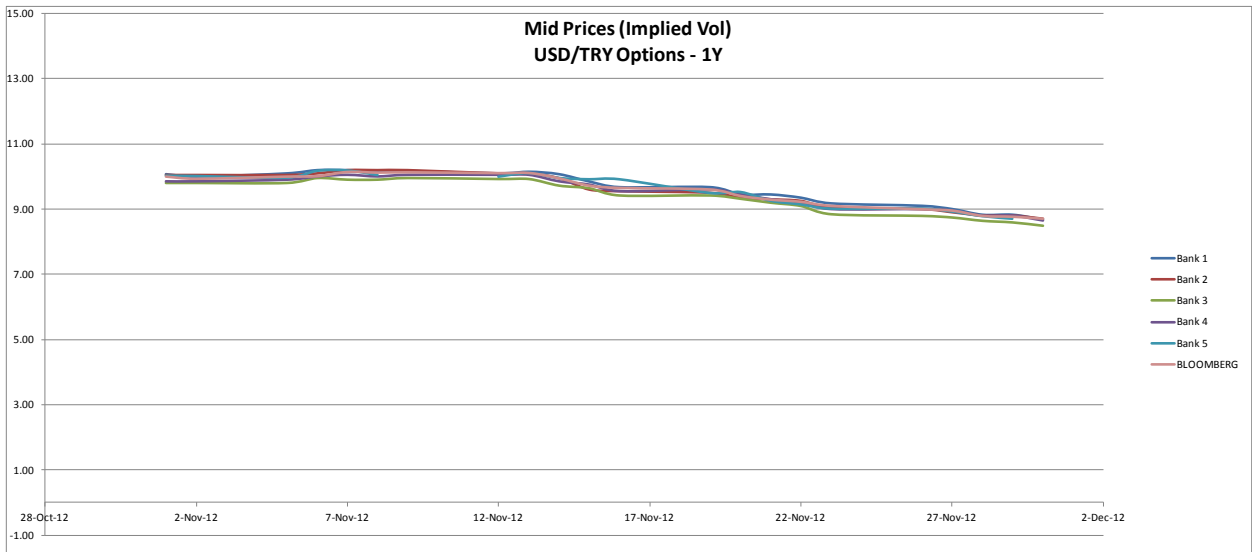
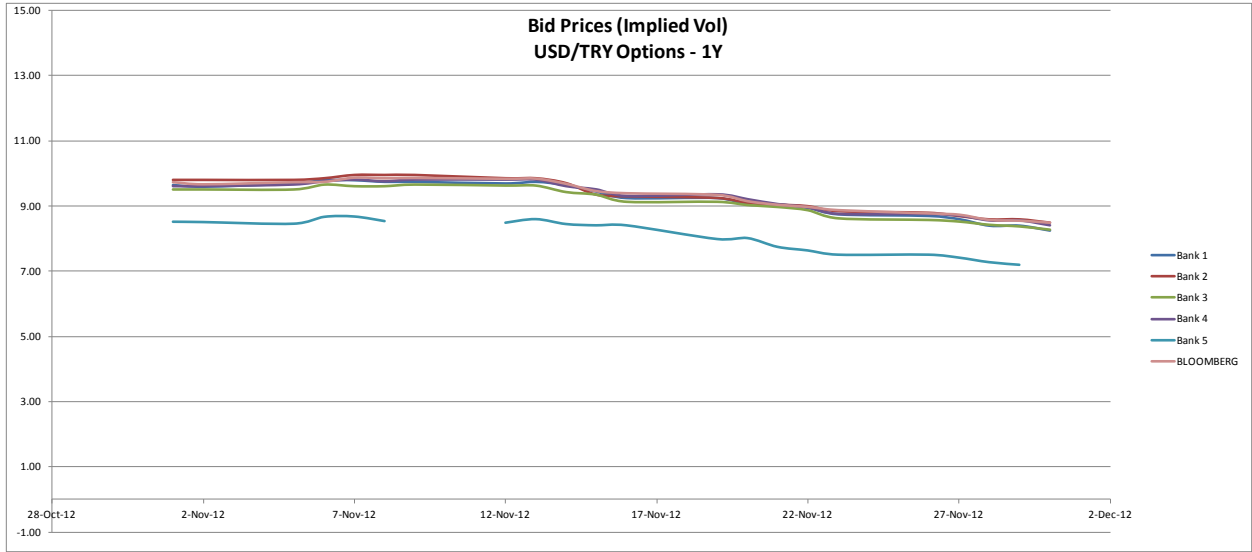


