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# Section 719(b) Study

- It is feasible to require the derivatives industry to adopt standardized computer-readable algorithmic descriptions which may be used to describe complex and standardized financial derivatives
- The algorithmic descriptions will facilitate
  - computerized analysis of individual derivative contracts;
  - Calculation of net exposures to complex derivatives

But....

# **Keys to Success**

Economic Data Transaction Collateral	Legal Agreement Data  Master Agreement  Collateral Agreement  Amendment Agreements	Legal Opinion Data  Netting Opinions  Collateral Opinions
	*	*

#### **Economic Data**

#### Goldman / ISDA / SIFMA Comments

- docGenix endorses Comments of ISDA, SIFMA and Goldman Sachs on Section 719(b) study:
  - "Net Exposure" calculation methodology
  - FpML's capacity to represent trade data

## Legal Agreement Data

#### **ISDA Documentation Architecture**

#### Portfolio Level Documents

- Master Agreements
  - 1987 / 1992 / 2002
  - Legal / Credit terms
- Credit Support Agreement
  - Security Interest v Title Transfer
  - Collateral Terms
- Amendments
  - Substantive Changes
  - Minor Changes

#### **Transaction Level Documents**

#### Confirmations

- Economic Terms
  - Long Form
  - Short Form Definitions
  - Master Confirmations

# Single Agreement

Master Agreement / Credit Support
 Agreement and Confirmations constitute a single agreement.

"The Master, after the Bible and the Koran, is probably the most scrutinised document out there"

Financial Times Sep 30, 2009

#### Counterparty Credit Risk

## **Parties**

- Party
- Credit Support Provider
- Specified Entities

#### **Events**

- Events of Default
  - Failure to Pay
  - Breach of Agreement
  - Credit Support Default
  - Misrepresentation
  - Default Under Specified
     Transaction
  - Cross-Default
  - Bankruptcy
  - Merger Without Assumption
  - Bespoke Events of Default

- Termination Events
  - Illegality
  - Force Majeure (2002)
  - Tax Event
  - Tax Event Upon Merger
  - Credit Event Upon Merger
  - Bespoke Additional Termination Events

# Event Consequences...

- Close-out Netting
  - Events of Default
  - Termination Events
  - Impact on:
    - Transactions
    - Affected Transactions
  - Core Netting Provisions in the Master Agreement that are at the heart of close-out netting
- Collateral Agreements
  - Collateral Taker can use collateral to reduce its counterparty exposure even further.



# **Credit Support Agreements**

- Nature of Agreement
- Nature of Collateral
- Thresholds
- Rehypothication
- Excluded Transactions

## **Legal Opinions**

# **Legal Opinions**

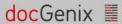
- Execution of Master Agreement / Credit Support Agreement no guarantee of enforceability
- Independent confirmation of enforceability is required in the form of Legal Opinions
- Opinions were originally commissioned by Market Participants individually
- Annual ISDA Legal Opinions
  - Netting (55 Jurisdictions)
    - www.netalytics.org
  - Collateral (45 Jurisdictions)
    - www.csanalytics.org
- Bespoke Legal Opinions



#### Identifiers

# **Identifier Expansion**

- Unique Swap Identifier
  - Linking swaps together
- Unique Counterparty Identifier
  - Map to ISDA Legal Opinion counterparty types
- Unique Product Identifier
  - Map to ISDA Legal Opinion transaction types
- Additional Identifiers required for:
  - Master Agreements
    - Sometimes there are more than 1 Master Agreement between two counterparties
  - Credit Support Agreements (Security Interest vs. Title Transfer)
  - Amendments
- Corporation Affiliations Database
  - Ensure affiliations data is hierarchical



## Lingua Franca

#### **Current Data Capture Processes**

- OTC Participants are capturing data from their legal agreements
  - Bespoke fashion
  - Different levels of granularity
- As such it is of limited use from a regulatory and risk management point of view

#### Extensible Markup Language

### **XML**

- Created to describe legal agreements
- Flexible
  - Transformation html, pdf, csv
- Schema "validation"
- Platform independent
- Widely used (FpML)

# Conclusion

Economic Data Transaction Collateral	Legal Agreement Data  Master Agreement  Collateral Agreement	Legal Opinion Data  Netting Opinions  Collateral Opinions

## **Questions & Answers**

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