Glossary of Terms

364-day Facility A revolving credit facility that runs 364 days. These facilities have proliferated because loans with an original final maturity of less than one year are not subject to regulatory capital charges for undrawn amounts.

Acceleration The demand for payment of the total outstanding principal amount of a loan by a lender or group of lenders upon the occurrence of certain events described in a credit agreement (for example, the borrower's failure to make a scheduled payment, the borrower's filing for bankruptcy, or the borrower's nonperformance of certain covenants).

Accordion Feature Increases under a credit agreement can be offered in two forms, as "accordion features" or as "incremental facilities." An accordion feature is normally available only for increases to revolving credit facilities and will permit the amount of the revolving credit commitments to go up if the lenders are willing. The interest, maturity, and other terms of an increase will be identical to those applicable to the existing (and increased) revolving credit facility. The accordion mechanism will provide that, upon any increase, the borrower will adjust the loans (through appropriate borrowings and prepayments) so that the loans in the increased facility are held by the lenders ratably.

Accrued Interest Interest that is owed to a lender but has not been paid by the borrower.

Acquisition Purchase of a company by another company or group of companies.

Acquisition Loan A specific type of loan that typically cannot be reborrowed. Funds can be drawn down from the line of credit only for a specific period of time and only to purchase specified assets.

Administrative Agent The institution that performs the recordkeeping associated with a loan, handles the interest and principal payments to be made in connection with the loan, and monitors the ongoing administration of the loan.

Administrative Agent Fee The annual fee paid to the administrative agent for its loan administration services.

Affiliate With respect to a specified person, another person that directly or indirectly through one or more intermediaries, controls, is under common control with, or is controlled by the person specified.

Agent The title given to certain financial institutions that take on specific roles with respect to the administration or distribution of a credit agreement (i.e., administrative agent, syndication agent, and documentation agent). The term is frequently used to refer to the financial institution that is leading the transaction.

Allocation The distribution of a facility among committed investors by the arranger; it takes place when the sales process has been completed. The primary syndication is considered completed once the allocations have been announced, following which the loan may begin trading.

Amendment A revision to the terms (financial or otherwise) of a credit agreement, typically requested by a borrower.

Amendment and Restatement A revision of a credit agreement that reflects substantial modifications to the original credit agreement (either in one amendment or in a series of previous amendments).

Approved Fund As used in the LSTA's Model Credit Agreement Provisions, any fund that is administered or managed by a lender, an affiliate of a lender or an entity or an affiliate of an entity that administers or manages a lender.

Arrangement Fee The fee paid by a borrower to the arranger for structuring and syndicating the loan.

Arranger The firm that leads the structuring and syndication of a loan. See "Lead Arranger."

Asset-Backed Security (ABS) A security backed by an underlying asset, such as loans, bonds, or mortgages.

Asset-Based Loan (ABL) A loan that is secured by specific assets (typically receivables or inventory) and made on the basis of a negotiated borrowing formula (borrowing base) that reflects a percentage of the value of the underlying assets.

Assigning Lender A lender that is selling and assigning its rights and obligations under, and any claims against any person arising in connection with, a credit agreement (and any other documents related to such credit agreement) to another party pursuant to an Assignment and Assumption Agreement.

Assignment A transfer of a loan that has the effect of substituting the assignee/buyer for the assignor/seller such that the assignee/buyer comes into privity of contract with the borrower, obtaining the rights and assuming the obligations of the assignor/seller under a credit agreement.

Assignment and Assumption Agreement (also known as an Assignment Agreement) The agreement that documents the sale and assignment of rights and obligations under a credit agreement by a lender to an assignee. This agreement is typically a form that is attached to each credit agreement.

Assignment Fee The fee charged by an administrative agent and set forth in the applicable credit agreement for the costs associated with causing an assignment agreement to be effected. Such fees are typically split equally between the buyer and the seller and are paid in such amount as specified in the applicable credit agreement. In recent years, many institutions have been waiving assignment fees on a reciprocal basis or eliminating them entirely.

Bankers' Acceptance [A promise by a bank or banker, as drawee of a draft or bill of exchange, that the instrument will be honored at maturity. In a bankers' acceptance facility, the lenders will allow the borrower to draw time drafts on the lenders, which the lenders agree will then be "accepted" by the lenders. Bankers' acceptance facilities are today rarely seen in syndicated credit agreements.]

Bankruptcy A judgment that a debtor is legally insolvent; it may be made upon voluntary petition or invoked by the debtor's creditors. The debtor's remaining property is then administered for the creditors or distributed among them.

Bankruptcy Code The Federal Bankruptcy Code of 1978, as amended from time to time, presently codified as Title 11 of the United States Code.

Bankruptcy Court The specialized federal court that hears matters arising under the Bankruptcy Code.

Bankruptcy Proceedings The proceedings in a specialized federal court relating to the bankruptcy of an entity.

Bankruptcy Rules The Federal Rules of Bankruptcy Procedure and any corresponding or other local rules of the Bankruptcy Court.

Bar Date The deadline (if any) fixed by the Bankruptcy Court pursuant to the Bankruptcy Code or the Bankruptcy Rules on which proofs of claim or interest may be filed in a bankruptcy case.

Basis Point (bp) 1/100 of 1 percent. It is the unit of measurement used to describe fees or spreads in most loan transactions.

Benefit Plan As used in the LSTA Purchase and Sale Agreement, an "employee benefit plan" that is subject to Title I of ERISA, a "plan" as defined in Section 4975 of the Code, or any entity whose assets include (for purposes of U.S. Department of Labor Regulations Section 2510.3–101 or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan."

Best Efforts Syndication A transaction in which the arranging syndicate does not firmly commit to provide all the funds requested by a borrower, but rather commits to using its "best efforts" to raise the money; as a consequence, the related pricing and fees will typically be lower than those for fully underwritten transactions. If other banks elect not to join the deal, then the credit is not closed. Traditionally, best efforts syndications were used for risky borrowers or for complex transactions. Since the late 1990s, however, the rapid acceptance of market-flex language has made best efforts loans the rule even for investment-grade transactions.

Bid-Ask Spread (Bid-Offer Spread) The difference between the bid and ask (offer) prices.

Bid Price The price at which a potential buyer would agree to purchase an asset.

Bilateral Netting Agreement The LSTA Bilateral Netting Agreement—Par/Near Trades or the LSTA Bilateral Netting Agreement—Distressed. The agreements provide that transactions evidenced by two trade confirmations between the parties may be netted against each other to determine the "netting amount" to be paid by either the original buyer or the original seller as applicable.

Borrower The person or entity that borrows funds under a credit agreement.

Business Day Typically defined in a credit agreement as a day other than a Saturday, Sunday, or other day on which commercial banks in the governing jurisdiction are authorized or required by law to close.

