

**CODE OF CONDUCT FUNDAMENTALS  
FOR CREDIT RATING AGENCIES**

**Consultation Report**



**OICU-IOSCO**

**THE BOARD  
OF THE  
INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS**

**CR01/2014**

**FEBRUARY 2014**

Copies of publications are available from:  
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## Foreword

The Board of the International Organization of Securities Commissions (“IOSCO Board”) has published this Consultation Report, *Code of Conduct Fundamentals for Credit Rating Agencies*, prepared by IOSCO Committee 6 on Credit Rating Agencies (“Committee 6”). This Consultation Report proposes significant revisions and updates to the Code of Conduct Fundamentals for Credit Rating Agencies, which was last revised in 2008. The IOSCO Board seeks the views of stakeholders, including credit rating agencies (“CRAs”), on the proposed revisions to the Code of Conduct Fundamentals for Credit Rating Agencies in this Consultation Report.

## How to Submit Comments

Comments may be submitted by one of the three following methods **on or before 28 March 2014**. To help us process and review your comments more efficiently, please use only one method.

**Important:** All comments will be made available publicly, unless anonymity is specifically requested. Comments will be converted to PDF format and posted on the IOSCO website. Personal identifying information will not be edited from submissions.

### 1. Email

Send comments to [consultation-2014-01@iosco.org](mailto:consultation-2014-01@iosco.org)

- The subject line of your message must indicate *Code of Conduct Fundamentals for Credit Rating Agencies*.
- If you attach a document, indicate the software used (*e.g.*, WordPerfect, Microsoft WORD, ASCII text, etc.) to create the attachment.
- Do not submit attachments as HTML, PDF, GIFG, TIFF, PIF, ZIP or EXE files.

### 2. Facsimile Transmission

Send by facsimile transmission using the following fax number: + 34 (91) 555 93 68.

### 3. Paper

Send 3 copies of your paper comment letter to:

**Mr. Tim Pinkowski**

International Organization of Securities Commissions (IOSCO)

Calle Oquendo 12

28006 Madrid

Spain

Your comment letter should indicate prominently that it is a “*Public Comment on Code of Conduct Fundamentals for Credit Rating Agencies*.”

# Code of Conduct Fundamentals for Credit Rating Agencies – Consultation Report

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## I. Introduction

The IOSCO Code of Conduct Fundamentals for Credit Rating Agencies (the “IOSCO CRA Code”) is intended to offer a set of robust, practical measures as a guide to and a framework for CRAs with respect to protecting the integrity of the rating process, ensuring that investors and issuers are treated fairly, and safeguarding confidential material information provided them by issuers. The IOSCO CRA Code was first published in 2004 when few jurisdictions had laws governing activities of CRAs. In recent years, many IOSCO members have implemented registration and oversight programs for CRAs and have exercised supervisory authority over CRAs. In light of these developments, IOSCO is proposing significant revisions and updates to the IOSCO CRA Code.<sup>1</sup>

## II. Historical Background

In 2003, IOSCO published a set of principles with respect to CRAs (the “IOSCO CRA Principles”).<sup>2</sup> At the same time, IOSCO also published a report outlining the activities of CRAs, the types of regulatory issues that arise relating to these activities, and how the IOSCO CRA Principles address the issues.<sup>3</sup> The report highlighted the growing and sometimes controversial importance placed on credit ratings, and found that, in some cases, CRAs’ activities are not always well understood by investors and issuers alike. Given this lack of understanding, and because CRAs typically were subject to little formal regulation or oversight in most jurisdictions, concerns had been raised regarding the manner in which CRAs protect the integrity of the rating process, ensure that investors and issuers are treated fairly, and safeguard confidential material information provided to them by issuers. Consequently, the IOSCO CRA Principles were intended to be a useful tool for CRAs, regulators, and others seeking to improve how CRAs operate and how credit ratings are used by market participants. The IOSCO CRA Principles address four key objectives to promote informed, independent analyses and opinions by CRAs:

- **Quality and integrity of the rating process:** CRAs should endeavor to issue opinions that help reduce the asymmetry of information among borrowers, lenders and other market participants.
- **Independence and conflicts of interest:** CRA ratings decisions should be independent and free from political or economic pressures and from conflicts of interest arising due to the CRA’s ownership structure, business or financial activities, or the financial interests of the CRA’s employees. CRAs should, as far as possible, avoid activities, procedures or relationships that may compromise or appear to compromise the independence and objectivity of the credit rating operations.

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<sup>1</sup> A “clean” draft of the proposed revised IOSCO CRA Code is attached to this report at Appendix A. In addition, a “redline” comparison showing how the proposed revised IOSCO CRA Code would modify the existing IOSCO CRA Code is attached to this report at Appendix B.

<sup>2</sup> See IOSCO Technical Committee, Statement of Principles Regarding the Activities of Credit Rating Agencies (Sept. 2003), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD151.pdf>.

<sup>3</sup> See IOSCO Technical Committee, Report on the Activities of Credit Rating Agencies (Sept. 2003), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD153.pdf>.

- **Transparency and timeliness of ratings disclosure:** CRAs should make disclosure and transparency an objective in their ratings activities.
- **Confidential information:** CRAs should maintain in confidence all non-public information communicated to them by any issuer, or its agents, under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially.

Following publication of the IOSCO CRA Principles, some commenters, including a number of CRAs, suggested that it would be useful if IOSCO were to develop a more specific and detailed code of conduct giving guidance on how the Principles could be implemented in practice. IOSCO responded in 2004 with the publication of the first iteration of the IOSCO CRA Code.<sup>4</sup> The IOSCO CRA Code was based on input from IOSCO member jurisdictions, CRAs, the Basel Committee of Banking Supervisors, and the International Association of Insurance Supervisors.<sup>5</sup> The IOSCO CRA Code was intended to advance the goals of investor protection, fairness, efficiency, and transparency in securities markets, and the reduction of systemic risk. More specifically, the IOSCO CRA Code was designed to provide guidance to CRAs on how the IOSCO CRA Principles could be implemented to: help guard against conflicts of interest; ensure credit rating methodologies are used consistently by employees; provide investors with sufficient information to judge the quality of the CRA’s credit ratings; and generally ensure the integrity of the credit rating process. The IOSCO CRA Code also was designed to be relevant to all CRAs irrespective of their size, their business model, and the market in which they operate.

In the wake of the 2008 financial crisis, the IOSCO Chairman’s Task Force on Credit Rating Agencies (the “CRA Task Force”) – the predecessor of Committee 6 – undertook a study of the role of CRAs in the structured finance market. The study’s findings were released in a report.<sup>6</sup> The report included several recommendations to revise the IOSCO CRA Code, which were adopted concurrently with the publication of the report.<sup>7</sup> The revisions were designed to address the concerns that emerged from the study, including questions regarding the quality of information that CRAs relied on, suggestions that CRAs were too slow to review existing ratings and make downgrades as appropriate, and the possible conflict of interest arising from CRAs advising issuers on how to design structured finance products. Based on the recommendations, an updated IOSCO CRA Code was published in May 2008. The revisions, among other things, added the following disclosure provisions to the IOSCO CRA Code: (1) whether any one issuer, originator, arranger, subscriber or other client and its affiliates make up 10% or more of the CRA’s annual revenue; (2) whether the issuer of a structured finance product has informed the CRA that it is publicly disclosing all relevant information about the rated product so investors and other CRAs

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<sup>4</sup> See IOSCO Technical Committee, Code of Conduct Fundamentals for Credit Rating Agencies (Dec. 2004), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD180.pdf>.

<sup>5</sup> See Chairman’s Task Force of the Technical Committee of IOSCO, Code of Conduct Fundamentals for Credit Rating Agencies – Consultation Report (Oct. 2004), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD173.pdf>.

<sup>6</sup> See IOSCO Technical Committee, The Role of Credit Rating Agencies in Structured Finance Markets (May 2008), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD270.pdf>.

<sup>7</sup> See IOSCO Technical Committee, Code of Conduct Fundamentals for Credit Rating Agencies (rev. May 2008), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD271.pdf>

can conduct their own analyses of these products independently of the contracted CRA; (3) the attributes and limitations of each credit opinion, and the extent to which the CRA verifies information provided to it by the issuer or originator of a rated security; (4) the degree to which the CRA analyzes how sensitive a structured finance product's rating is to changes in the CRA's underlying ratings assumptions; (5) the principal methodology or methodology version in use when determining a rating; and (6) the CRA's internal code of conduct on its home webpage.

In 2009, the CRA Task Force completed a review of the level of CRA implementation of the IOSCO CRA Code and, in particular, the 2008 revisions.<sup>8</sup> The results of the review showed that, among the CRAs reviewed, a number were found to have substantially implemented the IOSCO CRA Code, including the three largest CRAs – Fitch Ratings, Inc. (“Fitch”), Moody's Investors Service, Inc. (“Moody's”), and Standard & Poor's Rating Services (“S&P”). In addition, a large majority of the remaining CRAs had implemented the 2004 iteration of the IOSCO CRA Code but had not yet implemented the provisions added through the 2008 revisions. Only a handful of the CRAs reviewed were found to have not implemented the IOSCO CRA Code in any meaningful way.

In May 2009, IOSCO converted the CRA Task Force into a permanent committee on CRAs (Committee 6), with a mandate to:

- Regularly discuss, evaluate, and consider regulatory and policy initiatives vis-à-vis CRA activities and oversight in an effort to seek cross border regulatory consensus through such means as the IOSCO CRA Code; and
- Facilitate regular dialogue between securities regulators and the credit rating industry.

Given the emergence of CRA registration and oversight programs in the 2006-2010 timeframe, IOSCO published a report in 2010 containing the results of an evaluation by Committee 6 of how regional and national authorities were implementing CRA laws and regulations.<sup>9</sup> Among other things, the report concluded that, while the structure and specific provisions of regulatory programs may differ, the objectives of the four IOSCO CRA Principles are embedded into each of the programs reviewed. Indeed, the principles appear to be the building blocks on which CRA regulatory programs have been constructed.

In 2012, IOSCO published a survey report prepared by Committee 6, which provides a comprehensive description of the key risk controls established by CRAs to promote the integrity of the credit rating process and the procedures established to manage conflicts of interest.<sup>10</sup> The 2012 report serves as a resource to increase public understanding of the internal workings of

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<sup>8</sup> See IOSCO Technical Committee, A Review of Implementation of the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies (Mar. 2009), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD286.pdf>.

<sup>9</sup> See IOSCO Technical Committee, Regulatory Implementation of the Statement of Principles Regarding the Activities of Credit Rating Agencies (Feb. 2011), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD346.pdf>.

<sup>10</sup> See IOSCO Board, Credit Rating Agencies: Internal Controls Designed to Ensure the Integrity of the Credit Rating Process and Procedures to Manage Conflicts of Interest (Dec. 2012), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD398.pdf>.

CRAs, and to allow CRAs to compare their internal controls and procedures with those of their peers. The report, in conjunction with disclosures that CRAs make about their controls and procedures, also may help users of ratings draw their own conclusions about an individual CRA's controls and procedures and thereby help users make informed decisions with respect to their use of credit ratings.

In July 2013, IOSCO published a final report recommending the creation of supervisory colleges for certain globally active CRAs.<sup>11</sup> Supervisory core colleges for Fitch Ratings, Moody's, and S&P held their inaugural meetings on November 5 and 6, 2013 in New York. The colleges for S&P and Moody's are chaired by the U.S. Securities and Exchange Commission, and the college for Fitch is chaired by the European Securities and Markets Authority. IOSCO expects that these supervisory colleges will operate as a forum for regulators to exchange information about these internationally active CRAs, including the following:

- Compliance with local or regional laws and regulations,
- The CRA's implementation and adherence to the IOSCO CRA Code, and
- The establishment and operation of rating models and methodologies, internal controls, procedures to manage conflicts of interest, and procedures for handling material non-public information, with the goal of promoting a better understanding of the risks faced or posed by the internationally active CRA and how relevant supervisors are addressing these risks.

IOSCO proposes to revise the IOSCO CRA Code to take into account the fact that CRAs are now supervised by regional and national authorities. The goal is to create an updated IOSCO CRA Code that works in harmony with CRA registration and oversight programs and continues to operate as the international standard for CRA self-governance. The proposed revisions result, in part, from the experience of IOSCO members in supervising CRAs. They also are informed by the work described above undertaken by Committee 6, including the survey report describing the key risk controls established by CRAs to promote the integrity of the credit rating process and the procedures established to manage conflicts of interest. Further, as part of the work stream to revise the IOSCO CRA Code, Committee 6 surveyed its member jurisdictions on whether the IOSCO CRA Code's provisions are the same, similar, or in conflict with member jurisdictions' laws. Committee 6 also sent a similar survey to 26 CRAs having principal offices in Argentina, Brazil, Canada, Chile, the European Union, Japan, Mexico, or the United States. These CRAs were asked to identify any IOSCO CRA Code provisions that conflicted with the laws in their home jurisdiction, and also to identify any IOSCO CRA Code provisions they found to be repetitive, ambiguous, outdated, or that contained obsolete terminology. Certain CRAs also presented at Committee 6 meetings in which they discussed potential revisions to the IOSCO CRA Code provisions. The survey responses and presentations of the CRAs also informed the proposed revisions to the IOSCO CRA Code.

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<sup>11</sup> See IOSCO Board, Supervisory Colleges for Credit Rating Agencies (July 2013), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD416.pdf>.



### III. Proposed Revisions to the IOSCO CRA Code

The proposed revisions to the IOSCO CRA Code are designed to achieve a number of objectives: (1) to strengthen the IOSCO CRA Code by enhancing provisions regarding protecting the integrity of the credit rating process, managing conflicts of interest, providing transparency,<sup>12</sup> and safeguarding non-public information; (2) to strengthen the IOSCO CRA Code by adding measures regarding governance, training, and risk management; and (3) to improve the clarity of the IOSCO CRA Code by adding definitions of key terms and revising existing definitions, updating terminology, restructuring existing provisions to better group them thematically, and eliminating extraneous text. As noted above, the proposed revisions are informed by the experience of IOSCO members in exercising supervisory authority with respect to CRAs (*e.g.*, policy making, examinations, inspections, and monitoring) and through the work of Committee 6. By leveraging supervisory experience and the work of Committee 6, IOSCO has identified areas where the IOSCO CRA Code potentially could be strengthened and updated. The goal is to promulgate an IOSCO CRA Code that works in harmony with existing CRA laws and regulations and continues to be the international standard for CRA self-governance.<sup>13</sup>

The first objective of the proposed revisions is to strengthen the IOSCO CRA Code by enhancing certain provisions. Provisions 1.1, 1.8, 1.9, 1.11–1.17, and 1.19–1.23 in Section 1 (Quality and Integrity of the Credit Rating Process) of the proposed revised IOSCO CRA Code modify current provisions or add new provisions to enhance the IOSCO CRA Code’s measures that are designed to protect the integrity of the credit rating process. Provisions 2.1, 2.2, and 2.5–2.18 in Section 2 (CRA Independence and Avoidance of Conflicts of Interest) of the proposed revised IOSCO CRA Code modify current provisions to enhance the IOSCO CRA Code’s measures designed to manage conflicts of interest. Provisions 3.1, 3.3, 3.5–3.11, and 3.13–3.17 in Section 3A (Transparency and Timeliness of Credit Ratings Disclosure) of the proposed revised IOSCO CRA Code and Provisions 5.1–5.4 in Section 5 (Disclosure and Communication with Market Participants) of the proposed revised IOSCO CRA Code modify current provisions or add new provisions to enhance the IOSCO CRA Code’s measures designed to enhance transparency. Provisions 3.19–3.21 in Section 3B (The Treatment of Confidential Information) of the proposed revised IOSCO CRA Code modify existing provisions or add new provisions to enhance the IOSCO CRA Code’s measures designed to safeguard non-public information. These modifications and additions are described in the table below and shown in the “redline” comparison attached at Appendix B.