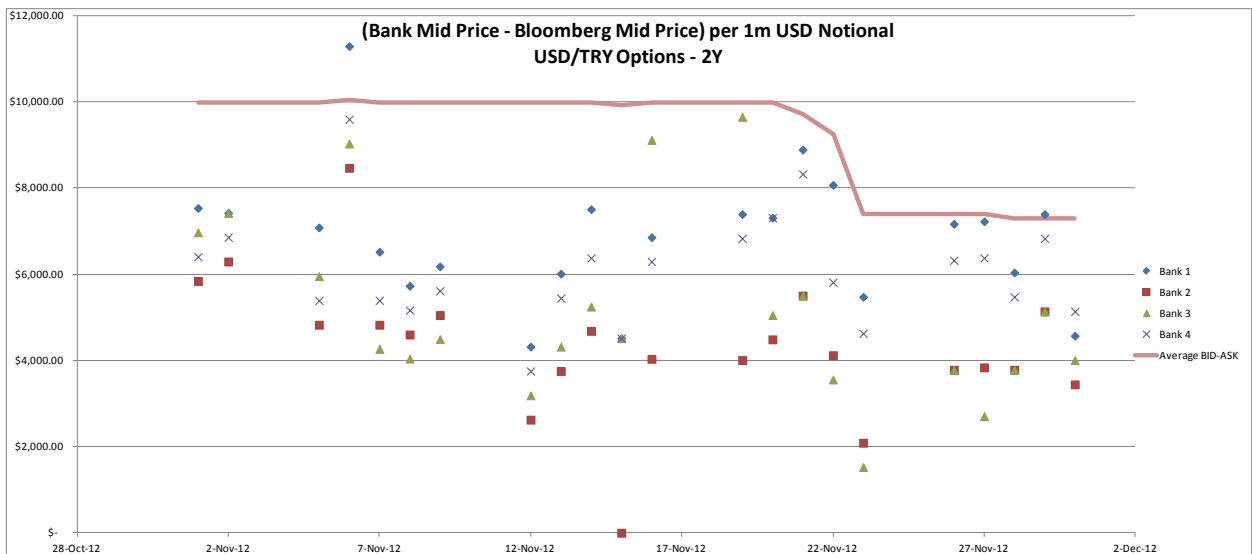
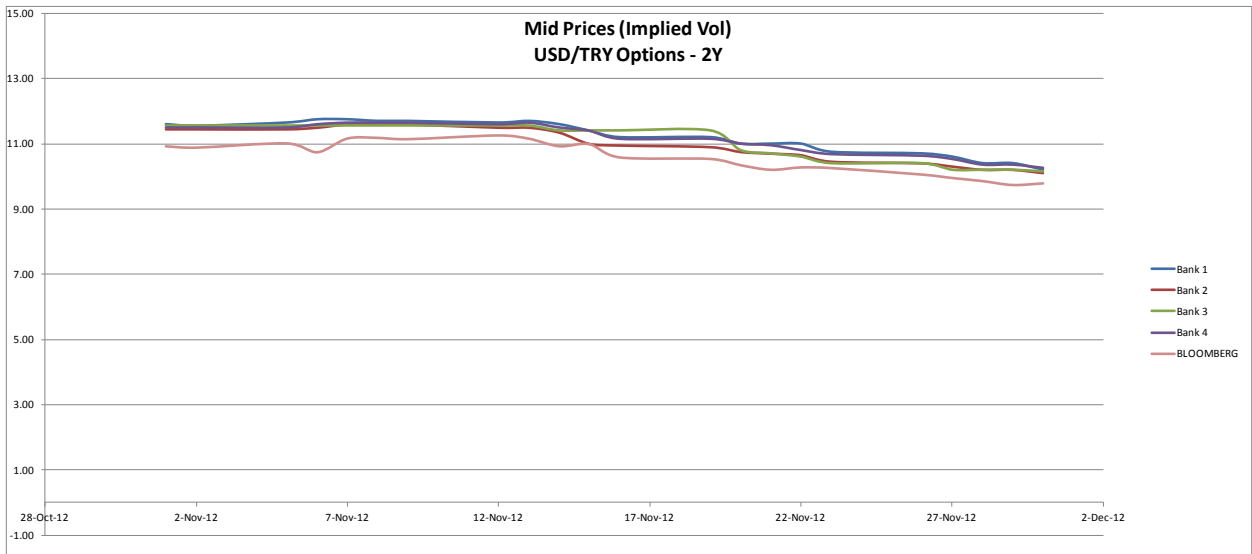
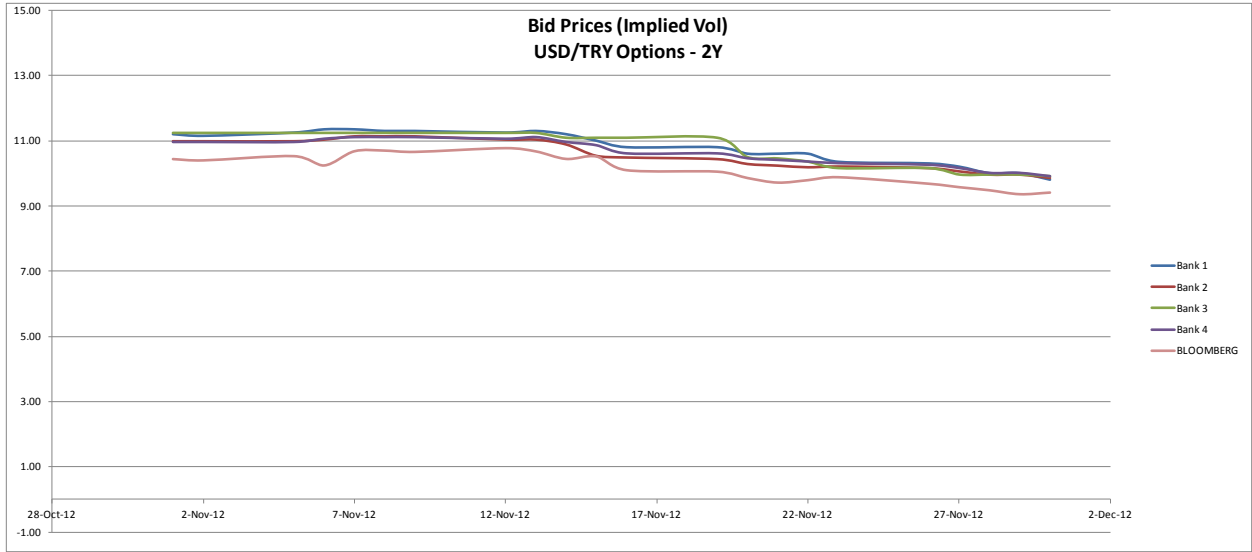