Buy-In (or Management Buy-In) The acquisition of a company by an external group of managers who have secured financial backers and who plan to manage the company upon completing the acquisition.

Call The right to buy an asset at a specified price at or prior to a given date.

Cash Flow Loan A prepayment provision in a credit agreement that gives the lenders the option to ask to receive earlier repayment of the loan if the borrower is performing well. The provision will typically stipulate that some percentage of the cash generated by the borrower's business in excess of a certain amount will be applied to prepay the loans.

Change of Control A merger, an acquisition of the issuer, a substantial purchase of the issuer's equity by a third party, or a change in the majority of the board of directors. One of the events of default in a credit agreement is a change of control of the issuer.

Closed-End Fund A fund that has a fixed number of shares outstanding; the shares are generally traded on an exchange. See also "Open-End Fund."

Closing Date The date on which a credit agreement closes or takes effect.

Club Deal A smaller loan (usually $25 million to $150 million) that is premarketed to a group of relationship banks. The arranger is generally a first among equals, and each lender gets a full cut, or nearly full cut, of the fees.

Collateral The assets of a borrower that are pledged to secure its loans. Collateral can be specific assets like inventory and receivables or can include all of the tangible assets of a borrower. Most leveraged loans and some investment-grade credits are backed by pledges of collateral.

Collateral Agent The agent in a syndicated loan that is responsible for monitoring collateral and ensuring that all liens securing the collateral are properly filed.

Collateralized Debt Obligations (CDOs) Special-purpose vehicles that are established to hold and manage pools of debt, including bonds and loans. CDOs are typically financed by the sale of numerous tranches of debt that have rights to the CDO's collateral and payment streams in descending order. The CDO market includes a variety of different collateral pools, among them investment-grade bonds, high yield bonds, asset-backed securities, trust preferred stock, and synthetic instruments.

Collateralized Loan Obligations (CLOs) Special-purpose investment vehicles established to accumulate a diversified pool of loans as collateral. The accumulation of the collateral is funded by the issuance of a series of rated notes plus equity. The rated notes are sequentially tranched, with the higher-rated tranches having a priority claim on the cash flows generated by the collateral pool and increasingly higher levels of subordinated capital support to protect against collateral losses. The CLO market is a subset of the broader CDO market.

Commencement Date In connection with a trade, the date (under LSTA standard documentation) when delayed compensation begins to accrue. Generally, the commencement date is 7 business days after the trade date in the case of par loans and 20 business days after the trade date in the case of distressed loans.

Commitment The amount of credit that lenders have collectively agreed to provide to a borrower under a credit agreement.

Commitment Fee In a revolving credit agreement, the fee paid by borrowers on unused commitments. On term loans, this fee, which applies to the amount of a commitment that has not yet been drawn down, is typically referred to as a "ticking fee."

Competitive-Bid Loan (or Competitive Access Facility) A type of loan that is most often offered to borrowers with a high credit quality and is tied to a revolving credit facility. Lenders do not commit to make competitive-bid loans; rather, they may be offered by the lenders at their individual option within the aggregate limits of the revolving credit commitments of all revolving credit lenders. Competitive-bid loans allow lenders to provide loans to a borrower at rates lower than those otherwise available under the agreed pricing set out in the credit agreement.

Competitive-Bid Option A subfacility within a revolving credit loan that allows investment-grade borrowers to solicit bids from the syndicate group for short term loans. See "Competitive-Bid Loan."

Compliance Certificate A requirement in a credit agreement that all financial statements and any compliance calculation be certified by the chief financial officer or a senior financial officer of the borrower. Since the enactment of the Sarbanes-Oxley Act, a practice of requiring two officers to make these certifications has been developing.

Conditions Precedent The conditions precedent in a credit agreement are in essence a simplified closing list. They specify what the borrower must deliver to the lenders (or the administrative agent), what actions it must take, and what other circumstances must exist in order for credit to be available.

Confidential Information All non-public written, recorded, electronic, or oral information provided to a party by another party in the course of exchange of such information between those parties and identified by the providing party as confidential information.

Confidential Information Memorandum The information memorandum or "bank book" provided to prospective lenders after the arranger and the borrower have agreed on the basic structure and terms of a proposed loan.

Confirmation The LSTA Trade Confirmation, which sets out the key terms required for a binding trade based on the LSTA Standard Terms and Conditions for Distressed Trade Confirmations or the Standard Terms and Conditions for Par/Near Par Trade Confirmations as applicable. The terms of the trade are recorded (at the time of the trade) by checking the appropriate boxes and filling in other required information on each of the applicable Confirmations.

Counterparty One of the parties to an agreement.

Covenants Restrictions in credit agreements that dictate, to varying degrees, how borrowers can operate, financially and otherwise. Covenants generally fall into two main categories, affirmative covenants and negative covenants. Affirmative covenants generally include reporting requirements as well as financial benchmarks that must be met periodically. Negative covenants prohibit a borrower from taking certain actions (including, for example, increasing debt beyond a prearranged limit). The level of covenants typically reflects the financial strength of a borrower; the stronger the credit of a borrower, the thinner the covenants.

Credit Agreement The agreement entered into between the borrower, the lenders, the agent, and other financial parties that describes the terms and conditions of the loan being made to the borrower and the obligations and requirements for the borrower, its related entities (if any), and the lenders.

Credit Default Swap A contract that involves the payment of an up-front premium by the buyer of the swap to the seller, in return for the receipt of a cash flow from the seller, which is contingent on the occurrence of a credit event with reference to a preagreed reference obligation

CUSIP Committee on Uniform Securities Identification Procedures, which was created in July 1964. The main goal of the CUSIP Committee was to develop specifications for a uniform security identification system. Now the acronym is used to refer to the CUSIP system, which is owned by the American Bankers Association and operated by Standard & Poor's and which facilitates the clearing and settlement process of financial instruments. A CUSIP number consists of nine digits, of which the first six uniquely identify the issuer and have been assigned to issuers in alphabetic sequence, and two others (alphabetic or numeric) identify the issue. The ninth digit is the check digit.

Debtor-In-Possession (DIP) Loan Facility A credit agreement entered into by an entity during the Chapter 11 bankruptcy process, Federal Bankruptcy Rule 4001 (c)(1), which is secured and has priority over existing debt and other claims.

Deemed Dividends A problem that may arise when a loan to a U.S. borrower is guaranteed by a non-U.S. subsidiary. Under Section 956 of the U.S. Internal Revenue Code, a guarantee of this type is generally deemed to be a dividend by the subsidiary to its U.S. parent (up to the amount of the guarantee) of the earnings and profits of the subsidiary. Although not something that affects the enforceability of the guarantee, a deemed dividend can have potentially terrible tax consequences for the U.S. parent, since the parent will have to include the subsidiary's earnings and profits as taxable income without receiving any cash to pay the associated taxes. As a consequence, most guarantees of debt of a U.S. borrower will be restricted to U.S. subsidiaries. The "deemed dividend" problem can also surface if a U.S. borrower pledges the equity of a non-U.S. subsidiary. Under the Tax Code, a pledge of more than $66\frac{2}{3}$ percent of the total combined voting power of the non-U.S. subsidiary will be deemed to be a dividend to the same degree as a guarantee by the subsidiary.