The second objective of the proposed revisions is to strengthen the IOSCO CRA Code by adding measures regarding governance, training, and risk management. The proposed revisions to the IOSCO CRA Code would meet this objective by adding Provisions 4.1, 4.2, and 4.3 to new

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<sup>12</sup> With respect to enhancing transparency, IOSCO notes that the communiqué resulting from the November 4-5, 2012 meeting of the G20 Finance Ministers and Central Bank Governors stated, in pertinent part, “[w]e encourage further work to enhance transparency of and competition among credit rating agencies....” See G20, Communiqué of Ministers of Finance and Central Bank Governors of the G20, Mexico City (Nov. 4-5, 2012), *available at* <http://www.treasury.gov/resource-center/international/g7-g20/Documents/G20%20Ministerial%20Communique%20November%204-5-2012-Mexico%20City.pdf>.

<sup>13</sup> The preamble to the IOSCO CRA Code would continue to provide that laws and regulations in jurisdictions in which a CRA operates take precedence over the IOSCO CRA Code.

Section 4 (Governance, Risk Management, and Employee Training). These three new provisions address the Board’s responsibility with respect to the CRA’s code of conduct, the establishment and maintenance of a risk management function, and employee training.

The third objective of the proposed revisions is to improve the clarity of the IOSCO CRA Code by adding definitions of key terms and revising existing definitions, updating terminology, restructuring existing provisions to better group them thematically, and eliminating extraneous text. Terminology and extraneous text have been revised as indicated in the “redline” comparison attached at Appendix B.<sup>14</sup> The proposed IOSCO CRA Code revises the definitions of “analyst”, “CRA”, and “credit rating”,<sup>15</sup> and adds definitions for “credit rating action”, “credit rating methodology”, “credit rating process”, “employee”, “entity”, “trading instrument”, “obligation”, and “obligor”. The revisions to the existing definitions and new definitions are designed to provide greater clarity as to what is intended under the provisions of the IOSCO CRA Code.

In addition, provisions have been restructured to better group them thematically. Provision 1.10 is now proposed as Provision 3.17 (regarding discontinued ratings), to move the provision from deleted Section 1B (Monitoring and Updating) to Section 3A (Transparency and Timeliness of Credit Rating Disclosure). Provision 3.15 of the current IOSCO CRA Code is now proposed as Provision 4.3 (regarding employee training) of the proposed revised IOSCO CRA Code, due to the creation of new Section 4 (Governance, Risk Management, and Employee Training). Finally, Section 3A (Transparency and Timeliness of Credit Ratings Disclosure) of the proposed revised IOSCO CRA Code has been re-ordered so that more general disclosures are discussed at the beginning of the section (Provisions 3.1–3.8 of the proposed revised IOSCO CRA Code), before the disclosures related to specific credit rating actions (Provisions 3.9–3.17 of the proposed revised IOSCO CRA Code).

The following table lists each provision of the proposed revised IOSCO CRA Code, identifies the corresponding provision in the current IOSCO CRA Code (if applicable), and briefly

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<sup>14</sup> These proposed revisions include the following global changes to expand the scope of the IOSCO CRA Code’s provisions (as applicable): (1) expanding provisions to cover not just a CRA’s relationships and interactions with rated entities, but also with obligors, underwriters, or arrangers of a rated obligation; and (2) stating that a CRA should not just “establish policies and procedures”, but “establish, maintain, document, and enforce policies, procedures, and controls”.

<sup>15</sup> The proposed revised IOSCO CRA Code would modify the definition of “credit rating” in a number of ways. For example, rather than characterizing a “credit rating” as an “opinion” the revised IOSCO CRA Code would characterize it as an “assessment”. This proposed modification is intended to reflect the fact that under the provisions of the IOSCO CRA Code, CRAs should strive to determine credit ratings: (1) using methodologies that are rigorous, among other things; (2) that reflect all information known, and believed to be relevant at the time when the credit rating is determined; (3) using analysts that have appropriate knowledge and expertise; and (4) that are free of bias and not influenced by conflicts. The IOSCO CRA Code provisions call for policies, procedures, and controls all designed to ensure the credit rating process achieves these objectives. Thus, while the determination of a credit rating frequently involves subjective judgment, CRAs should establish processes that govern how credit ratings are determined. The use of the term “opinion” could suggest a level of casualness in determining credit ratings that is inconsistent with these provisions of the IOSCO CRA Code.

describes how the proposed provision modifies the current provision or the nature of the new provision.<sup>16</sup>

<b>Proposed Provision</b>	<b>Current Provision</b>	<b>Description of Proposed Revisions</b>
1.1	1.2	Proposed Provision 1.1 modifies current Provision 1.2, which provides that a CRA’s credit rating methodologies should be rigorous. The revisions add that a CRA should establish, maintain, document, and enforce a credit rating methodology for each class of entity or obligation it rates. The proposed revisions also replace the term “systematic” with the phrase “capable of being applied consistently” to provide more clarity and remove “where possible” to always require each credit rating methodology to result in credit ratings that can be subjected to “some form of objective validation based on historical experience.”
1.2	1.1, 1.4	Proposed Provision 1.2 combines current Provision 1.1 and the part of current Provision 1.4 that provide that a CRA’s credit rating should be based on a thorough analysis of information and that a CRA’s credit ratings should reflect relevant information, respectively. The proposed revisions set forth these parts of current Provisions 1.1 and 1.4 in a separate stand-alone provision. The proposed revisions also modify the relevant text of current Provisions 1.1 and 1.4 to improve clarity. <sup>17</sup>
1.3	1.7	Proposed Provision 1.3 modifies the part of current Provision 1.7 that provides that a CRA should adopt reasonable measures to ensure that the information used to produce credit ratings is of sufficient quality. The proposed revisions make this part of current Provision 1.7 a separate stand-alone provision. The proposed revisions also modify the relevant text of current Provision 1.7 to improve clarity.
1.4	1.3	Proposed Provision 1.4 modifies current Provision 1.3, which provides that a CRA’s analysts should use established credit rating methodologies and apply them in a consistent manner. The proposed revisions modify the text of current Provision 1.3 to improve clarity.
1.5	3.5(b)	Proposed Provision 1.5 modifies the part of current Provision 3.5(b) that provides that a CRA should define its credit rating symbols and apply the symbols consistently. The proposed revisions make this part of current Provision 3.5(b) a separate stand-alone provision in Section 1 of the IOSCO CRA Code. The proposed revisions also modify text to improve clarity.
1.6	1.4	Proposed Provision 1.6 modifies the part of current Provision 1.4 that provides that credit ratings should be assigned by a CRA as an entity. The proposed revisions make this part of current Provision 1.4 a separate stand-alone provision. The proposed revisions also modify the relevant text of current Provision 1.4 to improve clarity.

<sup>16</sup> The descriptions of the current Provisions of the IOSCO CRA Code in the table are intended to assist the reader in understanding how the proposed Provisions would modify them. The descriptions truncate and summarize at a high level the current Provisions of the IOSCO CRA Code. Consequently, they should not be treated as “explanatory text” for the current Provisions of the IOSCO CRA Code or otherwise relied on by a CRA in establishing a code of conduct that gives full effect to the IOSCO CRA Code.

<sup>17</sup> As noted above, one of the objectives of revising the IOSCO CRA Code is to improve the clarity of the IOSCO CRA Code’s provisions by adding definitions of key terms and revising existing definitions, updating terminology, restructuring existing provisions to better group them thematically, and eliminating extraneous text. As used in this table, a description of the proposed revisions as being intended to “improve clarity” means the proposed revisions incorporate one or more of these types of modifications.

<b>Proposed Provision</b>	<b>Current Provision</b>	<b>Description of Proposed Revisions</b>
1.7	1.4	Proposed Provision 1.7 modifies the part of current Provision 1.4 that provides that a CRA should assign analysts that have appropriate knowledge and experience to work on a credit rating action. The proposed revisions make this part of current Provision 1.4 a separate stand-alone provision. The proposed revisions also modify the relevant text of current Provision 1.4 to improve clarity.
1.8	1.5	Proposed Provision 1.8 modifies current Provision 1.5, which addresses recordkeeping. The proposed revisions add a sentence stating that a CRA should maintain records sufficient to reconstruct the credit rating process for a given credit rating action, and that the relevant records should be retained “as long as necessary to promote the integrity of the CRA’s credit rating process” (replacing the existing standard of for “a reasonable period of time or in accordance with applicable law”). The preamble to the IOSCO CRA Code would continue to provide that laws and regulations in jurisdictions in which a CRA operates ( <i>e.g.</i> , record making and retention requirements) take precedence over the IOSCO CRA Code. Thus, the revised provision is designed to establish a principles-based self-governance approach, particularly in cases where there are no applicable laws and regulations. The proposed revisions also provide that the CRA should establish, maintain, document, and enforce policies, procedures, and controls with respect to recordkeeping.
1.9	1.6	Proposed Provision 1.9 modifies current Provision 1.6, which provides that a CRA and its analysts should take steps to avoid issuing credit analyses and reports that contain misrepresentations or are otherwise misleading. The proposed revisions modify current Provision 1.6 to provide that a CRA should establish, maintain, document, and enforce policies, procedures, and controls (replacing the existing standard of “tak[ing] steps”) designed to avoid the issuance of credit ratings, analyses, or reports that contain misrepresentations or are misleading.
1.10	1.7	Proposed Provision 1.10 modifies the part of current Provision 1.7 that provides that a CRA should devote sufficient resources to carry out high-quality credit assessments of the obligations and issuers its rates. The proposed revisions modify the relevant text of current Provision 1.7 to improve clarity.
1.11	1.7-1, 1.7-3	Proposed Provision 1.11 combines current Provision 1.7-1 and the part of current Provision 1.7-3 that address a CRA assessing whether it can feasibly assess the creditworthiness of a new or different type of obligor or obligation. The proposed revisions modify the relevant text of current Provision 1.7-1 to broaden the provision so it is not limited to structured finance products. The proposed revisions also modify the relevant text of current Provisions 1.7-1 and 1.7-3 to improve clarity.
1.12	1.7-2, 1.7-3	Proposed Provision 1.12 combines current Provision 1.7-2 and the part of current Provision 1.7-3 that address a CRA periodically reviewing its credit rating methodologies. The modifications clarify that the function for reviewing credit rating methodologies should be made up of one or more senior managers and the review should be on a “regular basis pursuant to an established timeframe” (replacing the existing standard of “periodically”). The proposed revisions also modify the relevant text of current Provisions 1.7-2 and 1.7-3 to improve clarity.
1.13	1.8	Proposed Provision 1.13 modifies current Provision 1.8, which provides that a CRA should structure its rating teams to promote continuity and avoid bias in the rating process. The proposed revisions add an example that is intended to clarify the provision’s meaning. The proposed revisions also modify text to improve clarity.

<b>Proposed Provision</b>	<b>Current Provision</b>	<b>Description of Proposed Revisions</b>
1.14(a)-(d)	1.9(a)-(c)	Proposed Provision 1.14(a)-(d) modifies current Provision 1.9(a)-(c), which addresses the monitoring and updating of credit ratings. The proposed revisions add an additional area that a CRA should monitor to paragraph (c) of proposed Provision 1.14 – how a change in the CRA’s credit rating methodologies impacts affected credit ratings. The proposed revisions also modify text to improve clarity.
1.15	1.9-1	Proposed Provision 1.15 modifies current Provision 1.9-1, which addresses a CRA using separate analytical teams with the requisite expertise and resources for determining initial credit ratings for structured finance products and for monitoring such credit ratings. The proposed revisions broaden the provision so it is not limited to structured finance products. The proposed revisions also modify text to improve clarity.
1.16	N/A	Proposed Provision 1.16 would be a new provision in the IOSCO CRA Code. It would provide that a CRA should establish, maintain, document, and enforce policies and procedures for disseminating credit rating actions and reports, and for when a credit rating will be withdrawn.
1.17	1.11	Proposed Provision 1.17 modifies current Provision 1.11, which provides that a CRA and its employees should comply with applicable laws and regulations. The proposed revisions add that a CRA should establish, maintain, document, and enforce policies, procedures, and controls with respect to compliance with laws and regulations.
1.18	1.12	Proposed Provision 1.18 modifies current Provision 1.12, which addresses dealing fairly and honestly with issuers, investors, other market participants, and the public. The proposed revisions modify the text of current Provision 1.12 to improve clarity.
1.19	1.13	Proposed Provision 1.19 modifies current Provision 1.13, which provides that a CRA’s analysts should be held to high standards of integrity, and a CRA should not employ individuals with demonstrably compromised integrity. The proposed revisions modify current Provision 1.13 to provide that a CRA should be held to the “highest” standards of integrity <i>and</i> ethical behavior ( <i>i.e.</i> , the modifications add the concept of acting ethically). The proposed revisions also modify text to improve clarity.
1.20	1.14	Proposed Provision 1.20 modifies current Provision 1.14, which provides that a CRA should not give assurances or guarantees about the outcomes of credit rating actions. The revisions modify the clarification in current Provision 1.14 that it does not preclude a CRA from developing prospective assessments used in structured finance and similar transactions by adding the proviso that such prospective assessments should not impair the integrity of the credit rating process. The proposed revisions also modify text to improve clarity.
1.21	N/A	Proposed Provision 1.21 would be a new provision in the IOSCO CRA Code. It would provide that a CRA and its employees should not make promises or threats about potential rating actions to influence others to pay for credit ratings or other services.
1.22	1.14-1	Proposed Provision 1.22 modifies current Provision 1.14-1, which provides that a CRA should not make proposals or recommendations regarding the design of structured finance products. The proposed revisions would broaden the provision so it is not limited to structured finance products. The proposed revisions also add examples of matters that the CRA should not make recommendations or proposals about ( <i>e.g.</i> , corporate or legal structure) to provide more clarity as to the meaning of the provision.