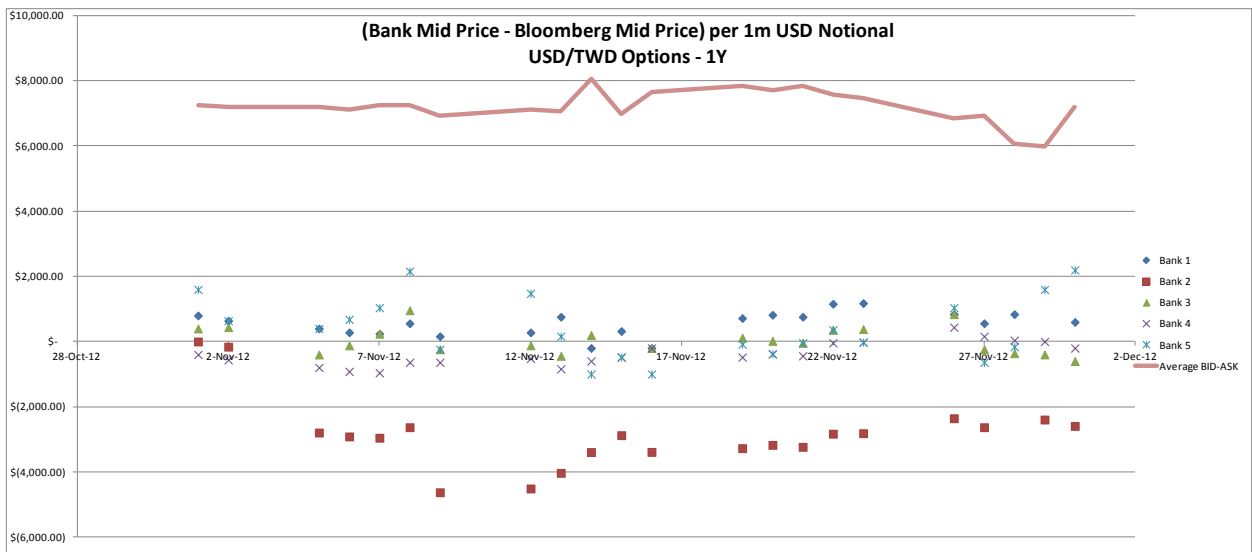
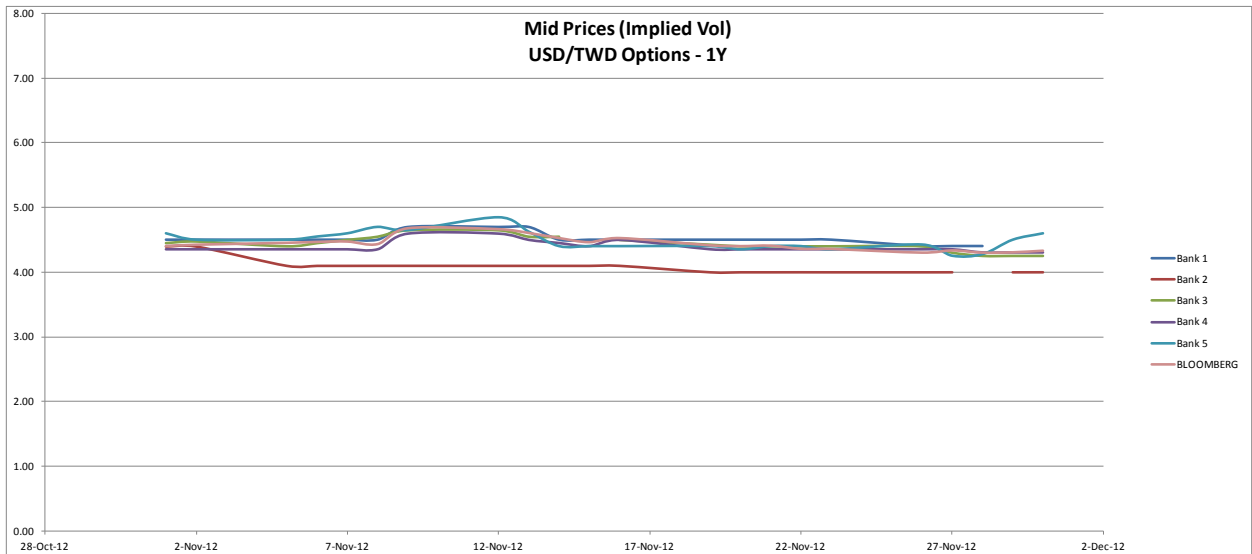