Default In its most general sense, a breach of, or failure to fulfill or comply with, the terms of a contract or instrument. In the context of loans and other debt obligations, a default is a contractually specified event that allows lenders to demand repayment, in some cases subject to a grace period and right to cure.

Delayed Compensation A component of pricing in the settlement of distressed debt trades that is intended to put parties in the approximate economic position on the settlement date that they would have been in if they had closed on the commencement date. Delayed compensation starts to accrue if the trade does not settle on or before the commencement date. (See “Commencement Date”.)

Derivative A security whose price is dependent upon or derived from one or more underlying assets. The derivative itself is merely a contract between two or more parties. Its value is determined by fluctuations in the underlying asset.

Derived Loan Pricing A model based process which is used to derive an indicative secondary market price for a given loan. The model is based on discounting the cash flows of a given loan by first calculating the average market yield on similar loans with the same rating, and then using that average market yield as an input into the discounted cash flow model in order to calculate the derived price. Derived Loan Pricing is used on loans which are most often smaller in size, less liquid, and not quoted in the secondary market by broker/dealers.

Distressed Loan A loan that is not expected to be paid at the face value and/or is trading at or near a rate that is less than or equal to 90 percent of face value are indicators that a loan may be a distressed loan. For LSTA trades, the debt should be traded with a Distressed Purchase and Sale Agreement and an Assignment and Assumption Agreement. These criteria are indicators only. The market ultimately determines when a loan should commence trading on distressed documentation.

Distressed Purchase and Sale Agreement The Purchase and Sale Agreement for Distressed Trades published by the LSTA as of May 2005, which sets forth, among other things, the representations, warranties, and indemnities made by the seller and buyer with respect to the debt being traded.

Distribution Any payment of interest, principal, notes, securities, or other property (including collateral).

Documentation Agent The bank that handles the loan documentation and selects the law firm that will act as lenders’ counsel. (See “Agent”.)

Domestic Subsidiary With respect to any entity, a subsidiary that is formed in the same jurisdiction as that entity. (See “Subsidiary.”)

Drawdown A drawing made by a borrower under a revolving credit facility or by a beneficiary of a letter of credit under that letter of credit.

DTC The Depository Trust Company, a limited-purpose trust company under New York State banking law; it is a member of the U.S. Federal Reserve System and a registered clearing agency with the Securities and Exchange Commission.

Due Diligence An investigation into the business, legal, and financial affairs of a company that may be undertaken in connection with a financing.

Effective Date The date specified in an agreement as the date upon which the terms of that contract will take effect.

Electronic Settlement The process of closing a trade using an electronic platform.

Electronic Trading The buying and selling of loans and securities using an electronic trading platform.

Eligible Assignee A party that is permitted to enter into an assignment and acceptance with a lender with the consent of any party whose consent is required pursuant to the terms of the applicable credit agreement. Most credit agreements will state the eligibility requirements for a potential buyer of debt to become a lender of record in a credit facility, whether or not such a buyer is given the defined term *Eligible Assignee*.

ERISA The Employee Retirement Income Security Act of 1974, as amended from time to time.

Event of Default A default under a credit agreement that has not been remedied or waived by the lenders after the expiration of any applicable grace period.

Facility Fee A fee that is paid on a facility's entire committed amount, regardless of usage; it is often charged on revolving credits to investment-grade borrowers instead of a commitment fee because these facilities typically have a competitive-bid option (CBO) that allows a borrower to solicit the best bid from its syndicate group for a given borrowing. The lenders that do not lend under the CBO are still paid for their commitment.

Federal Funds Rate Typically defined in a credit agreement for any day as the average rate on overnight federal funds transactions for the preceding business day, as published by the Federal Reserve Bank of New York.

Fee Letter The letter that identifies the type and amount of fees payable by a company with respect to a syndicated loan, including arrangement and structuring fees or underwriting fees, administrative agency fees, collateral agent fees, and other amounts payable to the arrangers. The Fee Letter will also generally reflect "market flex" language, which details certain provisions of the facility that may be subject to change if necessary to complete syndication (for example, the structure of the facility and its terms or pricing). See "Flexed Pricing."

Financial Covenants A type of covenant set forth in a credit agreement. They can be divided into two categories: those that test the borrower's financial position at a particular date (such as a net worth or current ratio covenant) and those that test performance over one or more fiscal periods (such as the leverage ratio covenant, interest coverage covenant, fixed charges coverage ratio covenant, and capital expenditures covenant). A variant of the second category could be those covenants that contain both date-specific and performance elements, such as a debt ratio covenant testing the ratio of debt at a particular date to earnings for a specified fiscal period.

Financial Sponsor An entity that finances the acquisition of a company through a combination of debt and equity. In a leveraged buyout, the equity portion is contributed by the financial sponsor, and the debt portion is raised by the company to be acquired.

First Lien A first attachment on a borrower's asset; it may be a perfected first lien if it is duly recorded with the relevant government body, so that the lender will be able to act on it should the borrower default.

Fixed Rate An interest rate that does not change.

Market Flex A situation in which arrangers and issuers agree on a targeted and often a maximum price for the issue, but actual pricing is determined through the loan marketing process. Historically, loans were priced by the arrangers at the time of the engagement was granted and did not vary as they came to market. Now, loans are announced with a target price, but will either flex up or flex down depending on demand and on general market conditions. While the inclusion of price flex has limited the risk to the arrangers of pricing a deal incorrectly during the pitch and negotiation process, it has not eliminated the risk entirely. The degree of price flex permitted to the arrangers is often one of the most heavily negotiated elements of a commitment letter.

Floating Rate An interest rate that resets at specified intervals.

Foreign Subsidiary With respect to any entity, a subsidiary that is formed in a jurisdiction other than the one in which such entity has been formed. See "Subsidiary."

Fraudulent Conveyance Laws intended to capture a transaction where (1) an entity undertakes an obligation or transfers property without receiving reasonably equivalent value, and (2) the entity is insolvent at the time of, or would be rendered insolvent as a result of, the transaction. They have been enacted in every state and also have been incorporated into the Federal Bankruptcy Code.

Fully Underwritten Syndication A transaction in which the arranging syndicate firmly commits to provide all the funds requested by a borrower. See also "Best Efforts Syndication."