<b>Proposed Provision</b>	<b>Current Provision</b>	<b>Description of Proposed Revisions</b>
1.23(a)-(c)	1.15	Proposed Provision 1.23(a)-(c) modifies current Provision 1.15, which provides that a CRA should implement policies and procedures that clearly specify a person responsible for compliance with the IOSCO CRA Code and applicable laws and regulations, and that the reporting lines and compensation for this person should be independent of the CRA's rating operations. The proposed revisions add the concepts that the CRA should: (1) establish, maintain, document, and enforce policies, procedures, and controls designed to ensure compliance with the IOSCO CRA Code and applicable laws and regulations; (2) establish a compliance function; and (3) assign a senior level person with the requisite skill set to serve as the person in charge of the compliance function.
1.24	1.16	Proposed Provision 1.24 modifies current Provision 1.16, which addresses the reporting by CRA employees of illegal or unethical behavior, or conduct that is contrary to the IOSCO CRA Code. The proposed revisions modify the text of current Provision 1.16 to improve clarity.
2.1	2.1	Proposed Provision 2.1 modifies current Provision 2.1, which provides that a CRA should not forbear or refrain from taking a credit rating action based on its potential effect. The proposed revisions add that a CRA also should not "unnecessarily delay" taking a credit rating action for this reason. The proposed revisions also modify text to improve clarity.
2.2	2.2	Proposed Provision 2.2 modifies current Provision 2.2, which provides that a CRA and its analysts should use care and professional judgment to maintain both the substance and appearance of independence and objectivity. The proposed revisions expand the provision to apply to a "CRA and its employees" (replacing the existing standard of applying to a "CRA and its analysts"). The proposed revisions also modify text to improve clarity.
2.3	2.3	Proposed Provision 2.3 modifies current Provision 2.3, which provides that the determination of a credit rating should be influenced only by factors relevant to the credit assessment. The proposed revisions modify the text of current Provision 2.3 to improve clarity.
2.4	2.4	Proposed Provision 2.4 modifies current Provision 2.4, which provides that credit ratings should not be affected by actual or potential business relationships or the non-existence of business relationships. The proposed revisions modify the text of current Provision 2.4 to improve clarity.
2.5	2.5	Proposed Provision 2.5 modifies current Provision 2.5, which provides that a CRA should operationally and legally separate its credit rating business from other businesses. The proposed revisions add that these businesses should also be physically separated where practicable. The proposed revisions also modify text to improve clarity.
2.6(a)-(e)	2.6	Proposed Provision 2.6(a)-(e) modifies current Provision 2.6, which provides that a CRA should adopt procedures and mechanisms to identify and eliminate, or manage and disclose conflicts of interest. The proposed revisions identify five types of potential CRA conflicts of interest ( <i>e.g.</i> , being paid to issue a credit rating by the rated entity) that a CRA's conflicts policies, procedures, and controls should address (as applicable to the CRA's business model). The proposed revisions also provide that controls should be established to address how certain conflicts can potentially influence the CRA's "credit rating methodologies, credit rating actions, or analyses" (not just

<b>Proposed Provision</b>	<b>Current Provision</b>	<b>Description of Proposed Revisions</b>
		“opinions and analyses”). The proposed revisions also modify text to improve clarity.
2.7	2.7	Proposed Provision 2.7 modifies current Provision 2.7, which provides that a CRA’s disclosures of actual and potential conflicts of interest should be complete, timely, clear, concise, specific, and prominent. The proposed revisions clarify that the disclosures should be made “publicly”. In addition, the proposed revisions state that the disclosure of the conflict should be located in the relevant credit rating report (or elsewhere, as appropriate) if the conflict is unique to a particular rated entity, obligor, underwriter, arranger, or obligation.
2.8(a)-(b)	2.8(a)-(b)	Proposed Provision 2.8(a)-(b) modifies current Provision 2.8(a)-(b), which addresses a CRA’s disclosure of information about compensation arrangements. The proposed revisions clarify that the disclosures of a CRA’s compensation arrangements with rated entities, obligors, underwriters, or arrangers should be made “publicly”. The proposed revisions also modify text to improve clarity.
2.9	2.8(c)	Proposed Provision 2.9 modifies current Provision 2.8(c), which addresses the disclosure by structured finance issuers of information relevant to structured finance products. The proposed revisions make current Provision 2.8(c) a separate stand-alone provision. The revisions also modify the text of current Provision 2.8(c) to provide that a CRA should encourage the issuer to publicly disclose such information if it remains non-public (replacing the existing standard that CRAs as an industry should encourage such disclosures). The proposed revisions also modify text to improve clarity.
2.10	2.9	Proposed Provision 2.10 modifies current Provision 2.9, which provides that a CRA and its employees should not engage in any securities or derivatives trading presenting conflicts of interest with the CRA’s rating activities. The revisions delete the reference to the CRA’s employees due to its redundancy with proposed Provision 2.14(a)-(f) (discussed below), which addresses, among other things, CRA employee transactions and holdings in securities and other financial instruments. The proposed revisions also modify text to improve clarity.
2.11	2.10	Proposed Provision 2.11 modifies current Provision 2.10, which addresses the potential conflict that arises when rated entities also exercise oversight functions related to the CRA. The proposed revisions broaden the scope of CRA employees that should not be responsible for interacting with supervisors regarding supervisory matters by including employees involved in “developing or modifying credit rating methodologies” (not just employees involved in “credit rating actions”). The proposed revisions also modify text to improve clarity.
2.12(a)-(b)	2.11(a)-(b)	Proposed Provision 2.12(a)-(b) modifies current Provision 2.11(a)-(b), which addresses structuring CRA employee reporting lines and compensation arrangements to eliminate or effectively manage conflicts of interest. With respect to compensation, the proposed revisions expand the range of persons who should not be compensated or evaluated on the basis of the amount of revenue the CRA derives to include a “CRA employee who participates in or who might otherwise have an effect on a credit rating action with respect to an entity or obligation”. (The existing standard just applies to a “CRA analyst”.) The proposed revisions also modify text to improve clarity.
2.13	2.12	Proposed Provision 2.13 modifies current Provision 2.12, which addresses preventing employees who are directly involved in the rating process from also participating in fee discussions. The proposed revisions expand the range of persons who should not participate in fee discussions to include “CRA employees who participate in or who

Proposed Provision	Current Provision	Description of Proposed Revisions
		might otherwise have an effect on a credit rating action”. (The existing standard just applies to CRA “employees who are directly involved in the rating process”.) The proposed revisions also modify text to improve clarity.
2.14(a)-(g)	2.13(a)-(e)	<p>Proposed Provision 2.14(a)-(g) modifies current Provision 2.13(a)-(e), which addresses preventing CRA employees from holding and transacting in financial instruments and engaging in other transactions or relationships that can present certain conflicts of interest. The proposed revisions expand the scope of persons who should not engage in the identified activities that create conflicts to include a “close relative” of the CRA employee and “an entity managed by the [CRA] employee”. Under the existing standard, only the conflict identified in paragraph (d) of current Provision 2.13 specifically references an “immediate relation” as part of the standard. Proposed Provision 2.14 also utilizes the proposed new defined term “trading instrument”, which refers to a security, money market instrument, derivative, or other similar product. The defined term “trading instrument” would replace the terms “securities or derivatives” in current Provision 2.13.</p> <p>The proposed revisions divide the sets of conflicts identified in paragraphs (a) and (b) of current Provisions 2.13 (relating to direct and indirect ownership of securities or derivatives of rated entities, or affiliates of rated entities) into three separately identified sets of conflicts in paragraphs (a), (b), and (c) of proposed Provision 2.14. This re-organization is intended to provide greater clarity with respect to the nature of each type of conflict that should be addressed. Paragraph (a) of proposed Provision 2.14 addresses direct ownership or a trading instrument issued by a rated entity or obligor, whereas paragraph (b) of proposed Provision 2.14 addresses indirect ownership of such a trading instrument by, for example, owning a security that holds security issued by a rated entity or obligor. Paragraph (b) of proposed Provision 2.14 also addresses holding or transacting in a derivative that is based on a trading instrument issued by a rated entity or obligor. Paragraph (b) of proposed Provision 2.14 also retains the exception for diversified collective investment schemes (<i>e.g.</i>, a broad-based index mutual fund that holds a bond issued by a rated entity). Paragraph (c) of proposed Provision 2.14 addresses ownership of a trading instrument by an affiliate of a rated entity or obligor.</p> <p>The proposed revisions identify – in paragraph (d) of proposed Provision 2.14 – a new type of conflict of interest: holding or transacting in a trading instrument issued by an arranger or underwriter of the obligation.</p> <p>The proposed revisions modify paragraphs (c), (d), and (e) of current Provision 2.13 by re-designating them paragraphs (e), (f), and (g), respectively, of proposed Provision 2.14. The proposed revisions modify paragraph (c) of current Provision 2.13 (paragraph (e) of proposed Provision 2.14) – which identifies the potential conflict of a CRA employee having an employment or business relationship with a rated entity – to expand the description of the potential conflict to include recent employment or other significant business relationships with the obligor, arranger, or underwriter of the obligation. The proposed revisions modify paragraph (d) of current Provision 2.13 (paragraph (f) of proposed Provision 2.14) – which identifies the potential conflict of a CRA employee’s immediate relation working for a rated entity – to expand the description of the potential conflict to include acting as a director of the rated entity and also working for or acting as a director of an obligor, or underwriter, or arranger of the rated obligation. The proposed revisions modify paragraph (e) of current Provision 2.13 (paragraph (g) of proposed Provision 2.14) – which is a catch-all provision – to expand the description of the potential conflict to include relationships with the obligor, or the underwriter or arranger of the rated obligation.</p> <p>The proposed revisions also modify the text of current Provision 2.13(a)-(e) throughout</p>



<b>Proposed Provision</b>	<b>Current Provision</b>	<b>Description of Proposed Revisions</b>
		to improve clarity.
2.15	2.14	Proposed Provision 2.15 modifies the text of current Provision 2.14, which addresses the conflict of a CRA analyst holding or transacting in a security or derivative issued, guaranteed, or otherwise supported by an entity in the analyst’s area of primary analytical responsibility. The proposed revisions narrow the focus of the provision to the analyst’s ownership of the instrument (deleting the reference to ownership by the analyst’s spouse, partner, or minor children). In this context, concerns about improper trading by an analyst’s family members are addressed by proposed Provisions 3.19 and 3.21, regarding the misuse of confidential and/or material non-public information. The proposed revisions also modify text to improve clarity.
2.16	2.15	Proposed Provision 2.16 modifies current Provision 2.15, which provides that CRA employees should not solicit or accept gifts. The proposed revisions specifically reference “cash equivalents” (which would be in addition to cash) as a form of gift that should be prohibited.
2.17	2.16	Proposed Provision 2.17 modifies current Provision 2.16, which addresses the conflicts of interest that can arise from CRA employees’ personal relationships. The proposed revisions expand the scope of the identified potential conflict to include CRA employees (not just CRA analysts), and to cover personal relationships with employees of the obligor, underwriter, or arranger of a rated obligation (not just personal relationships with employees of the rated entity). The proposed revisions also modify text to improve clarity.
2.18	2.17	Proposed Provision 2.18 modifies current Provision 2.17, which provides that a CRA should establish policies and procedures for reviewing the past work of analysts that leave the employ of the CRA and join the issuer the analysts has been rating or a financial firm with which the analyst has had significant dealings. The proposed revisions include a standard for the timing of a CRA’s review of the employees’ past work (“without unnecessary delay”). The proposed revisions also expand the categories of subsequent employers that would prompt the CRA’s review to include an obligor whose obligation the employee participated in rating and the affiliates of rated entities, obligors, underwriters, and arrangers. In addition, the provision is expanded to cover CRA employees who participate in the credit rating process (not just CRA analysts).
3.1	3.5(c)	Proposed Provision 3.1 modifies current Provision 3.5(c) that addresses CRA disclosures to assist investors in understanding the nature of credit ratings. The proposed revisions make this part of current Provision 3.5(c) a separate stand-alone provision. The proposed revisions add that the CRA’s disclosures should be “in plain language”. The proposed revisions add a new concept to the provision – that a CRA should not state or imply that a national or regional supervisor that oversees the CRA endorses the CRA’s credit ratings or use the CRA’s registration status to advertise the quality of its credit ratings. The proposed revisions also modify text to improve clarity.
3.2	3.5 intro. paragraph	Proposed Provision 3.2 modifies the part of the introductory paragraph to current Provision 3.5 that addresses disclosing sufficient information about a CRA’s methodologies and assumptions so outside parties can understand how a credit rating was arrived at by the CRA. The proposed revisions delete paragraphs (a) through (c) of current Provision 3.5, because the concepts in these paragraphs are moved to other provisions in the proposed revised IOSCO CRA Code (as indicated above and below). The proposed revisions delete the term “assumptions” because, as revised, proposed

<b>Proposed Provision</b>	<b>Current Provision</b>	<b>Description of Proposed Revisions</b>
		Provision 3.2 references “credit rating methodologies”, and assumptions are included in the definition of “credit rating methodologies”. The proposed revisions also modify text to improve clarity.
3.3	3.10	Proposed Provision 3.3 modifies current Provision 3.10, which addresses the disclosure by a CRA of material modifications to its methodologies and significant practices, procedures, and processes. The proposed revisions modify the part of current Provision 3.10 that states that “[w]here feasible and appropriate”, a CRA should disclose such modifications before they take effect; proposed Provision 3.3 would provide that a CRA should disclose the modification prior to its taking effect “unless doing so would negatively impact the integrity of a credit rating by unduly delaying the taking of a credit rating action.” The intent of the modification is to provide more clarity as to when it would be appropriate to apply a modification to an existing credit rating before disclosing the modification publicly. The proposed revisions delete the phrase “significant practices, procedures, and processes” to focus the provision on modifications to credit rating methodologies, which is a defined term in the proposed revised IOSCO CRA Code. The proposed revised IOSCO CRA Code calls for CRAs to disclose policies, procedures, and controls relating to other significant matters elsewhere (such as proposed Provisions 3.4 and 3.5). The proposed revisions also modify text to improve clarity.
3.4	3.9	Proposed Provision 3.4 modifies the part of current Provision 3.9 that provides that a CRA should disclose its policies and procedures regarding unsolicited credit ratings. The proposed revisions modify the text of current Provision 3.9 to improve clarity.
3.5	3.2	Proposed Provision 3.5 modifies current Provision 3.2, which provides that a CRA should publicly disclose its policies for distributing ratings, reports, and updates. The proposed revisions broaden the scope by adding “procedures, and controls” (not just “policies”). The proposed revisions add that the CRA also should disclose when a credit rating will be withdrawn. The proposed revisions also modify text to improve clarity.
3.6	3.5 intro. paragraph	Proposed Provision 3.6 modifies the part of the introductory text to current Provision 3.5 that provides that a CRA should disclose the meaning of each rating category and the definition of default or recovery. The proposed revisions make this part of current Provision 3.5 a separate stand-alone provision. The proposed revisions state that a CRA should publicly disclose “clear definitions” of each category in its rating scales (instead of just “the meaning” of each category in its rating scales). The proposed revisions also modify text to improve clarity.
3.7	3.5(b)	Proposed Provision 3.7 modifies the part of current Provision 3.5(b) that provides that a CRA should differentiate ratings for structured finance products and disclose how this differentiation works. The proposed revisions make this part of current Provision 3.5(b) a separate stand-alone provision. The proposed revisions include broader language stating that a CRA’s ratings of structured finance products should be differentiated from “ratings of other types of entities or obligations” (not just “traditional corporate bond ratings”). The proposed revisions also modify text to improve clarity.
3.8	N/A	Proposed Provision 3.8 would be a new provision, which would provide that a CRA should be transparent with investors, rated entities, obligors, underwriters, and arrangers about how the relevant entity or obligation is rated.
3.9	3.7	Proposed Provision 3.9 modifies current Provision 3.7, which addresses a CRA