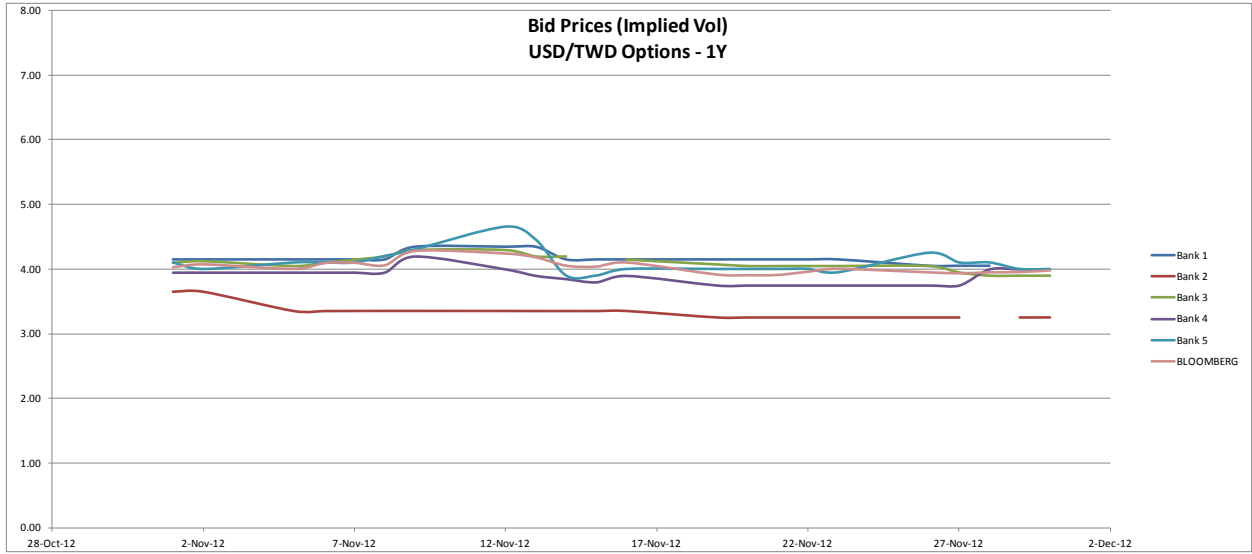


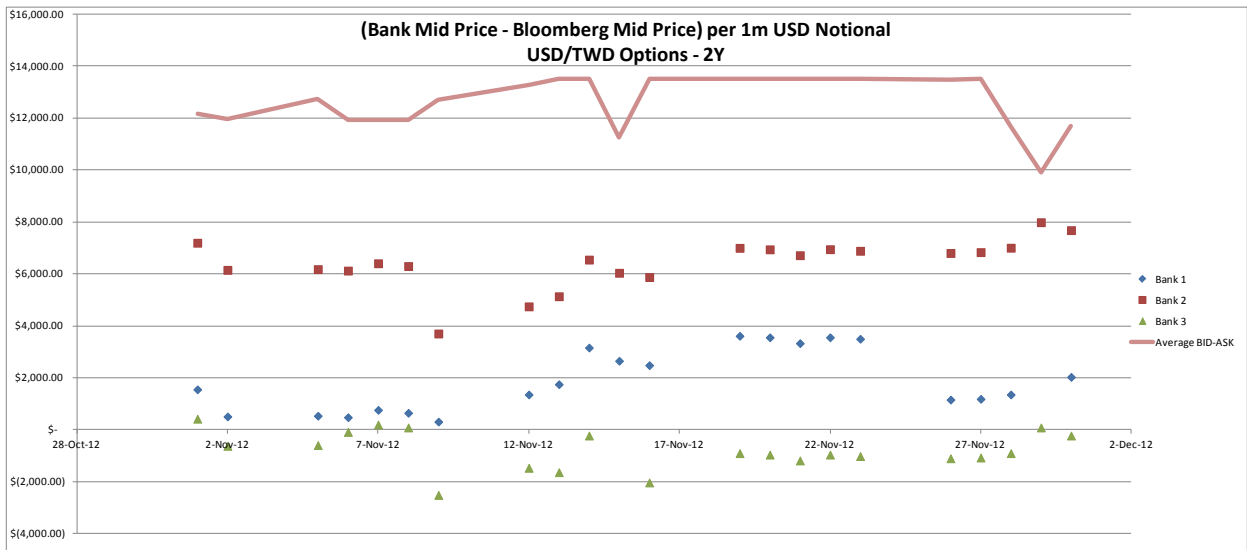
