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ISDA Publishes Tokenized Collateral Model Provisions for ISDA 2016 Credit Support Annexes for Variation Margin

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On December 20, ISDA published the tokenized collateral model provisions for inclusion in ISDA 2016 Credit Support Annexes for Variation Margin (VM) (the "Model Provisions"). The Model Provisions comprise two sets of provisions, one for the English Law ISDA 2016 Credit Support Annexes for Variation Margin (VM) (the "English Law VM CSA") and the other for the New York Law ISDA 2016 Credit Support Annexes for Variation Margin (VM) (the "New York Law VM CSA").

The intended scope of use of the Model Provisions is limited to the situations where the parties to an English Law VM CSA or a New York Law VM CSA (each, a "VM CSA") wish to use tokenized securities or stablecoins transferrable using the distributed ledger technology as collateral under their VM CSA. The Model Provisions allow the parties to a VM CSA to designate certain tokenized digital assets as "DLT Cash" or "DLT Securities" and amend the transfer provisions and the definition of "Local Business Day" in their VM CSA to cover transfers of DLT Cash and DLT Securities, taking into account that blockchain networks used to effect those transfers typically operate on a 24/7 basis. In addition, the Model Provisions include amendments to the definitions of "Distributions" in the VM CSAs to cover issuer airdrops relating to DLT Securities.

The use of the Model Provisions with other ISDA credit support documents would require certain revisions, while their use for other types of digital assets based on the distributed ledger technology would also require analysis of the relevant legal issues specific to those types of digital assets.

See the recent Client & Friends Memo here authored by Michael Ena and Ivan Loncar.