<b>Proposed Provision</b>	<b>Current Provision</b>	<b>Description of Proposed Revisions</b>
		informing the issuer about critical information and the principal considerations upon which a rating will be based prior to issuing or revising a credit rating, and the CRA affording the issuer an opportunity to clarify factual misperceptions or other matters. The proposed revisions are intended to provide a clearer standard by allowing for corrections that “would have a material effect on the credit rating” instead of corrections that “the CRA would wish to be made aware of in order to produce an accurate rating”. In addition, the proposed revisions would be more specific in allowing for an “adequate opportunity” to provide these corrections instead of an “opportunity”. The proposed revisions also modify text to improve clarity.
3.10	3.1	Proposed Provision 3.10 modifies current Provision 3.1, which provides that a CRA should distribute its ratings decisions in a timely manner. The proposed revisions are intended to improve clarity by providing that a credit rating action should be disclosed or distributed “as soon as practicable” instead of “in a timely manner”. The proposed revisions also account for CRAs’ differing business models ( <i>i.e.</i> , issuer paid or subscriber). The proposed revisions also modify text to improve clarity.
3.11	3.4	Proposed Provision 3.11 modifies current Provision 3.4, which provides that except for private ratings, a CRA should publicly disclose on a non-selective basis credit rating actions of publicly issued securities or public issuers that are based on material non-public information. The proposed revisions expand the provision to cover all credit rating actions (not just credit rating actions of publicly issued securities or public issuers that are based on material non-public information). The proposed revisions also account for CRAs’ differing business models ( <i>i.e.</i> , issuer paid or subscriber), and modify text to improve clarity.  The reference to “private ratings” is removed with the expectation that a CRA will explain any deviation from the IOSCO CRA Code relating to “private ratings” (including deviations from proposed Provision 3.11) pursuant to proposed Provision 5.2.
3.12	3.9	Proposed Provision 3.12 modifies the part of current Provision 3.9 that addresses disclosing whether an issuer participated in the rating process. The proposed revisions modify the relevant text of current Provision 3.9 to improve clarity.
3.13	3.5(c)	Proposed Provision 3.13 modifies the part of current Provision 3.5(c) that provides that a CRA should clearly indicate the attributes and limitations of the credit opinion. The proposed revisions make this part of current Provision 3.5(c) a separate stand-alone provision. As an example, the proposed revisions add that if a credit rating involves a type of entity or obligation for which there is limited historical data, the CRA should disclose this fact and how it may limit the credit rating. The proposed revisions also modify text to improve clarity.
3.14	3.3	Proposed Provision 3.14 modifies current Provision 3.3, which provides that a CRA should include with each rating announcement certain information about the methodology version that was used, and include with each rating when the rating was last updated. The proposed revisions expand the provision to state that a CRA should announce with a credit rating action when the credit rating was last “updated or reviewed” (not just when the credit rating was last “updated”). The proposed revisions also modify text to improve clarity.
3.15	3.5(a)	Proposed Provision 3.15 modifies current Provision 3.5(a), which addresses a CRA providing investors and/or subscribers (depending on the CRA’s business model) with sufficient information about its loss and cash-flow analysis for rating a structured

Proposed Provision	Current Provision	Description of Proposed Revisions
		finance product so that an investor can understand the basis for the CRA’s rating. The proposed revisions make current Provision 3.5(a) a separate stand-alone provision. The proposed revisions enhance the transparency standard so that people can “easily understand” the disclosures (rather than “understand” the disclosures). The proposed revisions also modify text to improve clarity.
3.16	3.5 intro. paragraph, 3.6	Proposed Provision 3.16 combines parts of the introductory text of current Provision 3.5 and current Provision 3.6 that respectively provide that a CRA should publish sufficient information about its procedures, methodologies, and assumptions (including financial statement adjustments that deviate materially from those contained in the issuer’s financial statements), and that a CRA should explain the key elements underlying a rating opinion in its press release. The parenthetical text referenced above is more appropriately a credit rating-specific disclosure and therefore is being combined with current Provision 3.6, which is a credit rating-specific disclosure. To provide additional clarity, the proposed revisions replace the phrase “key elements” with “key assumptions and data”. The proposed revisions also modify the text of the relevant parts of current Provisions 3.5 and 3.6 to improve clarity.
3.17	1.10	Proposed Provision 3.17 modifies current Provision 1.10, which provides that a CRA that makes its ratings available to the public should publicly announce if it discontinues rating an issuer or obligation. The proposed revisions include a standard for the timing of when a CRA discloses that it is no longer monitoring a credit rating (“as soon as practicable”). The proposed revisions also include an additional disclosure – the reason a credit rating is no longer monitored. The proposed revisions also modify text to improve clarity.
3.18	3.8	Proposed Provision 3.18 modifies current Provision 3.8 that addresses a CRA’s disclosure of its historical default rates. The proposed revisions add that a CRA should disclose transition rates for its credit rating categories. The proposed revisions also modify text to improve clarity.
3.19	3.11, 3.12, 3.13, 3.16, 3.17	Proposed Provision 3.19 combines current Provisions 3.11, 3.12, 3.13, 3.16, and 3.17 into a single provision. These current provisions address the treatment of confidential information, proprietary information, and material non-public information. The introductory paragraph of proposed Provision 3.19 is based on current Provision 3.11, which states that a CRA should adopt procedures and mechanisms to protect confidential information. Paragraph (a) of proposed Provision 3.19 is based on current Provisions 3.12 and 3.17, which state that a CRA should only use confidential information for purposes related to its rating activities or otherwise in accordance with a confidentiality agreement, and that CRA employees should only share confidential information on an “as needed” basis. Paragraph (b) of proposed Provision 3.19 is based on current Provision 3.13, which states that CRA employees should take all reasonable measures to protect the CRA’s property and records from fraud, theft, or misuse, but paragraph (b) of proposed Provision 3.19 adds that the CRA and its employees should take reasonable steps to protect confidential information from “inadvertent disclosure” (not just from “fraud, theft, or misuse”). Paragraph (c) of proposed Provision 3.19 is based on current Provision 3.11, which states that a CRA should adopt procedures and mechanisms to protect confidential information. Paragraph (d) of proposed Provision 3.19 is based on current Provision 3.16, which states that CRA employees generally should not selectively disclose non-public information about the CRA’s rating opinions or possible future rating actions. Paragraphs (a), (c), and (d) of proposed Provision 3.19 clarify that disclosure of confidential information is permitted if required by applicable law or regulation. The proposed revisions also modify the text of these provisions to

<b>Proposed Provision</b>	<b>Current Provision</b>	<b>Description of Proposed Revisions</b>
		improve clarity.
3.20	N/A	Proposed Provision 3.20 would be a new provision in the IOSCO CRA Code. It would provide that a CRA should establish, maintain, document, and enforce policies, procedures, and controls designed to prevent violations of applicable laws and regulations governing the treatment and use of confidential and/or material non-public information.
3.21	3.14, 3.18	Proposed Provision 3.21 would combine current Provisions 3.14 and 3.18, which respectively provide that CRA employees should be prohibited from trading securities when they possess confidential information concerning the issuer of such security, and that CRA employees should not use or share confidential information for the purpose of trading securities. The proposed revisions add that a CRA employee should not use confidential information to advantage another person trading in a trading instrument (not just for transactions by the employee). The proposed revisions also provide that the CRA should establish policies, procedures, and controls in this area. The proposed revisions also modify the text of these provisions to improve clarity.
4.1	N/A	Proposed Provision 4.1 would be a new provision in the IOSCO CRA Code. It is intended to promote the implementation of codes of conduct by CRAs that give full effect to the IOSCO CRA Code by providing that a CRA's board (or similar body) should have ultimate responsibility for ensuring that the CRA establishes, maintains, documents, and enforces a code of conduct that gives full effect to the IOSCO CRA Code.
4.2	N/A	Proposed Provision 4.2 would be a new provision in the IOSCO CRA Code. It is intended to promote risk management practices of CRAs by providing, among other things, that a CRA should establish a risk management function composed of one or more senior managers or employees responsible for identifying, assessing, monitoring, and reporting the risks arising from the CRA's activities.
4.3	3.15	Proposed Provision 4.3 is based on current Provision 3.15, which states that a CRA's employees should be familiar with the CRA's securities trading policies. The proposed revisions are intended to significantly expand current Provision 3.15 to include formal ongoing training at reasonably regular time intervals (and to identify the subject matter of these trainings). The proposed revisions also provide that the CRA should establish policies, procedures, and controls with respect to training.
5.1	N/A	Proposed Provision 5.1 would be a new provision in the IOSCO CRA Code. It is intended to promote greater transparency of CRA activities by providing that a CRA's disclosures, including those specified in the IOSCO CRA Code, should be complete, fair, accurate, timely, and understandable.
5.2	4.1	Proposed Provision 5.2 modifies current Provision 4.1, which provides that a CRA should disclose its code of conduct and describe how the CRA's code of conduct fully implements the IOSCO CRA Principles and the IOSCO CRA Code. The proposed revisions clarify that the disclosure of a CRA's code of conduct is to be made "publicly", and include a standard for the timing of the CRA's disclosures of changes to its code of conduct ("as soon as practicable"). The proposed revisions also modify text to improve clarity.
5.3	4.2	Proposed Provision 5.3 modifies current Provision 4.2, which addresses the establishment a function within a CRA to communicate with the public about the

Proposed Provision	Current Provision	Description of Proposed Revisions
		public’s questions, concerns, or complaints. To provide additional clarity, the proposed revisions provide that a CRA should establish a function charged with “receiving, retaining, and handling” these questions, concerns, or complaints (instead of just “communicating” with the public). The proposed revisions also add that the function should establish policies, procedures, and controls in this area, including policies, procedures, and controls that address the circumstances under which a question, concern, or complaint must be reported to senior management and/or the CRA’s board. The proposed revisions also modify text to improve clarity.
5.4	4.3	Proposed Provision 4.3 modifies current Provision 4.3, which provides that a CRA should publish on its home webpage links to: (1) the CRA’s code of conduct, (2) a description of the methodologies it uses, and (3) information about the CRA’s historic performance data. The proposed revisions add a fourth disclosure to a CRA’s website – “any other disclosures specified in the other provisions of the IOSCO CRA Code, as appropriate.” Due to this added fourth disclosure, the standard is modified so that these disclosures should be “readily accessible on [the CRA’s] public website” instead of linked “in a prominent position on [the CRA’s] home webpage”. The proposed revisions also modify text to improve clarity.

**IV. Request for Comment**

IOSCO generally requests comment on the proposed revised IOSCO CRA Code provisions. Is the text of the proposed revised IOSCO CRA Code appropriate? If not, identify the inappropriate provisions and explain why they are not appropriate. Are the revised and new definitions appropriate? If not, explain why not and suggest alternative definitions. Are the proposed modifications to the existing provisions and the new provisions appropriate? If not, explain why not. Are there other or different modifications that should be made to the IOSCO CRA Code? If so, describe them and explain why they would be appropriate.

**APPENDIX A**

**PROPOSED REVISED IOSCO CRA CODE  
(CLEAN VERSION)**

# CODE OF CONDUCT FUNDAMENTALS FOR CREDIT RATING AGENCIES

## INTRODUCTION

In September 2003, IOSCO's Technical Committee published a Statement of Principles Regarding the Activities of Credit Rating Agencies (the "IOSCO CRA Principles").<sup>1</sup> The IOSCO CRA Principles were designed to be a useful tool for securities regulators, credit rating agencies ("CRAs"), and others wishing to articulate the terms and conditions under which CRAs operate and the manner in which opinions of CRAs should be used by market participants. The IOSCO CRA Principles address four key objectives that are designed to promote informed, independent analyses and opinions by CRAs.<sup>2</sup> This, in turn, is designed to promote the three core objectives of securities regulations identified by IOSCO: the protection of investors; ensuring that markets are fair, efficient and transparent; and the reduction of systemic risk.<sup>3</sup>

The four objectives (collectively, the "Principles") of the IOSCO CRA Principles are:

- **Quality and integrity of the rating process** – CRAs should endeavour to issue opinions that help reduce the asymmetry of information among borrowers, lenders and other market participants;
- **Independence and conflicts of interest** – CRA rating decisions should be independent and free from political or economic pressures and from conflicts of interest arising due to the CRA's ownership structure, business or financial activities, or the financial interests of the CRA's employees. CRAs should, as far as possible, avoid activities, procedures or relationships that may compromise or appear to compromise the independence and objectivity of credit rating operations;
- **Transparency and timeliness of ratings disclosure** – CRAs should make disclosure and transparency an objective of their ratings activities; and
- **Confidential information** – CRAs should maintain in confidence all non-public information communicated to them by any issuer, or its agents, under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially.

The Principles are high-level objectives that CRAs, regulators, rated entities, obligors, underwriters, arrangers, and other market participants should strive toward in order to improve investor protection and the fairness, efficiency and transparency of securities markets and reduce

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<sup>1</sup> See IOSCO Technical Committee, Statement of Principles Regarding the Activities of Credit Rating Agencies (Sept. 2003), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD151.pdf>.