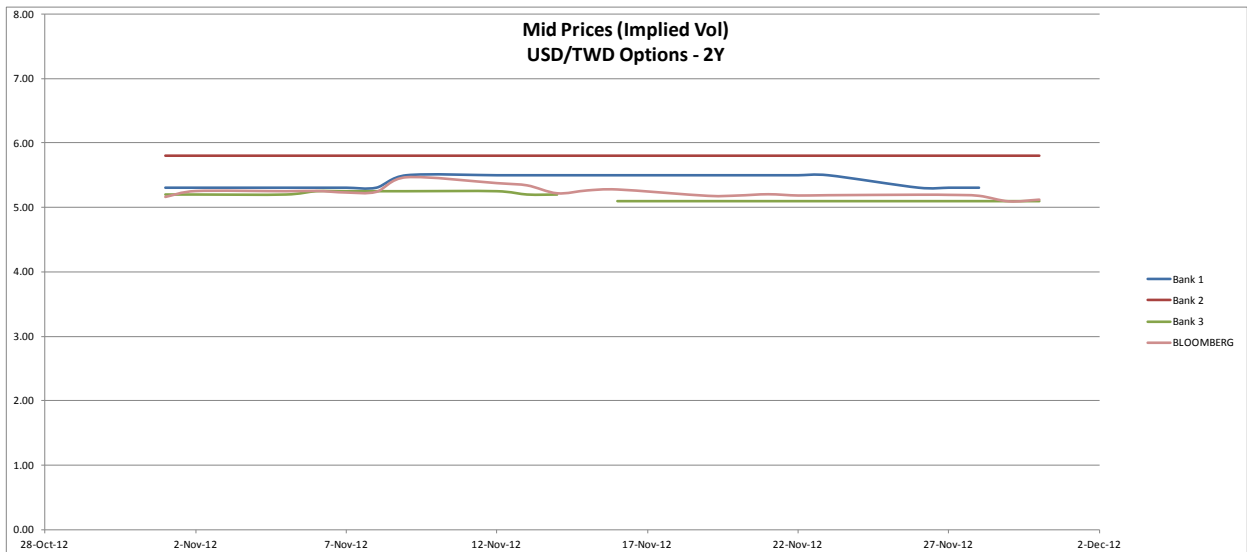
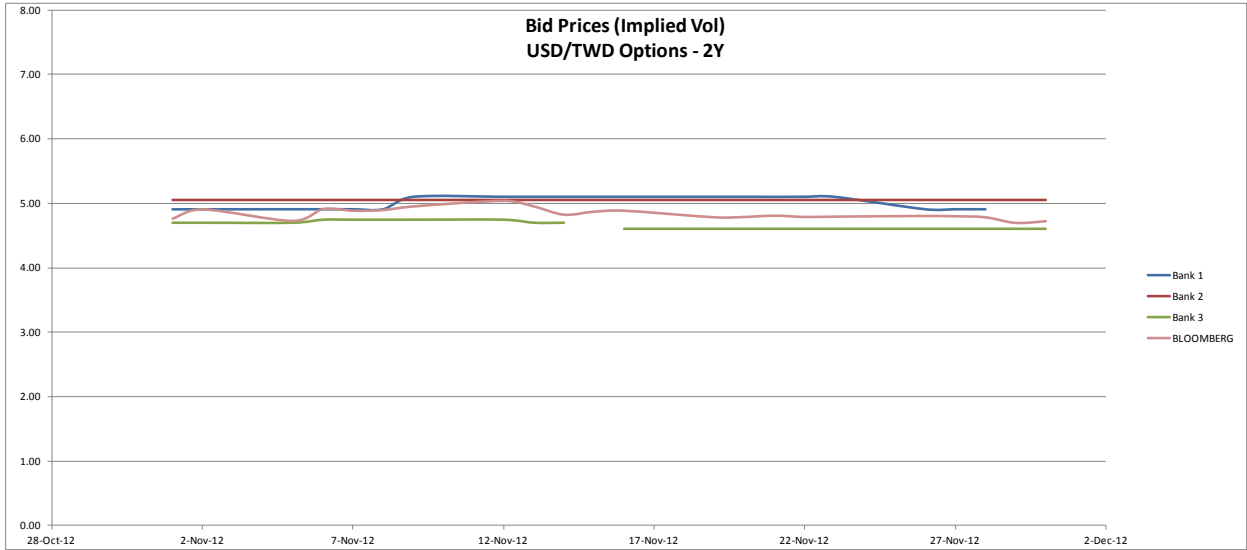


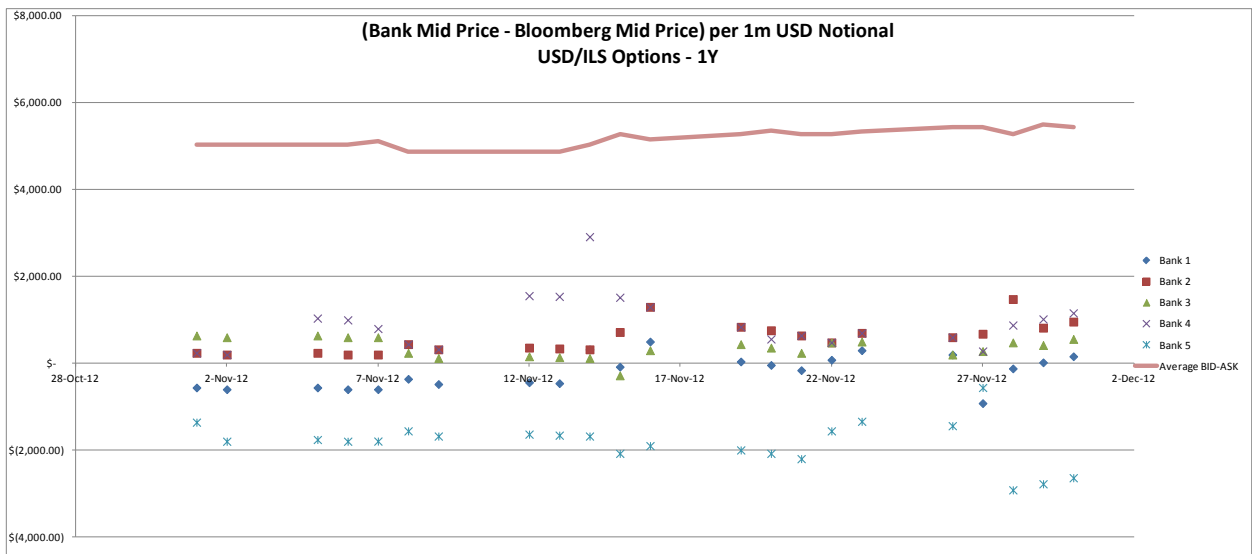
