

# USER'S GUIDE TO THE ISDA CREDIT SUPPORT DOCUMENTS UNDER ENGLISH LAW

## I. GENERAL

### A. Background and Overview

In 1994 the International Swaps and Derivatives Association, Inc. (“ISDA”) published the 1994 ISDA Credit Support Annex under New York law (the “New York CSA”) for use in documenting bilateral security and other credit support arrangements between counterparties for transactions governed by an ISDA Master Agreement that selects New York law as the governing law.<sup>1</sup>

In 1995 ISDA published two additional standard form credit support documents for use in documenting bilateral security and other credit support arrangements under English law between counterparties for transactions governed by an ISDA Master Agreement.<sup>2</sup> These documents are:

- (1) the ISDA Credit Support Deed (Bilateral Form - Security Interest) (the “Deed”); and
- (2) the ISDA Credit Support Annex (Bilateral Form - Transfer) (the “Annex”).

In 1996 ISDA published the 1996 ISDA Credit Support Annex under Japanese law (the “Japanese CSA”) for use in documenting bilateral and other credit support arrangements under Japanese law between counterparties for transactions governed by an ISDA Master Agreement. A User’s Guide has also been published for the Japanese CSA.

This User's Guide is designed to explain the Deed and the Annex and to highlight the principal differences between each of those documents. (An additional section comparing each of these documents to the New York CSA has also been included for the benefit of those already familiar with the New York CSA.)

In this Guide, in keeping with commercial usage, the term “collateral” is used to refer to assets transferred by one party to the other from time to time under the Deed or the Annex. Normally these assets will be readily marketable securities and/or cash. In relation to the Annex, the use of the term “collateral” in this Guide is without prejudice to the fact that the Annex is not intended to create a charge or other security interest under English law over the assets transferred under its terms.

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<sup>1</sup> Parties interested in using the New York CSA are referred to the User's Guide to the 1994 ISDA Credit Support Annex published by ISDA.

<sup>2</sup> The Deed and the Annex may each be used with either of the ISDA Master Agreements published by ISDA in 1992, namely, the 1992 ISDA Master Agreement (Multicurrency - Cross Border) and the 1992 ISDA Master Agreement (Local Currency - Single Jurisdiction). Although it is technically possible to use the Deed or the Annex with the 1987 Interest Rate and Currency Exchange Agreement (the “1987 Agreement”), a number of significant amendments to the 1987 Agreement need to be made. Parties wishing to use the Deed or the Annex where a 1987 Agreement is in place with a counterparty may find it easier to upgrade the 1987 Agreement to the 1992 ISDA Master Agreement (Multicurrency - Cross Border) using the form of Amendment Agreement in Appendix B to the User's Guide to the 1992 ISDA Master Agreements (1993 edition).