Funded Participation A funding arrangement between the lender under the credit agreement and another party, known as the participant. The participant puts the lender, as grantor of the participation, in funds and is repaid principal and paid interest only to the extent that the lender receives such amounts under the credit agreement. Since the participant has only a contractual arrangement with the lender, the participant has no direct rights against the borrower and no beneficial interest in the underlying debt.

Funds Any entity that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business. See "Closed-End Funds," "Hedge Funds," "Open-End Funds," and "Prime-Rate Funds."

G.A.A.P. Generally Accepted Accounting Principles.

Gold Sheets Loan Pricing Corporation's publication for syndicated loan and investment product pricing information.

Governmental Authority Any federal, state, or other governmental department, agency, institution, authority, regulatory body, court, or tribunal, foreign or domestic, including arbitration bodies, whether governmental, private, or otherwise.

Grid Pricing Possible rates in a credit agreement that are set forth in the form of a grid that varies by type of loan (by tranche and by pricing option) and the relevant financial measure; it is used when the applicable margin in the credit agreement is dependent on the credit rating and/or leverage of the borrower. When grid pricing is based upon credit ratings, the relevant parameters will include reference debt, the identity of the credit rating agencies to be relied upon, and the treatment of split ratings (when the rating agencies assign different ratings to such reference debt). When grid pricing is based upon leverage, the relevant date to test leverage is the end of the borrower's most recent fiscal quarter. Regardless of the form of grid pricing, many credit agreements will provide that, during the existence of an event of default, the applicable margin will bump up to the highest level on the grid.

Guarantee A guarantor's agreement to purchase or otherwise become contingently liable for the debts or other obligations of another entity. Guarantees can be "upstream" (a subsidiary guaranteeing debt of its parent), "cross-stream" (a subsidiary guaranteeing debt of a "sister" company, where both are ultimately owned by the same parent), and "downstream" (a parent guaranteeing a subsidiary). See "Guarantor".

Guarantor The grantor of a guarantee or contingent agreement to purchase or otherwise to become contingently liable with respect to the debts or other obligations of any person.

Hedge Funds Collective investment vehicles, often organized as private partnerships and formed as offshore vehicles for tax and regulatory purposes.

High Yield Issuer An issuer of a debt obligation that has not earned an investment grade rating. See "Non-Investment Grade."

Highly Leveraged Loan Loans regarded as less creditworthy than leveraged loans. Different institutions define a leveraged loan in different ways; for example, for Loan Pricing Corporation, it is any loan that is priced at LIBOR + 225 or greater; for Standard & Poor's, it is any loan with a spread over LIBOR of 500 basis points or more; and for Thompson Financial, it is any loan funded before June 30, 2002, with an initial spread of 250 basis points or any loan funded after July 1, 2002, with a spread of 275 basis points or more. [Should we double-check this with the institutions?]

Indemnification An agreement that one party will bear the monetary costs, either directly or by reimbursement, for any losses, damages, and expenses incurred by another party.

Indemnified Party The party that enjoys the benefit of an indemnification given by another party. See "Indemnification."

Institutional Investors Nonbank investors seeking longer-term capital deployment and higher yields by investing in term loans with longer tenors and limited amortization.

Institutional Term Loan A term loan that is structured to be sold to institutional investors (for example, where interest is paid throughout the term of the loan and the principal is paid back at maturity).

Intercreditor Agreement An agreement entered into by classes of lenders of an issuer that sets forth the arrangement governing how those lenders will exercise their rights and remedies under the applicable credit agreement. For example, first lien lenders and second lien lenders will enter into an intercreditor agreement pursuant to which the second lien lenders forgo or restrict their rights. For example, second lien lenders may agree (1) not to take enforcement actions (or to limit their right to take such actions) with respect to their liens, (2) not to challenge enforcement or foreclosure actions taken by the holders of the first liens, and (3) to limit their right to challenge the validity or priority of the first liens; second lien lenders may also acknowledge the first lien lender's entitlement to first proceeds of the shared collateral.

Interest-Rate Risk Risk inherent in certain financial instruments as a result of their fixed-rate nature.

Investment Grade A security with a rating of BBB or higher by Standard & Poor's and Baa or higher by Moody's. [Should we include Fitch?]

ISDA International Swaps and Derivatives Association, a global financial trade association. ISDA represents participants in the privately negotiated derivatives industry.

Lead Arranger Essentially the "middleman" in the syndication process. One or a small group of commercial or investment banks act as the Lead Arranger or Co-Lead Arrangers with responsibility for structuring, syndicating, and administering the loan. In most transactions, the Lead Arranger drives the deal; sets the terms; interfaces with the client and investors; prepares, negotiates, and closes documents; and manages the syndication process. Consequently, the Lead Arranger generally receives premium compensation, which increases with the complexity or difficulty of the financing. The title of Lead Arranger is the most significant designation for the lender responsible for executing the transaction. The bookrunner, the lender managing the syndication process, is usually one of the Co-Lead Arrangers.

League Tables Tables that rank lenders according to certain criteria, such as submission guidelines, transaction classifications, and eligibility rules. Market share in the syndicated loan market is quoted in League Tables published by several companies, including Loan Pricing Corporation, Bloomberg, and Thompson Financial.

Lender An entity that extends credit to a borrower or borrowers pursuant to the terms of the credit agreement governing a credit facility.

Letter of Credit An undertaking by the issuer of the Letter of Credit (virtually always a bank, although legally it can be anyone) to pay the beneficiary of the Letter of Credit a specified sum against delivery of documents during the term of the Letter of Credit. The issuer is *unconditionally* obligated to honor a drawing under the Letter of Credit if the proper documents are presented, without any requirement that the issuer verify the truth of statements in the documents. So long as the documents "strictly comply" with the terms of the Letter of Credit, the issuer is obligated to pay. The borrower (in letter of credit terminology, the "account party") will in turn be unconditionally obligated to reimburse the issuer for the amount paid by the issuer as a result of any drawing under the Letter of Credit.

Letter of Credit Fee A fee accruing at an agreed per annum rate that borrowers are obligated to pay to each revolving credit lender on its participation in the undrawn amount of each outstanding letter of credit. As letters of credit are issued under a revolving credit facility, all of the revolving credit lenders share in the credit exposure because, even if they are not the letter of credit issuer, they have participations in the letters of credit. In the case of the issuer of each letter of credit, its participation therein for purposes of this calculation is deemed to be its remaining credit exposure after subtracting the participations of the other revolving credit lenders.

Leveraged Buyout The process of taking a public company private; the transaction is financed through debt raised by the company and equity contributed by the financial sponsor. See "Financial Sponsor".