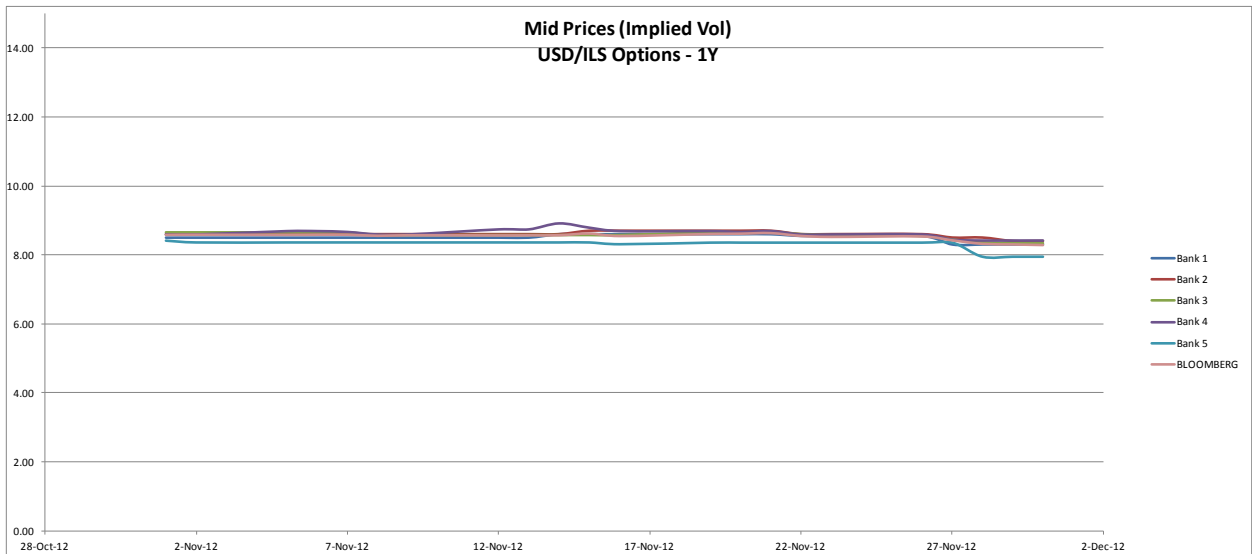
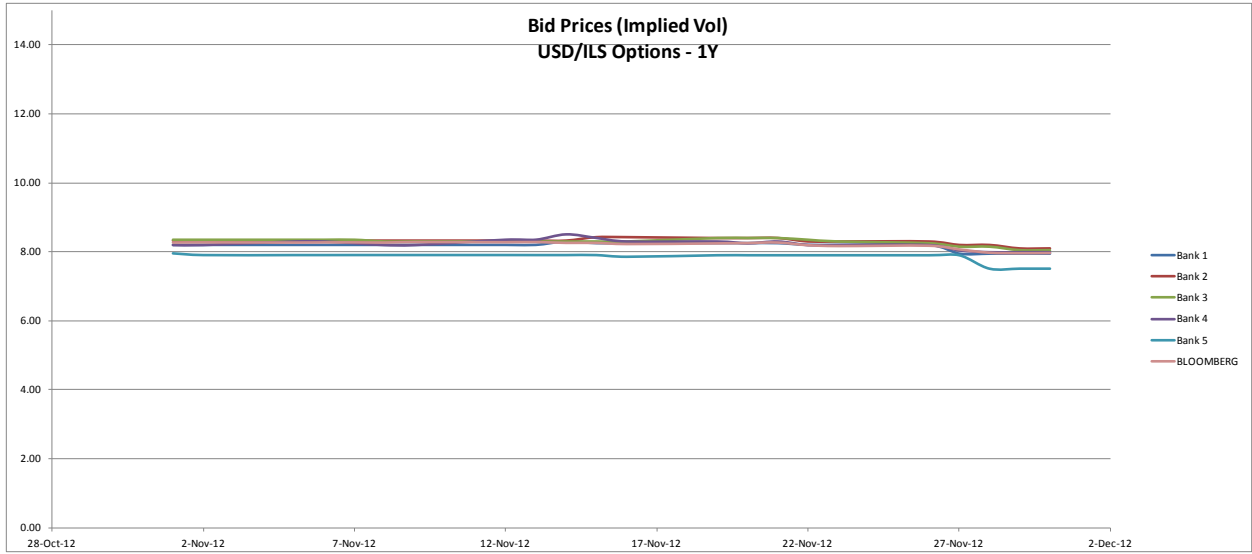