<sup>2</sup> See *id.*

<sup>3</sup> See IOSCO, Objectives and Principles of Securities Regulation (rev. June 2010), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD323.pdf>.



systemic risk. The Principles apply to all types of CRAs operating in various jurisdictions. However, to take into account the different market, legal, and regulatory circumstances in which CRAs operate, and the varying size and business models of CRAs, the manner in which the Principles were to be implemented was left open. The Principles contemplated that a variety of mechanisms could be used, including both market mechanisms and regulation.

The following Code of Conduct Fundamentals for Credit Rating Agencies (the “IOSCO CRA Code”) offers a set of robust, practical measures that serve as a guide to and a framework for implementing the Principles’ objectives.<sup>4</sup> These measures are the fundamentals which should be included in individual CRA codes of conduct, and the elements contained in the IOSCO CRA Code should receive the full support of CRA management and be backed by thorough compliance and enforcement mechanisms. However, the measures set forth in the IOSCO CRA Code are not intended to be all-inclusive: CRAs and regulators should consider whether or not additional measures may be necessary to properly implement the Principles in a specific jurisdiction. Further, the IOSCO CRA Code is not designed to be rigid or formulaistic. It is designed to offer CRAs a degree of flexibility in how these measures are incorporated into the individual codes of conduct of the CRAs themselves, according to each CRA’s specific legal, business, and market circumstances.

IOSCO members expect CRAs in their jurisdictions to give full effect to the IOSCO CRA Code subject to regional and national laws and regulations governing the activities of CRAs. In order to promote transparency and improve the ability of market participants and others to judge whether a CRA has satisfactorily implemented the IOSCO CRA Code, CRAs should disclose how each provision of the IOSCO CRA Code is addressed in the CRA’s own code of conduct. CRAs should explain if and how their own codes of conduct deviate from the IOSCO CRA Code and how such deviations nonetheless achieve the objectives laid out in the IOSCO CRA Code and the IOSCO CRA Principles. This will permit market participants to draw their own conclusions about whether the CRA has implemented the IOSCO CRA Code to their satisfaction, and to react accordingly. In developing their own codes of conduct, CRAs should keep in mind that the laws and regulations of the jurisdictions in which they operate vary and take precedence over the IOSCO CRA Code. These laws and regulations may include direct regulation of CRAs and may incorporate elements of the IOSCO CRA Code itself.

Finally, the IOSCO CRA Code only addresses measures that CRAs should adopt to help ensure that the Principles are properly implemented. The IOSCO CRA Code does not address the equally important obligations that rated entities, obligors, underwriters, and arrangers have of cooperating with and providing accurate and complete information to the marketplace and the CRAs they solicit to provide credit ratings. While aspects of the IOSCO CRA Code deal with a CRA’s duties to these entities, the essential purpose of the IOSCO CRA Code is to promote investor protection by safeguarding the integrity of the credit rating process. IOSCO members recognize that credit ratings, despite their numerous other uses, exist primarily to help investors assess the credit risks they face when making certain kinds of investments. Maintaining the

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<sup>4</sup> In 2004, following the publication of the IOSCO CRA Principles, IOSCO published the Code of Conduct Fundamentals for CRAs. The IOSCO CRA Code was revised in 2008 to address concerns about the role of CRAs in the wake of the financial crisis, and again in 2014 to take into account the CRA registration and oversight programs implemented by IOSCO members.

independence of CRAs vis-à-vis the entities and obligations they rate is vital to achieving this goal. Provisions of the IOSCO CRA Code, dealing with CRA responsibilities to rated entities, obligors, underwriters, and arrangers are designed to improve the quality of credit ratings and their usefulness to investors. These provisions should not be interpreted in ways that undermine the independence of CRAs or their ability to issue timely credit ratings.

Like the IOSCO CRA Principles, the IOSCO CRA Code is also intended to be useful to all types of CRAs relying on a variety of different business models. The IOSCO CRA Code does not indicate a preference for one business model over another, nor are the measures described herein designed to be used only by CRAs with large staffs and compliance functions. Accordingly, the types of mechanisms and procedures CRAs adopt to ensure that the provisions of the IOSCO CRA Code are followed will vary according to the market and legal circumstances in which the CRA operates.

Structurally, the IOSCO CRA Code is broken into five sections:

- The Quality and Integrity of the Credit Rating Process;
- CRA Independence and the Avoidance of Conflicts of Interest;
- CRA Responsibilities to the Investing Public, Rated Entities, Obligors, Originators, and Arrangers;
- Governance, Risk Management, and Employee Training; and
- Disclosure and Communication with Market Participants.

## **TERMS**

For the purposes of the IOSCO CRA Code:<sup>5</sup>

- “Affiliate” means an entity that directly or indirectly controls, is controlled by, or is under common control with the CRA.
- “Analyst” means a CRA employee who performs analytical functions that are necessary for the issuing or monitoring of a credit rating or participates in determining credit ratings, including an employee involved in a credit rating committee.
- “Credit rating” or “rating” means an assessment regarding the creditworthiness of an entity or obligation, expressed using an established and defined ranking system.

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<sup>5</sup> These definitions are intended to facilitate an understanding of the IOSCO CRA Code. These terms may be defined differently under regional and national laws. As noted above, laws and regulations of the jurisdictions in which CRAs operate vary and take precedence over the IOSCO CRA Code.

- “Credit rating action” means to determine an initial credit rating, an upgrade of an existing credit rating, a downgrade of an existing credit rating (including to a default category), an affirmation (or confirmation) of an existing credit rating, or a withdrawal of a credit rating.
- “Credit rating agency” or “CRA” means an entity that is in the business of issuing credit ratings.
- “Credit rating methodology” means the procedure by which a CRA determines credit ratings, including the information that must be considered or analyzed to determine a credit rating and the analytical process to be undertaken to determine the credit rating, including, as applicable, the models, financial metrics, assumptions, criteria, or other quantitative or qualitative factors to be used to determine the credit rating.
- “Credit rating process” means all the steps taken with respect to a credit rating action including, but not limited to, the CRA’s selection and assignment of analysts to work on the matter, application of the credit rating methodology, decision-making activities (e.g., the operation of a rating committee), interaction with the rated entity, obligor, originator, underwriter, or arranger, and dissemination of the credit rating publicly or to subscribers.
- “Employee” means any individual who works for the CRA on a full-time, part-time, or temporary basis, including any individual working as a contractor who is involved in the credit rating process.
- “Entity” means a government; political subdivision, agency, or instrumentality of a government; or a company, corporation, partnership, trust, estate, or association.
- “Trading instrument” means a security, money market instrument, derivative, or other similar product.
- “Obligation” means a trading instrument, credit commitment, loan, or other similar product or transaction that has inherent credit risk.
- “Obligor” means the entity that is legally or contractually obliged to make payments on a rated obligation.

## **THE IOSCO CODE OF CONDUCT FUNDAMENTALS FOR CREDIT RATING AGENCIES**

As described in the IOSCO CRA Principles, CRAs should endeavor to issue credit ratings that help reduce the asymmetry of information that exists between rated entities, obligors, originators, underwriters, and arrangers, on one side, and users of credit ratings on the other. Rating analyses of low quality or produced through a process of questionable integrity are either of little use to or misleading for market participants. Stale ratings that fail to reflect changes to the financial condition or prospects of a rated entity, obligor, originator, underwriter, or arranger may mislead

market participants. Likewise, conflicts of interest or other undue factors – internal and external – that might, or even appear to, impinge upon the independence of a credit rating action can seriously undermine a CRA’s credibility. Where conflicts of interest or a lack of independence is common at a CRA and hidden from investors, overall investor confidence in the transparency and integrity of a market can be harmed. CRAs also have responsibilities to the investing public and to rated entities, obligors, originators, underwriters, and arrangers, including a responsibility to protect the confidentiality of some types of information these entities share with them.

To help achieve the objectives outlined in the IOSCO CRA Principles, which should be read in conjunction with the IOSCO CRA Code, CRAs should adopt, publish, and adhere to a Code of Conduct containing the following measures:

## **1. QUALITY AND INTEGRITY OF THE CREDIT RATING PROCESS**

### **A. Quality of the Credit Rating Process**

- 1.1 A CRA should establish, maintain, document, and enforce a credit rating methodology for each class of entity or obligation for which the CRA issues credit ratings. Each credit rating methodology should be rigorous, capable of being applied consistently, and result in credit ratings that can be subjected to some form of objective validation based on historical experience.*
- 1.2 Credit ratings should reflect all information known, and believed to be relevant, to the CRA, consistent with the applicable credit rating methodology that is in effect. Therefore, the CRA should establish, maintain, document, and enforce policies, procedures, and controls to ensure that the credit ratings and analytical reports it disseminates are based on a thorough analysis of all such information.*
- 1.3 The CRA should adopt reasonable measures designed to ensure that the information it uses in determining credit ratings is of sufficient quality to support a high quality credit assessment and is obtained from reliable sources.*
- 1.4 In assessing creditworthiness, analysts involved in the credit rating action should use the credit rating methodology established by the CRA for the type of entity or obligation that is subject to the credit rating action. The credit rating methodology should be applied in a manner that is consistent across all entities or obligations for which that methodology is used.*
- 1.5 A CRA should define the meaning of each category in its rating scales and apply those categories consistently across all classes of rated entities and obligations to which a given rating scale applies.*
- 1.6 Credit ratings should be assigned by the CRA as an entity (not by an analyst or other employee of the CRA).*

- 1.7 *The CRA should assign analysts who, individually or collectively (particularly where credit rating committees are used), have appropriate knowledge and experience for assessing the creditworthiness of the type of entity or obligation being rated.*
- 1.8 *A CRA should maintain internal records that are accurate and sufficiently detailed and comprehensive to reconstruct the credit rating process for a given credit rating action. The records should be retained for as long as necessary to promote the integrity of the CRA's credit rating process, including to permit internal audit, compliance, and quality control functions to review past credit rating actions in order to carry out the responsibilities of those functions. Further, a CRA should establish, maintain, document, and enforce policies, procedures, and controls designed to ensure that its employees comply with the CRA's internal record maintenance, retention, and disposition requirements and with applicable laws and regulations governing the maintenance, retention, and disposition of CRA records.*
- 1.9 *A CRA should establish, maintain, document, and enforce policies, procedures, and controls designed to avoid issuing credit ratings, analyses, or reports that contain misrepresentations or are otherwise misleading as to the general creditworthiness of a rated entity or obligation.*
- 1.10 *A CRA should ensure that it has and devotes sufficient resources to carry out high-quality credit assessments of the entities and obligations for which it issues and maintains credit ratings.*

*When deciding whether to issue a credit rating for an entity or obligation, a CRA should assess whether it is able to devote a sufficient number of analysts with the skill sets to make a high quality credit assessment, and whether the analysts will have access to sufficient information needed in order to make the assessment.*

- 1.11 *A CRA should avoid issuing credit ratings for entities or obligations for which it does not have appropriate knowledge and expertise. For example, where the complexity or structure of a new type of structured finance product or the lack of robust data about the assets underlying the structured finance product raise serious questions as to whether the CRA can determine a credible credit rating for the security, the CRA should refrain from issuing a credit rating.*

*The CRA should establish and maintain a review function made up of one or more senior managers with appropriate experience to review the feasibility of providing a credit rating for a type of entity or obligation that is materially different from the entities or obligations the CRA currently rates.*

- 1.12 *A CRA should establish and maintain a review function made up of one or more senior managers responsible for conducting a rigorous, formal, and periodic review, on a regular basis pursuant to an established timeframe, of all aspects of the CRA's credit rating methodologies (including models and key assumptions) and significant changes to the credit rating methodologies. For example, a CRA should assess whether*

*existing credit rating methodologies and models for determining credit ratings of structured finance products are appropriate when the risk characteristics of the assets underlying a structured finance product change materially.*

*Where feasible and appropriate for the size and scope of its credit rating business, this function should be independent of the employees who are principally responsible for determining credit ratings.*

*1.13 A CRA, in selecting the analyst or analysts who will participate in determining a credit rating, should seek to promote continuity but also to avoid bias in the credit rating process. For example, in seeking to balance the objectives of continuity and bias avoidance, a CRA could assign a team of analysts to participate in determining the credit rating – some for whom the rated entity or obligation is within their area of primary analytical responsibility and some of whom have other areas of primary analytical responsibility.*

*1.14 A CRA should ensure that sufficient employees and financial resources are allocated to monitoring and updating its credit ratings. Except for credit ratings that clearly indicate they do not entail ongoing surveillance, once a credit rating is published, the CRA should monitor the credit rating on an ongoing basis by:*

- a. reviewing the creditworthiness of the rated entity or obligation regularly;*
- b. initiating a review of the status of the credit rating upon becoming aware of any information that might reasonably be expected to result in a credit rating action (including withdrawal of a credit rating), consistent with the applicable credit rating methodology;*
- c. reviewing the impact of the change in the credit rating methodologies, models or key rating assumptions on the affected credit ratings within a reasonable period of time; and*
- d. updating on a timely basis the credit rating, as appropriate, based on the results of such review.*

*Monitoring of existing credit ratings should incorporate all cumulative experience obtained. Changes in credit rating methodologies should be applied to both initial credit ratings and subsequent credit rating actions.*

*1.15 If a CRA uses separate analytical teams for determining initial credit ratings and for subsequent monitoring of existing credit ratings, each team should have the requisite level of expertise and resources to perform their respective functions in a timely manner.*

1.16 *A CRA should establish, maintain, document, and enforce policies and procedures that clearly set forth guidelines for disseminating credit rating actions and reports, and for when a credit rating will be withdrawn.*

**B. Integrity of the Credit Rating Process**

1.17 *A CRA and its employees should comply with all applicable laws and regulations governing its activities in each jurisdiction in which it operates. In this regard, a CRA should establish, maintain, document, and enforce policies, procedures, and controls designed to ensure that the CRA and its employees comply with applicable laws and regulations.*

1.18 *A CRA and its employees should deal fairly and honestly with rated entities, obligors, arrangers, and users of credit ratings.*

1.19 *A CRA's employees should be held to the highest standards of integrity and ethical behavior, and the CRA should not employ individuals with demonstrably compromised integrity.*

1.20 *A CRA and its employees should not, either implicitly or explicitly, give any assurance or guarantee to an entity, obligor, underwriter, originator, or arranger about the outcome of a particular credit rating action. This does not preclude the CRA from developing prospective assessments used in structured finance and similar transactions, provided that doing so does not impair the integrity of the credit rating process.*

1.21 *A CRA and its employees should not make promises or threats about potential credit rating actions to influence entities, obligors, underwriters, arrangers, or subscribers to pay for credit ratings or other services.*

1.22 *A CRA and its employees should not make proposals or recommendations regarding the activities of rated entities or obligors that could impact a credit rating of the rated entity or obligation, including but not limited to proposals or recommendations about corporate or legal structure, assets and liabilities, business operations, investment plans, lines of financing, business combinations, and the design of structured finance products.*