Leveraged Loan A loan that is regarded as less creditworthy. Different institutions define a leveraged loan in different ways; for example, for Loan Pricing Corporation, it is any loan with a BB, BB/B, B, or lower bank loan rating; for Bloomberg, it is any loan with a spread over LIBOR of 250 basis points or more; for Standard & Poor's, it is any loan with a spread of 125 to 499 basis points; for Thompson Financial, it is any loan with an initial spread of 150 basis points or more before June 30, 2002, or 175 basis points or more after July 1, 2002.

LIBOR (or "LIBO Rate") An acronym for "London Interbank Offered Rate"; it refers to the London-based wholesale market for jumbo U.S. dollar deposits between major banks. Since such deposits are often referred to as "Eurodollar" deposits, the terms *Eurodollar* and *LIBOR* are often used interchangeably.

Lien The right to retain property of another person until the owner of such property fulfills a legal duty to the person holding such property, for example, payment for work done on the property.

Liquidity The ease of trading debt in the loan market. As in all markets, all else being equal, more liquid instruments are priced more cheaply than less liquid ones. Liquidity has become increasingly important now that institutional investors and banks put a premium on the ability to package loans and sell them. As a result, smaller executions (generally those of $200 million or less) tend to be priced at a premium to larger loans. Those in the middle, $200 million to $1 billion, are the market's "sweet spot," within investor capacity and sizable enough to generate secondary interest. Those exceeding $1.5 billion often command a spread premium to compensate investors for stepping up for larger pieces. These numbers represent a rough guide only and will fluctuate depending on the supply-demand dynamics of the market.

Loan Credit that is extended by one person to another person for a specified period and that bears interest at a specified rate for that period.

Loan-only CDS Credit default swaps with respect to which loans are the only deliverable obligation upon default.

Loan Market Association (LMA) The association registered in the United Kingdom to promote liquidity in the Euroloan market by, among other things, standardizing the documentation used in loan syndications and debt trading under English law.

Loan Market Participant An investor in the loan market.

Loan Syndications and Trading Association (LSTA) A not-for-profit organization dedicated to promoting the orderly development of a fair, efficient, liquid, and professional trading market for corporate loans originated by commercial banks and other similar private debt. The LSTA was formed largely in response to the exponential growth in loan trading volume in the secondary debt market.

Long-Term Debt Ratings An investment-grade or non-investment-grade [McGraw—I don't understand why in chapter 5 you often deleted hyphens (eg, non-business day became nonbusiness day) and have added them here.] rating assigned to debt obligations of an issuer by one of the rating agencies. Long-term debt ratings are an opinion of a rating agency as to whether an issuer will be able to fulfill its ongoing financial obligations to investors in a timely fashion.

Loss Given Default (LGD) The loss incurred by a lender in the event that the borrower of the loan defaults.

Management Buyout The purchase of an entity by its management using the value of the entity to secure financing to complete the acquisition.

Mandatory Prepayments Requirements that the borrower prepay loans upon the occurrence of specified events. Mandatory prepayments should be contrasted with the corresponding requirements in bond indentures, where a required prepayment will be structured as an "offer to prepay" made to all bondholders rather than an obligation that bonds be prepaid or redeemed. In a credit agreement, the prepayment is usually required to be made immediately (in a bond indenture, the process can take up to 90 or more days), and the lenders (with the exception of B loan tranches) will not be given the opportunity to opt out of a prepayment (in the bond indenture context, whether or not a particular bondholder is prepaid is purely a function of whether it elects to be prepaid by accepting the offer to prepay).

Mark-to-Market Recording the price or value of an asset, whether it be a loan, bond, stock or other security, portfolio, or account, to reflect its current market value.

Margin An additional amount, sometimes also referred to as the "spread," included in the interest rate on each base rate loan and each LIBOR loan. In some cases, the Applicable Margin is a flat rate fixed for the life of the agreement, but in other instances, it increases over time or is dependent on the credit ratings and/or leverage of the borrower.

Market Flex See "Flexed Pricing." [Suggest deleting "Flexed Pricing and using only "Market Flex".]

Master Confidentiality Agreement The Form of Master Confidentiality Agreement published by the LSTA as of July 1999. The agreement sets forth the terms that will apply to the treatment of nonpublic information that either party to the agreement may supply to the other party.

Material Adverse Change (MAC)/Material Adverse Effect A clause typically included in a credit agreement that provides a representation and warranty by the borrower that since a specified date, there has been no material adverse change in its business, condition (financial or otherwise), assets, operations or prospects, and subsidiaries, taken as a whole. The continued accuracy of such representations will generally be a condition precedent to new loans under a credit agreement. Thus, if a material adverse change has occurred, the MAC representation could not be truthfully made and the obligations of the lenders to make new loans would be suspended for as long as the material adverse change continues (or unless the condition is waived).

Middle Market Loans to companies whose size limits their access to capital. The definition of middle market continues to fluctuate but is generally regarded as companies with less than $750 million in sales and EBITDA levels of $25 million to $50 million that depend upon the loan market as their primary source of financing. The middle market loan volume accounts for 6% of the total market.

Moody's Investors Service, Inc. A subsidiary of Moody's Corporation that issues credit ratings and conducts related research and risk analysis.

Mortgage-Backed Security (MBS) A security created when a group of mortgages is pooled and bonds (typically guaranteed by the government) are sold to other institutions or the public. The bondholders receive a portion of the interest payments on the mortgages and the principal payments.

Multicurrency Options A provision in credit agreements that allows loans to be made (or letters of credit to be issued) in currencies other than U.S. dollars. Normally, the available currencies will be specified at closing with an option to add currencies later, subject to certain conditions. Multicurrency facilities can be structured as follows: (1) "Ratable Committed Loans," where the relevant lenders in a tranche will ratably commit to make loans in dollars and in specified foreign currencies; (2) "Nonratable Committed Loans," where a subgroup of lenders in a dollar tranche will agree to make loans in the currencies specified; (3) "Local Currency Tranches," where a separate tranche is created for each foreign currency, with specified lenders making loans directly to the relevant borrower out of local offices in the relevant foreign country; and (4) "Competitive-Bid Loans," where nondollar loans are made available to the borrower under the competitive-bid facility.

Multilateral Netting Agreement The "Multilateral Netting Agreement—Distressed" or the "Multilateral Netting Agreement—Par/Near Par" published by the LSTA in April 2004. The agreements refer to a trade confirmation between a seller of debt and a buyer ("original buyer") and a trade confirmation between the original buyer and a buyer and contemplate partial or total netting of the transactions evidenced by the confirmations. See also "Bilateral Netting Agreement."

National Association of Insurance Commissioners A national organization of insurance regulators involved in the coordination of solvency and market regulatory activities.

Net Asset Value The market value of a fund share. NAV is calculated by most funds by dividing total net assets by the total number of shares outstanding.

Non-Investment Grade A security with a rating of BB or lower by Standard & Poor's or Ba or lower by Moody's. See also "Investment Grade." [Include Fitch?]