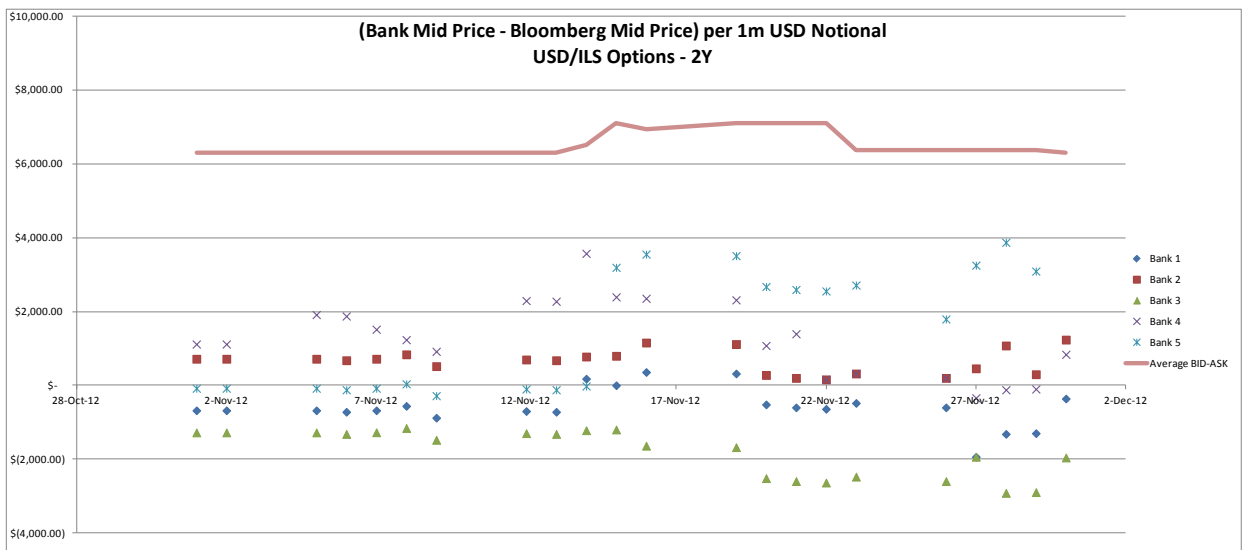
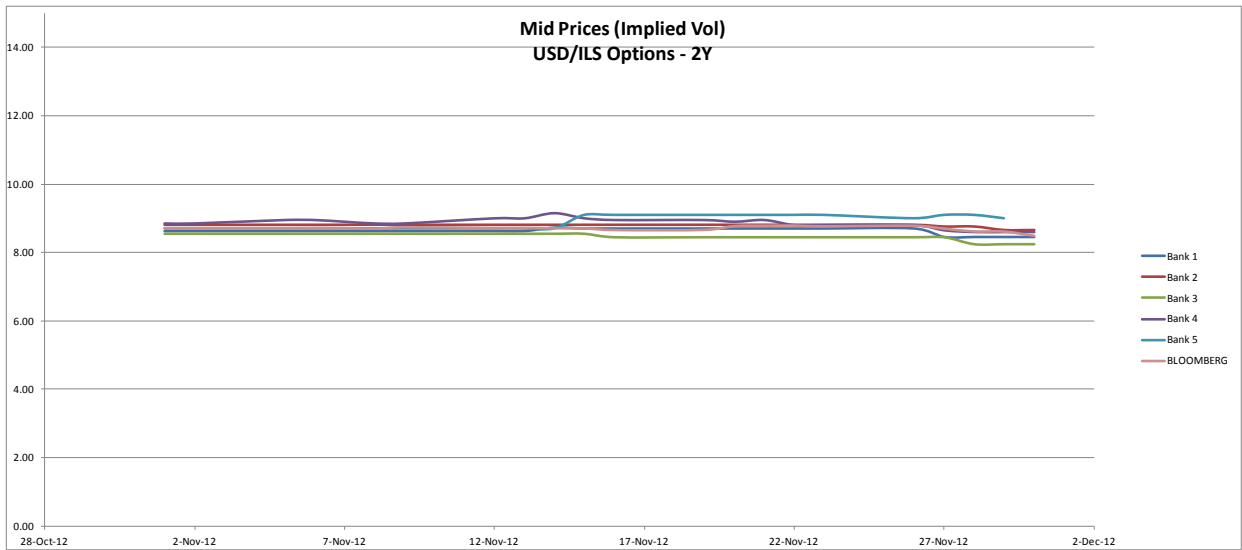