1.23 *A CRA should establish and maintain policies, procedures, and controls designed to ensure compliance with the CRA's code of conduct and applicable laws and regulations.*

- a. *The CRA should establish a compliance function responsible for monitoring and reviewing the compliance of the CRA and its employees with the provisions of the CRA's code of conduct and with applicable laws and regulations.*

- b. *The compliance function also should be responsible for reviewing the adequacy of the CRA's policies, procedures, and controls designed to ensure compliance with the CRA's code of conduct and applicable laws and regulations.*
  - c. *The CRA should assign a senior level employee with the requisite skill set to serve as the CRA's compliance officer in charge of the compliance function. The compliance officer's reporting lines and compensation should be independent of the CRA's credit rating operations.*
- 1.24 *Upon becoming aware that another employee or an affiliate of the CRA is or has engaged in conduct that is illegal, unethical, or contrary to the CRA's code of conduct, the CRA employee should report such information immediately to the compliance officer or another officer of the CRA, as appropriate, so proper action may be taken. The CRA's employees are not necessarily expected to be experts in the law. Nonetheless, CRA employees are expected to report activities that a reasonable person would question. Upon receiving such a report from an employee, the CRA is obligated to take appropriate action, as determined by the laws and regulations of the jurisdiction and the policies, procedures, and controls established, maintained, documented, and enforced by the CRA. A CRA should prohibit retaliation by the CRA or an employee against any employees who, in good faith, make such reports.*

## **2. CRA INDEPENDENCE AND AVOIDANCE OF CONFLICTS OF INTEREST**

### **A. General**

- 2.1 *A CRA should not refrain from or unnecessarily delay taking a credit rating action based on the potential effect (economic, political, or otherwise) of the action on the CRA, a rated entity, obligor, underwriter, arranger, investor, or other market participant.*
- 2.2 *A CRA and its employees should use care and professional judgment to maintain both the substance and appearance of the CRA's and its employees' independence and objectivity.*
- 2.3 *A CRA's determination of a credit rating should be influenced only by factors relevant to assessing the creditworthiness of the rated entity or obligation.*
- 2.4 *The credit rating a CRA assigns to an entity or obligation should not be affected by whether there is an existing or potential business relationship between the CRA (or its affiliates) and the rated entity, obligor, underwriter, or arranger (or any of their affiliates), or any other party.*
- 2.5 *A CRA should operationally, legally, and, if practicable, physically separate its credit rating business and its analysts from any other businesses of the CRA that may present a conflict of interest. For other businesses that do not necessarily present a conflict of interest, the CRA should establish, maintain, document, and enforce policies,*



*procedures, and controls designed to minimize the likelihood that conflicts of interest will arise. A CRA should disclose why it believes those other businesses do not present a conflict of interest with its credit rating business.*

**B. CRA Policies, Procedures, Controls and Disclosures**

2.6 *A CRA should establish, maintain, document, and enforce policies, procedures, and controls to identify and eliminate, or manage and disclose, as appropriate, any actual or potential conflicts of interest that may influence the credit rating methodologies, credit rating actions, or analyses of the CRA or the judgment and analyses of the CRA's employees. Among other things, the policies, procedures, and controls should address (as applicable to the CRA's business model) how the following conflicts can potentially influence the CRA's credit rating methodologies or credit rating actions:*

- a. being paid to issue a credit rating by the rated entity or by the obligor, underwriter, or arranger of the rated obligation;*
- b. being paid by subscribers with a financial interest that could be affected by a credit rating action of the CRA;*
- c. being paid by rated entities, obligors, underwriters, arrangers, or subscribers for services other than issuing credit ratings or providing access to the CRA's credit ratings;*
- d. being part of a pool of CRAs that each provides a preliminary indication of a credit rating to an entity, obligor, underwriter, or arranger prior to being hired to determine the credit rating for the entity, obligor, underwriter, or arranger; and*
- e. having a direct or indirect ownership interest in a rated entity or obligor, or having a rated entity or obligor have a direct or indirect ownership interest in the CRA.*

2.7 *A CRA should publicly disclose actual and potential conflicts of interest (including, but not limited to, those conflicts of interest identified in Principle 2.6 above) in a complete, timely, clear, concise, specific, and prominent manner. When the conflict is unique to a particular rated entity, obligor, underwriter, arranger, or obligation, the conflict should be disclosed in the relevant credit rating report or elsewhere, as appropriate.*

2.8 *A CRA should publicly disclose the general nature of its compensation arrangements with rated entities, obligors, underwriters, or arrangers.*

- a. When the CRA receives from a rated entity, obligor, underwriter, or arranger compensation unrelated to its credit rating services, the CRA should disclose such unrelated fees as a percentage of total fees received from the rated entity, obligor,*

*underwriter, or arranger in the relevant credit rating report or elsewhere, as appropriate.*

- b. A CRA should publicly disclose in the relevant credit rating report or elsewhere, as appropriate, if it receives 10 percent or more of its annual revenue from a single client (e.g., a rated entity, obligor, underwriter, arranger, or subscriber, or any of their affiliates).*
- 2.9 A CRA should publicly disclose in its credit rating announcement whether the issuer of a structured finance product has informed the CRA that it is publicly disclosing all relevant information about the obligation being rated or if the information remains non-public. If the information remains non-public, the CRA should encourage the issuer to publicly disclose the information.*
- 2.10 A CRA should not hold or transact in trading instruments presenting a conflict of interest with the CRA's credit rating activities.*
- 2.11 In instances where rated entities or obligors (e.g., sovereign nations or states) have, or are simultaneously pursuing, oversight functions related to the CRA, the employees responsible for interacting with the rated entity or obligor's officials (e.g., government regulators) regarding supervisory matters should be separate from the employees that participate in taking credit rating actions or developing or modifying credit rating methodologies.*

### **C. CRA Employee Independence**

- 2.12 Reporting lines for CRA employees and their compensation arrangements should be structured to eliminate or effectively manage actual and potential conflicts of interest.*
  - a. A CRA employee who participates in or who might otherwise have an effect on a credit rating action with respect to an entity or obligation should not be compensated or evaluated on the basis of the amount of revenue that the CRA derives from the entity or obligor.*
  - b. A CRA should conduct formal and periodic reviews of compensation policies, procedures, and practices for CRA employees who participate in or who might otherwise have an effect on a credit rating action to ensure that these policies, procedures and practices applied have not compromised and do not compromise the objectivity of the CRA's credit rating process.*
- 2.13 CRA employees who participate in or who might otherwise have an effect on a credit rating action should not initiate or participate in discussions with rated entities, obligors, arrangers, or subscribers regarding fees or payments charged to such rated entity, obligor, arranger, or subscriber.*

- 2.14 *A CRA employee should not participate in or otherwise influence a CRA's credit rating action with respect to an entity or obligation if the employee, a close relative of the employee (e.g., spouse, domestic partner, or dependent), or an entity managed by the employee (e.g., a trust):*
- a. *Holds or transacts in a trading instrument issued by the rated entity or obligor;*
  - b. *Holds or transacts in a trading instrument (other than a diversified collective investment scheme) that itself owns an interest in the rated entity or obligor, or is a derivative based on a trading instrument issued by the rated entity or obligor;*
  - c. *Holds or transacts in a trading instrument issued by an affiliate of the rated entity or obligor, the ownership of which may cause or may be perceived as causing a conflict of interest with respect to the employee or the CRA;*
  - d. *Holds or transacts in a trading instrument issued by an arranger or underwriter of the obligation, the ownership of which may cause or may be perceived as causing a conflict of interest with respect to the employee or the CRA;*
  - e. *Had a recent employment or other significant business relationship with the rated entity or obligor or an arranger or underwriter of the obligation that may cause or may be perceived as causing a conflict of interest;*
  - f. *Currently works for or is a director of the rated entity or obligor, or underwriter or arranger of the rated obligation; or*
  - g. *Has, or had, another relationship with the rated entity, obligor, or the underwriter or arranger of the rated obligation (or any of their affiliates) that may cause or may be perceived as causing a conflict of interest.*
- 2.15 *A CRA analyst should not hold or transact in a trading instrument issued by a rated entity or obligor in the analyst's area of primary analytical responsibility. This would not preclude an analyst from holding or trading a diversified collective investment scheme that owns a trading instrument issued by a rated entity or obligor in the analyst's area of primary analytical responsibility.*
- 2.16 *A CRA employee should be prohibited from soliciting money, gifts, or favors from anyone with whom the CRA does business and should be prohibited from accepting gifts offered in the form of cash or cash equivalents or any gifts exceeding a minimal monetary value.*
- 2.17 *A CRA employee who becomes involved in a personal relationship that creates an actual or potential conflict of interest (including, for example, a personal relationship with an employee of a rated entity, obligor, or the underwriter or arranger of a rated obligation), should be required under the CRA's policies, procedures, and controls to*

*disclose the relationship to the compliance officer or another officer of the CRA, as appropriate.*

- 2.18 *A CRA should establish, maintain, document, and enforce policies, procedures, and controls for reviewing without unnecessary delay the past work of an employee who participated in the credit rating process who leaves the employ of the CRA and joins an entity that the employee participated in rating, an obligor whose obligation the employee participated in rating, an underwriter or arranger with which the employee had significant dealings as part of his or her duties at the CRA, or any of their affiliates.*

### **3. CRA RESPONSIBILITIES TO THE INVESTING PUBLIC, RATED ENTITIES, OBLIGORS, ORIGINATORS, AND ARRANGERS**

#### **A. Transparency and Timeliness of Credit Ratings Disclosure**

- 3.1 *A CRA should assist investors and other users of credit ratings in developing a greater understanding of credit ratings by publicly disclosing in plain language, among other things, the nature and limitations of credit ratings and the risks of unduly relying on them to make investment or other financial decisions. A CRA that is subject to a CRA registration and oversight program administered by a regional or national authority should not state or imply that the authority endorses its credit ratings or use its registration status to advertise the quality of its credit ratings.*
- 3.2 *A CRA should publicly disclose sufficient information about its credit rating process and its credit rating methodologies, so that investors and other users of credit ratings can understand how a credit rating was determined by the CRA.*
- 3.3 *A CRA should publicly disclose any material modification to a credit rating methodology. Disclosure of the material modification should be made prior to the modification taking effect unless doing so would negatively impact the integrity of a credit rating by unduly delaying the taking of a credit rating action. The CRA should carefully consider the various uses of credit ratings before modifying a credit rating methodology.*
- 3.4 *A CRA should publicly disclose its policies, procedures, and controls that are unique to the issuance of unsolicited credit ratings.*
- 3.5 *A CRA should publicly disclose its policies, procedures, and controls for distributing credit ratings and reports, and for when a credit rating will be withdrawn.*
- 3.6 *A CRA should publicly disclose clear definitions of the meaning of each category in its rating scales, including the definition of default.*
- 3.7 *A CRA should differentiate credit ratings of structured finance products from credit ratings of other types of entities or obligations, preferably through a different credit*

*rating identifier. The CRA should also publicly disclose how this differentiation functions.*

- 3.8 *A CRA should be transparent with investors, rated entities, obligors, underwriters, and arrangers about how the relevant entity or obligation is rated.*
- 3.9 *Where feasible and appropriate, a CRA should inform the rated entity, or the obligor, underwriter, or arranger of the rated obligation about the critical information and principal considerations upon which a credit rating will be based prior to taking a credit rating action and afford the rated entity, obligor, underwriter, or arranger an adequate opportunity to clarify any factual errors, omissions, or other misperceptions that would have a material effect on the credit rating. The CRA should duly evaluate any response from the rated entity, obligor, underwriter, or arranger. Where in particular circumstances the CRA has not informed the rated entity, obligor, or arranger prior to taking a credit rating action, the CRA should inform the rated entity, obligor, or arranger as soon as practical thereafter and, generally, should explain why the CRA did not inform the rated entity, obligor, or arranger prior to taking the credit rating action.*
- 3.10 *A CRA should publicly disclose or distribute to its subscribers (depending on the CRA's business model) a credit rating action as soon as practicable after reaching the rating decision.*
- 3.11 *A CRA should publicly disclose or distribute to its subscribers (depending on the CRA's business model) a credit rating action on a non-selective basis.*
- 3.12 *A CRA should disclose with a credit rating action whether the rated entity, or the obligor, underwriter, or arranger of the rated obligation participated in the credit rating process. Each credit rating not initiated at the request of the rated entity, or the obligor, underwriter, or arranger of the rated obligation should be identified as such.*
- 3.13 *A CRA should clearly indicate the attributes and limitations of each credit rating, and the extent to which the CRA verifies information provided to it by the rated entity, or the obligor, underwriter, or arranger of the rated obligation. For example, if the credit rating involves a type of entity or obligation for which there is limited historical data, the CRA should disclose this fact and how it may limit the credit rating.*
- 3.14 *A CRA should indicate in the announcement of a credit rating action when the credit rating was last updated or reviewed. The credit rating announcement should also indicate the principal credit rating methodology or methodology version that was used in determining the credit rating and where a description of that credit rating methodology can be found. Where the credit rating is based on more than one credit rating methodology, or where a review of only the principal credit rating methodology might cause investors and other users of credit ratings to overlook important aspects of the credit rating, the CRA should explain this fact in the credit rating announcement,*

*and indicate where to find a discussion of how the different credit rating methodologies and other important aspects factored into the credit rating decision.*

- 3.15 *When rating a structured finance product, a CRA should publicly disclose or distribute to its subscribers (depending on the CRA's business model) sufficient information about its loss and cash-flow analysis with the credit rating, so that investors, other users of credit ratings, and/or subscribers can easily understand the basis for the CRA's credit rating. The CRA should also publicly disclose or distribute information about the degree to which it analyzes how sensitive a credit rating of a structured finance product is to changes in the assumptions underlying the applicable credit rating methodology.*
- 3.16 *When issuing or revising a credit rating, a CRA should explain in its announcement and/or report the key assumptions and data underlying the credit rating, including financial statement adjustments that deviate materially from those contained in the rated entity, obligor, or arranger's published financial statements.*
- 3.17 *If a CRA discontinues monitoring a credit rating for a rated entity or obligation, it should either withdraw the credit rating or disclose such discontinuation to the public or to its subscribers (depending on the CRA's business model) as soon as practicable. A publication by the CRA of a credit rating that is no longer being monitored should indicate the date the credit rating was last updated or reviewed, the reason the credit rating is no longer monitored, and the fact that the credit rating is no longer being updated.*
- 3.18 *To promote transparency and to enable investors and other users of credit ratings to compare the performance of different CRAs, a CRA should disclose sufficient information about the historical transition and default rates of its credit rating categories with respect to the classes of entities and obligations it rates. This information should include verifiable, quantifiable historical information, organized and structured over a range of years, and, where possible, standardized in such a way to assist investors and other users of credit ratings in comparing different CRAs. If the nature of the rated entity or obligation or other circumstances make a historical transition or default rate inappropriate, statistically invalid, or otherwise likely to mislead investors or other users of credit ratings, the CRA should disclose why this is the case.*