Obligor As defined in the LSTA's Purchase and Sale Agreement, any entity (other than the borrower, the lenders and any administrative, collateral, syndication, documentation, or other similar agent under a credit agreement) that is obligated under the applicable credit documentation.

Offer/Ask Price The price at which a seller of a loan or commitment offers to sell that loan or commitment or the price at which a buyer of a loan or commitment offers to buy that loan or commitment in the secondary loan market.

Open-End Fund A mutual fund with an unlimited number of shares that can be issued, purchased, or redeemed at any time.

Optional Prepayment The general rule under New York law that a loan may not be prepaid without the consent of the lender. Credit agreements will nearly always expressly override the general rule and allow the borrower to prepay loans at any time at its option (subject to certain exceptions, such as with respect to competitive-bid loans and, of course, the need for any payment of a LIBOR loan prior to the expiration of its interest period to be accompanied by a breakfunding payment).

Original Issue Discount (OID) Debt that is originally issued at a price that is less than its face value.

Par/Near Par Loan Generally, a loan that is expected to be paid in accordance with the terms of its original credit agreement and/or trades at or near a purchase rate ≥ 90 percent of face value, or par. Debt that trades at or near par is generally transferred pursuant to an Assignment and Assumption Agreement without the LSTA's Purchase and Sale Agreement.

Pari Passu A Latin term meaning "without partiality" that is used to describe an equal claim by lenders to the assets of a borrower. Typically, the term is used in a representation with respect to "pari passu ranking" to the effect that the obligations of the borrower under the credit agreement rank at least pari passu with all other obligations of the borrower. This provides assurance that the laws of the borrower's country do not grant senior status to other claims that might "trump" the lenders' rights.

Participation A sale to the participant of an undivided interest in a lender's loan and/or commitment to a borrower with respect to which the selling lender maintains the relationship with the borrower and remains a party to the credit documentation; the transaction is generally not disclosed to the borrower or the public. The lender remains the official holder of the loan, with the participant owning the rights to the amount purchased. Consents, fees, or minimums are almost never required. The participant has the right to vote only on material changes in the loan document (rate, term, and collateral). Nonmaterial changes do not require the approval of participants. A participation can be a riskier way of purchasing a loan, because, in the event that a lender becomes insolvent or defaults, the participant does not have a direct claim on the loan. In this case, the participant then becomes a creditor of the lender and often must wait for claims to be sorted out to collect on its participation.

Portfolio Manager The manager of a fund. A portfolio manager considers an array of investment alternatives and seeks to analyze investments in the portfolio to achieve relatively strong performance.

Prepayment Fee An additional fee in a percentage equal to the amount of principal being prepaid that a borrower will in some cases be required to pay in addition to any breakfunding payments that may need to be made upon a prepayment. In a credit agreement, prepayment premiums, if specified at all, will normally only apply to the B loans, will be in much lower amounts (2 percent descending to 1 percent), and will apply only to prepayments made in the first or second year following the closing. In addition, some agreements provide that a premium is not payable at all unless the source of the prepayment is a refinancing by the borrower with the proceeds of cheaper debt (a so-called soft call).

Pricing Letter See "Settlement Amount."Delete?]

Prime Rate The primary benchmark rate publicly announced by a bank for interest on its loans. (Some banks prefer to call their publicly announced rate their "base rate," and others prefer "prime rate.") The base or prime rate is unilaterally determined by the bank based upon its cost of funds, competitive pressures, and other factors. Even though the prime rate can be changed at any time, banks are reluctant to change it to reflect seasonal or other short term increases in their cost of funds because of its economic (and sometimes political) importance.

Prime-Rate Funds Loan participation mutual funds, originally marketed as an alternative to money market funds, seeking returns that track the prime rate.

Priority In the context of liens, the order in which liens are treated. For example, a first lien lender enjoys priority over a second lien lender and will be paid out of the proceeds of the collateral secured by its lien before the second lien lender is paid; however, a second-priority lien gives a second lien lender effective priority over trade creditors and other unsecured creditors to the extent of the value of its interest in the collateral.

Private-Side Lender A lender that receives and uses syndicate information (which may include "material nonpublic information") in loan originating, loan trading, and/or lending and is, therefore, subject to trading restrictions if it is in possession of material nonpublic information.

Pro Rata A general principle in virtually all credit agreements that the lenders are treated on a proportional basis. Thus, lenders in a tranche make loans of that tranche "ratably", i.e., in amounts that are proportional to their commitments (with an exception for competitive-bid loans). Similarly, principal and interest are paid and prepaid "ratably" in accordance with the outstanding amounts of the relevant tranche. Commitments are reduced, and commitment and facility fees are paid, "ratably" in accordance with the commitments of the particular tranche.

Promissory Note A note evidencing loans under a credit agreement. Most credit agreements today are so-called note option deals, i.e., promissory notes are not executed except for any lender that requests them.

Proof of Claim A document filed by a creditor with the Bankruptcy Court setting forth details of the debtor, the creditor, and the claim (for example, the basis for the claim, the amount of the claim, and whether it is secured or unsecured). This serves as notice to the debtor that such property is owed and is being claimed against the assets of the debtor.

Prospective Lender A lender that reviews and evaluates information and documentation about a borrower and the financing with a view to becoming a lender under the applicable credit agreement.

Public-Side Lender A lender that has elected to conduct loan trading and/or lending solely on the basis of public information; typically, a public-side lender is also involved in securities trading and sales.

Purchase and Sale Agreement (PSA) The LSTA Purchase and Sale Agreement for Distressed Trades, published in May 2005. The PSA governs the purchase and sale of distressed loans, commitments, and other rights being transferred in connection those loans and commitments and contains, among other things, representations, warranties, and indemnities made by the seller and the buyer.

Purchase Price As used in the LSTA's documentation, the amount to be paid by the buyer to the seller for the amount and type of debt specified in the applicable trade confirmation as calculated in accordance with the LSTA's Standard Terms and Conditions for Distressed Trade Confirmations or if such calculations produce a negative number, the amount to be paid by the seller to the buyer in respect of such debt.

Purchase Price Letter As defined in the LSTA's Purchase and Sale Agreement, the letter agreement between a buyer and seller that specifies the calculations determining the purchase price of debt specified in the applicable trade confirmation.

Purchase Rate As defined in the LSTA's Purchase and Sale Agreement, the rate specified as a percentage of the face value of debt that is set forth in the applicable trade confirmation for such debt.

Recovery Rate The share of a defaulted credit that a lender receives after resolution.

Recovery Value The market price of a loan immediately following an event of default. Defaulted loans are generally priced based on the market's perception of the likelihood of repayment.

Reference Bank A specific bank named in a credit agreement whose rates are used to determine the prevailing interest rate offered by banks for a Eurodollar time deposit matching the applicable LIBOR interest rate for a loan under that credit agreement if the applicable rate is not available through a "screen quote" from Reuters or Telerate.

