PROGRAMME PROSPECTUS

ISDA NEGOTIATION "HOT BUTTONS" AND OTHER POINTS

1. Learning Objectives and Outcomes

This programme highlights the key points that need to be agreed or that are frequently negotiated in the ISDA Master Agreement.

It also touches upon the points that you need to consider when negotiating the ISDA Credit Support Documents and the ISDA Confirmations.

Sample provisions are included for reference.

2. Programme Outline

Topic	**Learning Objectives and Outcomes**	**Duration**
Negotiations ISDA Master Agreement negotiation – Overview • Specified Entities • Default Under Specified Transaction • Cross-Default	• What are the key points that need to be agreed or that are frequently negotiated in the ISDA Master Agreement? o **Specified Entities:** ▪ When is it relevant? ▪ What are the possible entities? o **Default Under Specified Transaction:** ▪ How can it be modified? ▪ Should you include a Threshold Amount trigger? ▪ How to draft the Threshold Amount trigger? o **Cross-Default:** ▪ How can it be modified? ▪ Should you modify the Threshold Amount trigger?	110 minutes

Topic	Learning Objectives and Outcomes	Duration
• Merger-related events • “Cure” periods • Automatic Early Termination • Additional Termination Events	o **Merger-related Events**: ▪ How to modify the definition of “merger” in Merger Without Assumption, Tax Event Upon Merger and Credit Event Upon Merger? ▪ How to modify the “materially weaker” test in Credit Event Upon Merger? o **“Cure” periods**: ▪ When is it relevant? ▪ Should you change the relevant period? o **Automatic Early Termination:** ▪ When should it apply? o **Additional Termination Events:** ▪ What do you need to think about if you want to include it? ▪ Some examples to consider: ➢ failure to maintain majority ownership or control; ➢ breach of financial covenants; ➢ material adverse change; ➢ ratings downgrade; ➢ incorporation of loan or bond covenants; ➢ privatisation of a state-owned enterprise; ➢ failure to procure provision of security.	

Topic	Learning Objectives and Outcomes	Duration
• Additional representations and provisions	o **Additional representations and provisions:** ▪ Some examples of additional representations to consider: ➢ relationship between the parties; ➢ risk management; ➢ lawful purpose; ➢ commercial benefit; ➢ Risk Disclosure Document. ▪ Some examples of additional provisions to consider: ➢ consent to disclosure; ➢ trade reporting consent and acknowledgements; ➢ personal data protection consent (for example, under the Singapore Personal Data Protection Act 2012); ➢ consent to recording of conversations; ➢ waiver of conflict of interests; ➢ waiver of statutory third party contractual rights; ➢ waiver of jury trial; ➢ expanded waiver of sovereign immunity; ➢ escrow payments; ➢ printed form of the ISDA Master Agreement; ➢ incorporation of the ISDA 2002 Master Agreement Protocol; ➢ incorporation of the ISDA 2013 EMIR Protocol;	

• Governing law and dispute resolution • Process Agent Legal opinions	➢ jurisdiction-specific clauses (for example, relating to Indonesian Law No. 24 of 2009 on the National Flag, Language, Coat of Arms and National Anthem); ➢ special tax clauses (for example, relating to US FATCA). o **Governing law and dispute resolution:** ▪ What governing law should apply? ▪ Litigation or arbitration? ▪ If litigation, exclusive or non-exclusive jurisdiction? ▪ If arbitration, what do you need to provide for? o **Process Agent:** ▪ When should a Process Agent be appointed? ▪ What do you need to consider in deciding who to appoint? • **Legal opinions:** o What are some of the legal points on which a legal opinion may be required?	
Traditional ISDA Credit Support Documents • Framework o Which ISDA Credit Support Document? o Collateralise what transactions? o Collateralise net or gross exposures?	• What do you need to consider when negotiating the traditional ISDA Credit Support Documents? o **Framework:** ▪ What are the factors to consider in choosing which ISDA Credit Support Document to use? ▪ Should you collateralise all transactions or only certain types of transactions? ▪ When should gross exposures be collateralised?	110 minutes

Topic	Learning Objectives and Outcomes	Duration
o One-way or two-way collateralisation? o Credit Support Offsets?	▪ Should both parties be required to post collateral? ▪ What does “Credit Support Offsets” mean?	
• Collateral o Currencies o Types of collateral o Eligible collateral o Cash collateral o Non-cash collateral	o **Collateral:** ▪ Base Currency vs Eligible Currency vs Termination Currency. ▪ Cash vs non-cash collateral. ▪ Should you impose eligibility conditions? ▪ What do you need to think about in relation to interest payments on cash collateral? ➢ What is the position on interest payments in the traditional ISDA Credit Support Documents? ▪ In relation to non-cash collateral: ➢ Who should bear the burden of any withholding tax in connection with distributions on non-cash collateral? ➢ Should the collateral recipient have the right to rehypothecate or use the collateral received? ➢ Should the collateral provider have the right to substitute the non-cash collateral? ➢ What is the position on the above questions in the traditional ISDA Credit Support Documents?	

Topic	Learning Objectives and Outcomes	Duration
• Valuation, settlement and dispute resolution o Valuation of collateralised transactions o Valuation of posted collateral o Haircuts o Limits o Valuation cycle o Settlement o Valuation Agent and dispute resolution	o **Valuation, settlement and dispute resolution:** ▪ Valuation of collateralised transactions. ▪ Valuation of cash collateral, non-cash collateral, in particular, debt securities. ▪ Haircut vs FX haircut. ▪ Threshold; Independent Amount, rounding and Minimum Transfer Amount. ▪ Margining frequency and Valuation Time. ▪ Deadline for meeting margin calls. ▪ Who should the Valuation Agent be? How will any disputes be resolved?	
ISDA Confirmations • ISDA definitions • Calculation Agent • Payment or settlement netting • Disruption events and fallbacks • Asset-class specific provisions	• What do you need to consider when negotiating the ISDA Confirmations? o Which ISDA definitions booklet should you incorporate? o Who should the Calculation Agent be? Joint Calculation Agents? Can the other party challenge the determination of the sole Calculation Agent? How will any disputes be resolved? o What is payment or settlement netting? When should it apply? o When do you need to include disruption events and fallbacks? o Examples of the asset-class specific provisions for equity derivatives.	30 minutes
Total		250 minutes

3. Delivery Method

The programme will be delivered through self-directed e-learning. The programme will be offered on annual subscription basis through the applicant's website:

www.nomikos.com.sg

Participants who have questions can raise their questions via e-mail. Over time, the applicant plans to include a blog on its website that will summarise the most commonly raised questions and answers.

Depending on demand, the applicant may also offer participants a live webinar for questions and answers.

4. Assessment

The assessment will consist of 10 multiple choice questions (which will be randomly selected from a pool of 30 questions).

The passing grade will be 70%.

5. Total CPD hours

Upon successful completion of the programme, the participant will have achieved a total of **4.5 CPD hours**, comprised as follows:

	Duration
Programme	250 minutes
Assessment	20 minutes
Total	270 minutes