## **B. The Treatment of Confidential Information**

- 3.19 *A CRA should establish, maintain, document, and enforce policies, procedures, and controls to protect confidential and/or material non-public information, including confidential information received from a rated entity, or the obligor, underwriter, or arranger of a rated obligation, and non-public information about a credit rating action (e.g., information about a credit rating action before the action is publicly disclosed or disseminated to subscribers).*

- a. *The policies, procedures, and controls should prohibit the CRA and its employees from using or disclosing confidential and/or material non-public information for any purpose unrelated to the CRA's credit rating activities, including disclosing such information to other employees where the disclosure is not necessary in connection with the CRA's credit rating activities, unless disclosure is required by applicable law or regulation.*
  - b. *The policies, procedures, and controls should require the CRA and its employees to take reasonable steps to protect confidential and/or material non-public information from fraud, theft, misuse, or inadvertent disclosure.*
  - c. *With respect to confidential information received from a rated entity, obligor, underwriter, or arranger, the policies, procedures, and controls should prohibit the CRA and its employees from using or disclosing such information in violation of the terms of any applicable agreement or understanding with the rated entity, obligor, underwriter, or arranger, unless disclosure is required by applicable law or regulation.*
  - d. *With respect to a pending credit rating action, the policies, procedures, and controls should prohibit the CRA and its employees from selectively disclosing information about the pending credit rating action, except to the rated entity, obligor, underwriter, arranger, or their designated agents, or as required by applicable law or regulation.*
- 3.20 *A CRA should establish, maintain, document, and enforce policies, procedures, and controls designed to prevent violations of applicable laws and regulations governing the treatment and use of confidential and/or material non-public information.*
- 3.21 *A CRA should establish, maintain, document, and enforce policies, procedures, and controls that prohibit employees that possess confidential and/or material non-public information concerning a trading instrument from engaging in a transaction in the trading instrument or using the information to advise or otherwise advantage another person in transacting in the trading instrument.*

#### **4. GOVERNANCE, RISK MANAGEMENT, AND EMPLOYEE TRAINING**

- 4.1 *A CRA's board (or similar body) should have ultimate responsibility for ensuring that the CRA establishes, maintains, documents, and enforces a code of conduct that gives full effect to the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies.*
- 4.2 *A CRA should establish a risk management function made up of one or more senior managers or employees with the appropriate level of experience responsible for identifying, assessing, monitoring, and reporting the risks arising from its activities, including, but not limited to legal risk, reputational risk, operational risk, and strategic risk. The function should be independent of the internal audit function (if practicable given the CRA's size) and make periodic reports to the board (or similar body) and*

*senior management to assist them in assessing the adequacy of the policies, procedures, and controls the CRA establishes, maintains, documents, and enforces to manage risk, including the policies, procedures, and controls specified in the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies.*

- 4.3 *A CRA should establish, maintain, document, and enforce policies, procedures, and controls requiring employees to undergo formal ongoing training at reasonably regular time intervals. The subject matter covered by the training should be relevant to the employee's responsibilities and should cover, as applicable, the CRA's code of conduct, the CRA's credit rating methodologies, the laws governing the CRA's credit rating activities, the CRA's policies, procedures, and controls for managing conflicts of interest and governing the holding and transacting in trading instruments, and the CRA's policies and procedures for handling confidential and/or material non-public information. The policies, procedures, and controls should include measures designed to verify that employees undergo required training.*

## **5. DISCLOSURE AND COMMUNICATION WITH MARKET PARTICIPANTS**

- 5.1 *A CRA's disclosures, including those specified in the provisions of the IOSCO CRA Code, should be complete, fair, accurate, timely, and understandable.*
- 5.2 *A CRA should publicly disclose its code of conduct and describe how the provisions of its code of conduct fully implement the provisions of the IOSCO Statement of Principles Regarding the Activities of Credit Rating Agencies and the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies (collectively, the "IOSCO provisions"). If the CRA's code of conduct deviates from an IOSCO provision, the CRA should identify the relevant IOSCO provision, explain the reason for the deviation, and explain how the deviation nonetheless achieves the objectives contained in the IOSCO provisions. The CRA should describe how it implements and enforces its code of conduct. The CRA also should publicly disclose as soon as practicable any changes to its code of conduct or changes to how it is being implemented or enforced.*
- 5.3 *A CRA should establish and maintain a function within its organization charged with receiving, retaining, and handling questions, concerns or complaints from market participants and the public. The function should establish, maintain, document, and enforce policies, procedures, and controls for receiving, retaining, and handling questions, concerns, and complaints, including those that are provided on a confidential basis. The policies, procedures, and controls should specify the circumstances under which a question, concern, or complaint must be reported to senior management and/or the board (or similar body).*
- 5.4 *A CRA should make readily accessible on its public website:*
- a. the CRA's code of conduct;*
  - b. a description of the CRA's credit rating methodologies;*
  - c. information about the CRA's historic performance data; and*



*d. any other disclosures specified in the provisions of the IOSCO CRA Code, as appropriate.*

## **APPENDIX B**

### **PROPOSED REVISED IOSCO CRA CODE (COMPARISON WITH 2008 IOSCO CRA CODE)**

## CODE OF CONDUCT FUNDAMENTALS FOR CREDIT RATING AGENCIES

### INTRODUCTION

~~Credit rating agencies (CRAs) can play an important role in modern capital markets. CRAs typically opine on the credit risk of issuers of securities and their financial obligations. Given the vast amount of information available to investors today — some of it valuable, some of it not — CRAs can play a useful role in helping investors and others sift through this information, and analyze the credit risks they face when lending to a particular borrower or when purchasing an issuer’s debt and debt-like securities.<sup>4</sup>~~

In September 2003, IOSCO’s Technical Committee published a Statement of Principles Regarding the Activities of Credit Rating Agencies.<sup>2</sup> (the “IOSCO CRA Principles”).<sup>1</sup> The IOSCO CRA Principles were designed to be a useful tool for securities regulators, credit rating agencies (“CRAs”), and others wishing to articulate the terms and conditions under which CRAs operate and the manner in which opinions of CRAs should be used by market participants. ~~Because CRAs are regulated and operate differently in different jurisdictions, the Principles laid out~~The IOSCO CRA Principles address four key objectives that are designed to promote informed, independent analyses and opinions by CRAs.<sup>2</sup> This, in turn, is designed to promote the three core objectives of securities regulations identified by IOSCO: the protection of investors; ensuring that markets are fair, efficient and transparent; and the reduction of systemic risk.<sup>3</sup>

The four objectives (collectively, the “Principles”) of the IOSCO CRA Principles are:

- Quality and integrity of the rating process – CRAs should endeavour to issue opinions that help reduce the asymmetry of information among borrowers, lenders and other market participants;
- Independence and conflicts of interest – CRA rating decisions should be independent and free from political or economic pressures and from conflicts of interest arising due to the CRA’s ownership structure, business or financial activities, or the financial interests of the CRA’s employees. CRAs should, as far as possible, avoid activities, procedures or relationships that may compromise or appear to compromise the independence and objectivity of credit rating operations;

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<sup>4</sup>~~CRAs typically provide credit ratings for different types of debts and financial obligations — including, for example, private loans, publicly and privately traded debt securities, preferred shares and other securities that offer a fixed or variable rate of return. For simplicity’s sake, the term “debt and debt-like securities” is used herein to refer to debt securities, preferred shares, and other financial obligations of this sort that CRAs rate.~~

<sup>2</sup>~~This document can be downloaded from IOSCO’s On Line Library<sup>1</sup> See IOSCO Technical Committee, Statement of Principles Regarding the Activities of Credit Rating Agencies (Sept. 2003), available at [www.iosco.org\(IOSCO\)PD151](http://www.iosco.org(IOSCO)PD151)<http://www.iosco.org/library/pubdocs/pdf/IOSCOPD151.pdf>.~~

<sup>2</sup> See id.

<sup>3</sup> See IOSCO, Objectives and Principles of Securities Regulation (rev. June 2010), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD323.pdf>.

- Transparency and timeliness of ratings disclosure – CRAs should make disclosure and transparency an objective of their ratings activities; and
- Confidential information – CRAs should maintain in confidence all non-public information communicated to them by any issuer, or its agents, under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially.

The Principles are high-level objectives that ~~rating agencies~~ CRAs, regulators, ~~issuers~~ rated entities, obligors, underwriters, arrangers, and other market participants should strive toward in order to improve investor protection and the fairness, efficiency and transparency of securities markets and reduce systemic risk. The Principles ~~were designed to~~ apply to all types of CRAs operating in various jurisdictions. However, to take into account the different market, legal, and regulatory circumstances in which CRAs operate, and the varying size and business models of CRAs, the manner in which the Principles were to be implemented was left open. The Principles contemplated that a variety of mechanisms could be used, including both market mechanisms and regulation.

~~Along with the Principles, IOSCO's Technical Committee also published a Report on the Activities of Credit Rating Agencies that outlined the activities of CRAs, the types of regulatory issues that arise relating to these activities, and how the Principles address these issues.<sup>3</sup> The CRA Report highlighted the growing and sometimes controversial importance placed on CRA assessments and opinions, and found that, in some cases, CRAs activities are not always well understood by investors and issuers alike. Given this lack of understanding, and because CRAs typically are subject to little formal regulation or oversight in most jurisdictions, concerns have been raised regarding the manner in which CRAs protect the integrity of the rating process, ensure that investors and issuers are treated fairly, and safeguard confidential material information provided them by issuers.~~

~~Following publication of the CRA Principles, some commenters, including a number of CRAs, suggested that it would be useful if IOSCO were to develop a more specific and detailed code of conduct giving guidance on how the Principles could be implemented in practice. The following Code of Conduct Fundamentals for Credit Rating Agencies is the fruition of this exercise. As with the Principles, with which it should be used, the Code Fundamentals were developed out of discussions among IOSCO members, CRAs, representatives of the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, issuers, and the public at large.<sup>4</sup> The Code Fundamentals offer (the "IOSCO CRA Code") offers a set of robust, practical measures that serve as a guide to and a framework for implementing the Principles' objectives.<sup>4</sup> These measures are the fundamentals which should be included in individual CRA codes of conduct, and the elements contained in the IOSCO CRA Code Fundamentals should~~

<sup>3</sup> This document can be downloaded from IOSCO's On-Line Library at [www.iosco.org](http://www.iosco.org) (IOSCOPD153).

<sup>4</sup> A consultation draft of the Code Fundamentals was published for public comment in October 2004. This document (IOSCOPD173) and a list of public comments IOSCO received on the consultation draft (IOSCOPD177) can be downloaded from IOSCO's On-Line Library at [www.iosco.org](http://www.iosco.org). The online version of the list of public comments includes hyperlinks to the comment letters themselves.

<sup>4</sup> In 2004, following the publication of the IOSCO CRA Principles, IOSCO published the Code of Conduct Fundamentals for CRAs. The IOSCO CRA Code was revised in 2008 to address concerns about the role of CRAs in the wake of the financial crisis, and again in 2014 to take into account the CRA registration and oversight programs implemented by IOSCO members.

receive the full support of CRA management and be backed by thorough compliance and enforcement mechanisms. However, the measures set forth in the IOSCO CRA Code Fundamentals are not intended to be all-inclusive: CRAs and regulators should consider whether or not additional measures may be necessary to properly implement the Principles in a specific jurisdiction, ~~and the Technical Committee may revisit the Code Fundamentals in the future should experience dictate that modifications are necessary.~~ Further, the IOSCO CRA Code Fundamentals ~~are~~ is not designed to be rigid or formulaic. ~~They are~~ It is designed to offer CRAs a degree of flexibility in how these measures are incorporated into the individual codes of conduct of the CRAs themselves, according to each CRA's specific legal, business, and market circumstances.

~~IOSCO Technical Committee~~ members expect CRAs in their jurisdictions to give full effect to the ~~Code Fundamentals~~ IOSCO CRA Code subject to regional and national laws and regulations governing the activities of CRAs. In order to promote transparency and improve the ability of market participants and ~~regulators~~ others to judge whether a CRA has satisfactorily implemented the IOSCO CRA Code Fundamentals, CRAs should disclose how each provision of the IOSCO CRA Code Fundamentals is addressed in the CRA's own code of conduct. CRAs should explain if and how their own codes of conduct deviate from the IOSCO CRA Code Fundamentals and how such deviations nonetheless achieve the objectives laid out in the IOSCO CRA Code Fundamentals and the IOSCO CRA Principles. This will permit market participants ~~and regulators~~ to draw their own conclusions about whether the CRA has implemented the IOSCO CRA Code Fundamentals to their satisfaction, and to react accordingly. In developing their own codes of conduct, CRAs should keep in mind that the laws and regulations of the jurisdictions in which they operate vary and take precedence over the IOSCO CRA Code Fundamentals. These laws and regulations may include direct regulation of CRAs and may incorporate elements of the IOSCO CRA Code Fundamentals itself.

Finally, the IOSCO CRA Code Fundamentals only ~~address~~ addresses measures that CRAs should adopt to help ensure that the ~~CRA~~ Principles are properly implemented. The IOSCO CRA Code Fundamentals ~~do~~ does not address the equally important obligations ~~issuers~~ that rated entities, obligors, underwriters, and arrangers have of cooperating with and providing accurate and complete information to the marketplace and the CRAs they solicit to provide credit ratings. While aspects of the IOSCO CRA Code Fundamentals deal with a CRA's duties to ~~issuers~~ these entities, the essential purpose of the IOSCO CRA Code Fundamentals is to promote investor protection by safeguarding the integrity of the credit rating process. IOSCO members recognize that credit ratings, despite their numerous other uses, exist primarily to help investors assess the credit risks they face when making certain kinds of investments. Maintaining the independence of CRAs vis-à-vis the ~~issuers~~ entities and obligations they rate is vital to achieving this goal. Provisions of the IOSCO CRA Code Fundamentals, dealing with CRA ~~obligations to issuers~~ responsibilities to rated entities, obligors, underwriters, and arrangers are designed to improve the quality of credit ratings and their usefulness to investors. These provisions should not be interpreted in ways that undermine the independence of CRAs or their ability to issue timely credit ratings ~~opinions~~.