Register The list maintained by the administrative agent that identifies the name and address of each lender and the amounts of their respective commitments and loan balances. The credit agreement will normally state that the loan register is conclusive and thus is the definitive determinant of who must consent to modifications to the agreement and who are the "required lenders."

Regulation FD An SEC regulation that became effective on October 23, 2000; it eliminated the practice of selective disclosure and is designed to promote the full and fair disclosure of information by issuers, and to clarify and enhance existing prohibitions against insider trading. The rules address three issues: the selective disclosure by issuers of material nonpublic information; when insider trading liability arises in connection with a trader's "use" or "knowing possession" of material nonpublic information; and when the breach of a family or other nonbusiness relationship may give rise to liability under the misappropriation theory of insider trading.

Related Parties With respect to any person, such person's affiliates and the partners, directors, officers, employees, agents and advisors of such person and of such person's affiliates.

Representations and Warranties The statements in a credit agreement that affirm the basic understandings upon which the lenders are extending credit. They address legal and financial issues, matters relating to the business and capital structure of the borrower and its subsidiaries, and various other matters of concern to the lenders. Some representations, particularly those relating to legal condition, will also be covered by the legal opinion of the borrower's counsel.

Revolving Credit Loans Loans that "revolve" within "commitments" established by the lenders. The borrower may borrow, repay, and reborrow the loans during the term of the commitments, so long as the applicable lending conditions are satisfied. By contrast, term loans once borrowed and repaid may not be reborrowed.

Risk Participation A participation in which the original party remains liable to the beneficiary for the full amount of an obligation (e.g., a direct credit substitute), notwithstanding that another party has acquired a participation in that obligation.

SEC The United States Securities and Exchange Commission.

Second Lien Loans The claims on collateral securing a loan that are behind those of first lien loans. By 2004, the market had accepted second lien loans to finance a wide array of transactions, including acquisitions and recapitalizations. Second lien loans typically have less restrictive covenant packages, with maintenance covenant levels that are set wide of those for the first lien loans. As a result, second lien loans are priced at a premium to first lien loans. This premium typically starts at 200 bps [McGraw—do you want this written as bps or basis points? What's the style?]when the collateral coverage goes far beyond the claims of both the first and second lien loans to more than 1,000 bps for less generous collateral.

Secondary Market Trading Trading or sales that occur after a loan is closed and allocated. Loans trade at a percentage of par, and sales are structured as either assignments or participations, with investors usually trading through dealer desks at the large underwriting banks.

Secured/Security The asset collateral of the borrower pledged to repay the lenders in the event of default under a credit agreement. Secured loans are commonly used in the leveraged loan market.

Seniority The order of repayment. In the event of bankruptcy, senior debt must be repaid before subordinated debt is repaid.

Setoff A situation in which a lender that has a monetary obligation to a borrower, such as a deposit liability or an obligation under a derivative contract, may be able to effect payment on the loan by canceling, on a dollar-for-dollar basis, the lender's obligation to the borrower against the borrower's loan obligation to the lender. The right to do this is referred to as the right of "setoff." The right of setoff arises under common law; however, credit agreements generally include an express contractual right of setoff.

Settled without Accrued Interest The interest convention that provides that interest that has accrued but has not been paid prior to the settlement date belongs to the seller (if and when it is paid and whether it is received by the buyer or the seller).

Settlement Amount As used in LMA documentation, the amount to be paid by the buyer to the seller at the date of the novation, assignment, or participation. The calculation used to work out the settlement amount is found in Condition 11 of the Standard Terms and Conditions and is usually replicated in the Pricing Letter. The seller represents and warrants in the Standard Representations and Warranties that the amounts used in the settlement amount calculation are true and correct.

Settlement Date The date on which payment of the purchase price occurs against the transfer of the purchase amount of debt.

Spread The amount of yield the loan pays above a benchmark market interest rate given a particular price in the secondary market.

Standard & Poor's Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. Standard & Poor's is a provider of credit ratings and financial market indices.

Standstill Period A period during which lenders agree to refrain from taking certain enforcement action in respect of a borrower's outstanding debt so that the borrower may work with its financial advisor to restructure its debt.

Subparticipation An undivided interest in a participation interest.

Subsidiary With respect to any person, any corporation, limited liability company, partnership, or other entity of which at least a majority of the securities or other ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, limited liability company, partnership, or other entity [you must revert back to the original language (as amended) or else the para. does not make sense] is at the time directly or indirectly owned or controlled by such person and/or one or more subsidiaries of such person.

Swap Spread The spread difference between the Treasury and LIBOR curves or the fixed- and floating-rate markets.

Swingline Loans Loans made available by a "Swingline Lender.. They are an adjunct to the revolving credit facility. One purpose is to give the borrower faster availability to loans than would otherwise be permitted under the notice periods prescribed in the credit agreement; a Swingline Facility will permit loans to be made later in the day. Swingline Loans can be made on short notice because they are being advanced by only one lender, usually the same lender that serves as the administrative agent. A second purpose is to give the borrower access to loans with lower minimum amounts than would otherwise be required for a syndicated borrowing by all the lenders participating in the revolving credit facility. Swingline Facilities have several key features: (1) the Swingline Lender will customarily be obligated to make Swingline Loans only within the limit of its revolving credit commitment; (2) a maximum amount of Swingline Loans will be specified; (3) Swingline Loans will normally be required to be repaid in a very short time; and (4) in the event that for any reason the borrower does not repay the Swingline Loans within their prescribed maturity, the other revolving credit lenders will be unconditionally obligated to purchase participations in the Swingline Loans so that the risk of the Swingline Loans is shared ratably among all revolving credit lenders.

Subordination Giving lower priority to a claim or lien. In traditional debt subordination, the debt claim itself is subordinated; thus, if a holder of subordinated debt obtains anything of value in a bankruptcy from any source, it agrees to turn it over to the holders of "senior debt" until the senior debt is paid in full. In the case of second lien loans, only the liens are subordinated; the underlying debt claim is not. What this means is that the holder of second lien loan only agrees to turn over proceeds from sales of shared collateral to the first lien lenders. The holder of a second lien loan claim does not have to turn over to the first lien lenders funds distributed to it from other sources.

Subrogation The substitution of a new creditor for an existing creditor, and the succession by the new creditor to the existing creditor's rights.

Summary of Terms A summary of the principal terms and conditions of a loan as agreed to by the arranger and the borrower, set forth in an information memorandum that is then distributed to prospective lenders. The terms will be documented in greater detail in the credit agreement.

Syndication Agent The bank that handles the syndication of the loan. The title of "Syndication Agent" is often awarded in conjunction with large commitments, but the actual responsibilities of this role may be shared or handled by the administrative agent or the lead arrangers. See "Agent".