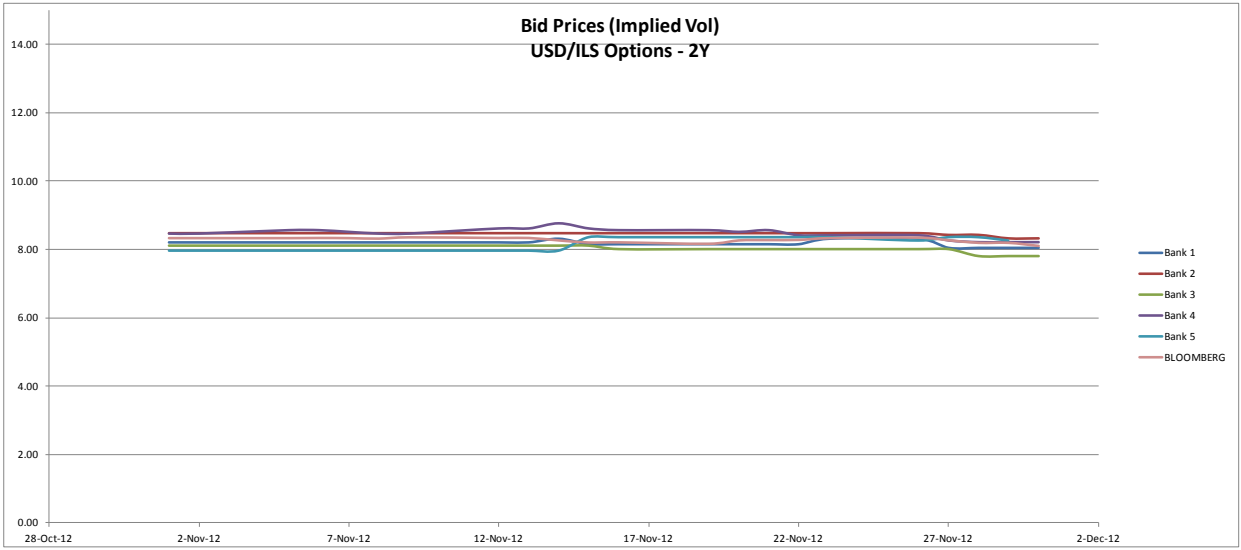


EXHIBIT C

[Confidential – provided under separate cover]