Synthetic Asset A value that is artificially created by combining other assets, such as securities.

Tax Gross-Up A mechanism included in a provision of a credit agreement that is intended to protect the lender against taxes that would reduce its yield on the loan. The primary concern relates to taxes that the borrower would be required to withhold from the stated interest that it would otherwise pay to the lender. The provision will, therefore, typically require the borrower to "gross up" the interest payment so that the lender realizes an amount in cash that, after deduction for the withheld taxes (including further withholding taxes on the gross-up payments), is equal to the stated interest on the loan. For example, assume that interest on a loan made by a bank located in the United States is equal to 6 percent. Assume also that the borrower is in a jurisdiction that imposes a withholding tax of 30 percent on interest payments made to the United States. Absent a gross-up, the lender will receive only 4.2 percent per annum on its loan, i.e., (100 percent minus 30 percent) times 6 percent. The taxes clause will, accordingly, gross up the interest payment to an amount equal to 8.571 percent (i.e., 6 percent divided by 0.70). When the 30 percent withholding is then applied to the 8.571 percent, the lender will receive 6 percent in cash (8.571 percent times 0.70 = 6.0 percent).

Term Loan A loan that may be drawn down by a borrower during a given commitment period and is then repaid by the borrower in accordance with a scheduled series of installments; once borrowed and repaid by the borrower, term loans may not be reborrowed. This is not to say that term loans cannot be made available under commitments that contemplate multiple drawdowns (a so-called standby term loan facility), but rather that once the loan is repaid, the borrower has no ability to reborrow the amount paid.

Term Loan Conversion ("Term-Out Option") A credit agreement provision stating that, at the commitment termination date for revolving credit commitments, any outstanding revolving credit loans will convert into term loans (sometimes called a "term-out option"). This type of conversion is normally automatic (i.e., not subject to a bring-down of representations or the absence of a default), but in some agreements those conditions will be required to be satisfied.

Total Return Swap A derivative contract between two parties to exchange the return of one or more bank loans. The swaps were first traded in the early 1990s and grew to prominence as a result of the desire for leverage and the lack of a repurchase market where institutional loan market participants could leverage their investment in bank loans.

Trade Date The date listed on the trade confirmation as the date on which the trade between the buyer and the seller took place.

Tranche [A term used to refer to different loans under a credit agreement.] In the context of term loans, tranche refers to either the so-called A loan tranche or B loan tranche. A loans are generally understood as term loans that are made by bank lenders (as opposed to funds or other institutional investors), have a maturity equal to the term of any revolving credit commitments in the credit agreement, and are entitled to the benefit of real amortization, i.e., installments that over the term of the loan will represent sizable paydowns of the facility. By contrast, B loans will typically be made by funds or other institutional lenders, have a maturity longer than any related A loan (usually six months to a year further), and will have only nominal amortization until the last year (i.e., typically 1 percent per year until the last year or the very final installment). Revolving credit and A loans are often referred to as the "pro rata tranches"; B loans are referred to as the "B tranche". The latter is true even though a credit agreement may have multiple series of B loans (Series B, Series C, Series D, and so forth).

Transfer Notice Any notice and evidence of transfer, with respect to transferred rights, filed in a bankruptcy case in accordance with the Bankruptcy Rules, including Bankruptcy Rule 3001(e). See "Transferred Rights."

Transferred Rights As defined in the LSTA's Purchase and Sale Agreement, the seller's rights, title, and interest in the loans and commitments and all other amounts payable to the seller under the credit documentation and all related claims, guarantees, and collateral that are being acquired by the buyer under the Purchase and Sale Agreement.

UCC Uniform Commercial Code; a set of laws regulating commercial transactions, in particular those transactions involving the sale of goods and secured transactions.

UCC Article 9 Revised Article 9 is the law of UCC filing in the United States Between July 1, 2001, and January 1, 2002, it became effective in all states and the District of Columbia. The new law requires significant changes in filing and searching procedures based on the provisions of new Part 5, "Filing." and Part 7, "Transition Rules," of revised Article 9.

Underwriting Fee A fee paid to the arranging syndicate for underwriting a loan. The fee will be higher than the fee paid to the arranging syndicate in a best efforts syndication, since, in an underwritten deal, the arranging syndicate must provide the funds even if less than the committed amount is sold.

Unfunded Commitment The portion of the total commitment that has not been drawn down by the borrower. Such amount is available to be funded at the request of the borrower.

Unsecured Loan A loan in which the lenders do not have a lien against the assets of the borrower.

Up-front Fee A fee paid by the borrower to investors to increase the return on their portion of the loan. While most institutional term loans are sold at "par" (i.e., no closing fees are paid), the pro rata portion of loans typically has an up-front fee associated with it. The fee will vary from transaction to transaction and will frequently vary within the same transaction based on the level of commitment offered by an investor. In transactions where the loan is oversubscribed and investors' commitments are being reduced through allocation, the actual fee they receive will be paid to them based on their allocated amount. Sometimes up-front fees will be structured as a percentage of the final allocation plus a flat fee. This happens most often for larger fee tiers, to encourage potential lenders to step up for larger commitments. The flat fee is paid regardless of the lender's final allocation.

Voting Mechanics Rules covering lender approval of any changes in a credit agreement. The basic rule with respect to voting provisions of a credit agreement is that the "majority" or "required" lenders must approve any modification, waiver, or supplement to any provision of the credit agreement. "Majority" or "required" will normally mean lenders holding more than 50 percent of the aggregate credit exposure, i.e., unused commitments and outstanding loans and letters of credit. Sometimes the credit agreement will break out particular issues and require a so-called supermajority vote for changes in these areas. In so-called club deals, the definition of "required lenders" may include a concept that a minimum number of lenders, as well as a minimum percentage of loans, vote in favor of a change. In a multitranche agreement, one issue that will be addressed is whether the lenders vote as a single pool, or whether each tranche votes separately. The nearly universal practice that has developed in recent years is that all lenders vote together as a pool; however, in addition, a clause may also be included that requires a separate majority vote of a tranche if a change would adversely affect that tranche without equally affecting all other tranches.

When-Issued Trading Trading following the allocation of a facility by the arranger to committed investors, but before closing.

Withholding Tax A tax that a borrower is required to withhold on an interest payment to a lender. The taxes clause in a credit agreement is intended to protect the lender against taxes that would reduce its yield on the loan. The primary concern relates to taxes that the borrower would be required to withhold from the stated interest that it would otherwise pay to the lender. The typical approach of the taxes clause is to require the borrower to "gross up" the interest payment so that the lender realizes an amount in cash that, after deduction for the withheld taxes (including further withholding taxes on the gross-up payments), is equal to the stated interest on the loan. See "Tax Gross-Up."