Like the IOSCO CRA Principles, the ~~objectives of which are reflected herein, the Code Fundamentals are~~ IOSCO CRA Code is also intended to be useful to all types of CRAs relying on a variety of different business models. The IOSCO CRA Code Fundamentals ~~do~~ does not indicate a preference for one business model over another, nor are the measures described ~~therein~~ herein designed to be used only by CRAs with large staffs and

compliance functions. Accordingly, the types of mechanisms and procedures CRAs adopt to ensure that the provisions of the [IOSCO CRA Code Fundamentals](#) are followed will vary according to the market and legal circumstances in which the CRA operates.

Structurally, the [IOSCO CRA Code Fundamentals](#) are broken into ~~three~~five sections ~~and draw upon the organization and substance of the Principles themselves:~~

- The Quality and Integrity of the [Credit](#) Rating Process;
- CRA Independence and the Avoidance of Conflicts of Interest; ~~and;~~
- CRA Responsibilities to the Investing Public ~~and Issuers~~, [Rated Entities, Obligors, Originators, and Arrangers](#);
- [Governance, Risk Management, and Employee Training](#); and
- [Disclosure and Communication with Market Participants](#).

## TERMS

[For the purposes of the IOSCO CRA Code:](#)<sup>5</sup>

- [“Affiliate” means an entity that directly or indirectly controls, is controlled by, or is under common control with the CRA.](#)

~~The Code Fundamentals are designed to apply to any CRA and any person employed by a CRA in either a full time or part time capacity. A CRA employee who is primarily employed as a credit analyst is referred to as an “analyst.” For the purposes of the Code Fundamentals, the terms “CRA” and “credit rating agency” refer to those entities whose business is the issuance of credit ratings for the purposes of evaluating the credit risk of issuers of debt and debt-like securities.~~

- [“Analyst” means a CRA employee who performs analytical functions that are necessary for the issuing or monitoring of a credit rating or participates in determining credit ratings, including an employee involved in a credit rating committee.](#)
- ~~For the purposes of the Code Fundamentals, a “credit~~[“Credit rating” is or “rating” means an opinion assessment](#) regarding the creditworthiness of an entity, ~~a credit commitment, a debt or debt-like security or an issuer of such obligations or obligation~~, expressed using an established and defined ranking system. ~~As described in the CRA Report, credit ratings are not recommendations to purchase, sell, or hold any security.~~
- [“Credit rating action” means to determine an initial credit rating, an upgrade of an existing credit rating, a downgrade of an existing credit rating \(including to a](#)

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<sup>5</sup> [These definitions are intended to facilitate an understanding of the IOSCO CRA Code. These terms may be defined differently under regional and national laws. As noted above, laws and regulations of the jurisdictions in which CRAs operate vary and take precedence over the IOSCO CRA Code.](#)

- default category), an affirmation (or confirmation) of an existing credit rating, or a withdrawal of a credit rating.
- “Credit rating agency” or “CRA” means an entity that is in the business of issuing credit ratings.
  - “Credit rating methodology” means the procedure by which a CRA determines credit ratings, including the information that must be considered or analyzed to determine a credit rating and the analytical process to be undertaken to determine the credit rating, including, as applicable, the models, financial metrics, assumptions, criteria, or other quantitative or qualitative factors to be used to determine the credit rating.
  - “Credit rating process” means all the steps taken with respect to a credit rating action including, but not limited to, the CRA’s selection and assignment of analysts to work on the matter, application of the credit rating methodology, decision-making activities (e.g., the operation of a rating committee), interaction with the rated entity, obligor, originator, underwriter, or arranger, and dissemination of the credit rating publicly or to subscribers.
  - “Employee” means any individual who works for the CRA on a full-time, part-time, or temporary basis, including any individual working as a contractor who is involved in the credit rating process.
  - “Entity” means a government; political subdivision, agency, or instrumentality of a government; or a company, corporation, partnership, trust, estate, or association.
  - “Trading instrument” means a security, money market instrument, derivative, or other similar product.
  - “Obligation” means a trading instrument, credit commitment, loan, or other similar product or transaction that has inherent credit risk.
  - “Obligor” means the entity that is legally or contractually obliged to make payments on a rated obligation.

## **THE IOSCO CODE OF CONDUCT FUNDAMENTALS FOR CREDIT RATING AGENCIES**

As described in the IOSCO CRA Principles, CRAs should endeavor to issue ~~opinions~~credit ratings that help reduce the asymmetry of information that exists between ~~borrowers and debt and debt-like securities issuers, on one side, and lenders and the purchasers of debt and debt-like securities~~rated entities, obligors, originators, underwriters, and arrangers, on one side, and users of credit ratings on the other. Rating analyses of low quality or produced through a process of questionable integrity are either of little use to or misleading for market participants. Stale ratings that fail to reflect changes to ~~an issuer’s~~the financial condition or prospects of a rated entity, obligor, originator, underwriter, or arranger may mislead market participants. Likewise, conflicts of interest or other undue factors – internal and external – that might, or even appear to,

impinge upon the independence of a credit rating decision action can seriously undermine a CRA's credibility. Where conflicts of interest or a lack of independence is common at a CRA and hidden from investors, overall investor confidence in the transparency and integrity of a market can be harmed. CRAs also have responsibilities to the investing public and to ~~issuers themselves~~ rated entities, obligors, originators, underwriters, and arrangers, including a responsibility to protect the confidentiality of some types of information ~~issuers~~ these entities share with them.

To help achieve the objectives outlined in the IOSCO CRA Principles, which should be read in conjunction with the IOSCO CRA Code ~~Fundamentals~~, CRAs should adopt, publish, and adhere to a Code of Conduct containing the following measures:

## 1. QUALITY AND INTEGRITY OF THE CREDIT RATING PROCESS

### A. Quality of the Credit Rating Process

1.1 A CRA should ~~adopt, implement and enforce written procedures to ensure that the opinions it disseminates are based on a thorough analysis of all information known to the CRA that is relevant to its analysis according to the CRA's published rating methodology.~~ 1.2 A CRA should use establish, maintain, document, and enforce a credit rating methodology for each class of entity or obligation for which the CRA issues credit ratings. Each credit rating methodologies that are methodology should be rigorous, systematic, and, where possible, capable of being applied consistently, and result in credit ratings that can be subjected to some form of objective validation based on historical experience.

~~1.3 In assessing an issuer's creditworthiness, analysts involved in the preparation or review of any rating action should use methodologies established by the CRA. Analysts should apply a given methodology in a consistent manner, as determined by the CRA.~~

~~1.4 Credit ratings should be assigned by the CRA and not by any individual analyst employed by the CRA;~~ 1.2 Credit ratings should reflect all information known, and believed to be relevant, to the CRA, consistent with its published methodology; and the CRA should use people the applicable credit rating methodology that is in effect. Therefore, the CRA should establish, maintain, document, and enforce policies, procedures, and controls to ensure that the credit ratings and analytical reports it disseminates are based on a thorough analysis of all such information.

1.3 The CRA should adopt reasonable measures designed to ensure that the information it uses in determining credit ratings is of sufficient quality to support a high quality credit assessment and is obtained from reliable sources.

1.4 In assessing creditworthiness, analysts involved in the credit rating action should use the credit rating methodology established by the CRA for the type of entity or obligation that is subject to the credit rating action. The credit rating methodology should be applied in a manner that is consistent across all entities or obligations for which that methodology is used.



1.5 A CRA should define the meaning of each category in its rating scales and apply those categories consistently across all classes of rated entities and obligations to which a given rating scale applies.

1.6 Credit ratings should be assigned by the CRA as an entity (not by an analyst or other employee of the CRA).

1.7 The CRA should assign analysts who, individually or collectively (particularly where credit rating committees are used), have appropriate knowledge and experience in developing a rating opinion for assessing the creditworthiness of the type of credit entity or obligation being applied-rated.

~~1.5 A CRA should maintain internal records to support its credit opinions for a reasonable period of time or in accordance with applicable law.~~  
1.8 A CRA should maintain internal records that are accurate and sufficiently detailed and comprehensive to reconstruct the credit rating process for a given credit rating action. The records should be retained for as long as necessary to promote the integrity of the CRA's credit rating process, including to permit internal audit, compliance, and quality control functions to review past credit rating actions in order to carry out the responsibilities of those functions. Further, a CRA should establish, maintain, document, and enforce policies, procedures, and controls designed to ensure that its employees comply with the CRA's internal record maintenance, retention, and disposition requirements and with applicable laws and regulations governing the maintenance, retention, and disposition of CRA records.

~~1.6.9 A CRA and its analysts should take steps~~should establish, maintain, document, and enforce policies, procedures, and controls designed to avoid issuing any credit ratings, analyses, or reports that contain misrepresentations or are otherwise misleading as to the general creditworthiness of an issuer a rated entity or obligation.

~~1.7.10~~ A CRA should ensure that it has and devotes sufficient resources to carry out high-quality credit assessments of ~~all~~the entities and obligations ~~and issuers it rates~~for which it issues and maintains credit ratings.

~~When deciding whether to rate or continue issue a credit rating for an entity or obligation or issuer, a CRA should assess whether it is able to devote a sufficient personnel number of analysts with sufficient the skill sets to make a proper rating high quality credit assessment, and whether its personnel likely the analysts will have access to sufficient information needed in order to make such an assessment. A CRA should adopt reasonable measures so that the information it uses in assigning a rating is of sufficient quality to support a credible rating. If the rating involves a type of financial product presenting limited historical data (such as an innovative financial vehicle), the CRA should make clear, in a prominent place, the limitations of the rating. the assessment.~~

1.11 A CRA should avoid issuing credit ratings for entities or obligations for which it does not have appropriate knowledge and expertise. For example, where the complexity or structure of a new type of structured finance product or the

lack of robust data about the assets underlying the structured finance product raise serious questions as to whether the CRA can determine a credible credit rating for the security, the CRA should refrain from issuing a credit rating.

~~1.7-1~~ ~~A~~ The CRA should establish and maintain a review function made up of one or more senior managers with appropriate experience to review the feasibility of providing a credit rating for a type of ~~structure~~entity or obligation that is materially different from the ~~structures~~entities or obligations the CRA currently rates.

~~1.7-2~~ 1.12 A CRA should establish and ~~implement~~maintain a review function made up of one or more senior managers responsible for conducting a rigorous ~~and formal review function responsible for periodically reviewing the methodologies and, formal, and periodic review, on a regular basis pursuant to an established timeframe, of all aspects of the CRA's credit rating methodologies (including models and key assumptions) and significant changes to the credit rating methodologies and models it uses. Where feasible and appropriate for the size and scope of its credit rating services, this function should be independent of the business lines that are principally responsible for rating various classes of issuers and obligations.~~ 1.7-3 A. For example, a CRA should assess whether existing credit rating methodologies and models for determining credit ratings of structured finance products are appropriate when the risk characteristics of the assets underlying a structured finance product change materially. ~~In cases where the complexity or structure of a new type of structured product or the lack of robust data about the assets underlying the structured product raise serious questions as to whether the CRA can determine a credible credit rating for the security, CRA should refrain from issuing a credit rating.~~

~~1.8~~ ~~A CRA should structure its rating teams to promote continuity and avoid bias in the rating process.~~ Where feasible and appropriate for the size and scope of its credit rating business, this function should be independent of the employees who are principally responsible for determining credit ratings.

## **~~B.~~ Monitoring and Updating**

1.13 A CRA, in selecting the analyst or analysts who will participate in determining a credit rating, should seek to promote continuity but also to avoid bias in the credit rating process. For example, in seeking to balance the objectives of continuity and bias avoidance, a CRA could assign a team of analysts to participate in determining the credit rating – some for whom the rated entity or obligation is within their area of primary analytical responsibility and some of whom have other areas of primary analytical responsibility.

~~1.9~~ 1.14 A CRA should ensure that ~~adequate personnel~~sufficient employees and financial resources are allocated to monitoring and updating its credit ratings. Except for credit ratings that clearly indicate they do not entail ongoing surveillance, once a credit rating is published, the CRA should monitor the credit rating on an ongoing basis ~~and update the rating~~ by:

a. ~~regularly~~ reviewing the ~~issuer's~~ creditworthiness of the rated entity or obligation regularly;

- b. initiating a review of the status of the credit rating upon becoming aware of any information that might reasonably be expected to result in a credit rating action (including ~~termination~~withdrawal of a credit rating), consistent with the applicable credit rating methodology; ~~and~~
- c. reviewing the impact of the change in the credit rating methodologies, models or key rating assumptions on the affected credit ratings within a reasonable period of time; and
- d. updating on a timely basis the credit rating, as appropriate, based on the results of such review.

~~Subsequent monitoring~~Monitoring of existing credit ratings should incorporate all cumulative experience obtained. Changes in ~~ratings criteria and assumptions~~credit rating methodologies should be applied ~~where appropriate~~ to both initial credit ratings and subsequent ~~ratings~~credit rating actions.

~~1.9-1.15~~ If a CRA uses separate analytical teams for determining initial credit ratings and for subsequent monitoring of ~~structured finance products~~existing credit ratings, each team should have the requisite level of expertise and resources to perform their respective functions in a timely manner.

~~1.10~~ ~~Where a CRA makes its ratings available to the public, the CRA should publicly announce if it discontinues rating an issuer or obligation. Where a CRA's ratings are provided only to its subscribers, the CRA should announce to its subscribers if it discontinues rating an issuer or obligation. In both cases, continuing publications by the CRA of the discontinued rating should indicate the date the rating was last updated and the fact that the rating is no longer being updated.~~

1.16 A CRA should establish, maintain, document, and enforce policies and procedures that clearly set forth guidelines for disseminating credit rating actions and reports, and for when a credit rating will be withdrawn.

## **EB.** Integrity of the Credit Rating Process

~~1.11~~1.17 A CRA and its employees should comply with all applicable laws and regulations governing its activities in each jurisdiction in which it operates. In this regard, a CRA should establish, maintain, document, and enforce policies, procedures, and controls designed to ensure that the CRA and its employees comply with applicable laws and regulations.

~~1.12~~1.18 A CRA and its employees should deal fairly and honestly with ~~issuers, investors, other market participants, and the public~~rated entities, obligors, arrangers, and users of credit ratings.

~~1.13~~1.19 A CRA's ~~analysts~~employees should be held to ~~high~~the highest standards of integrity and ethical behavior, and ~~at~~the CRA should not employ individuals with demonstrably compromised integrity.

~~1.14~~1.20 A CRA and its employees should not, either implicitly or explicitly, give any assurance or guarantee to an entity, obligor, underwriter, originator, or arranger about the outcome of a particular credit rating ~~prior to a rating assessment~~action. This does not preclude ~~the~~ CRA from developing prospective assessments used in structured finance and similar transactions, provided that doing so does not impair the integrity of the credit rating process.

1.21 A CRA and its employees should not make promises or threats about potential credit rating actions to influence entities, obligors, underwriters, arrangers, or subscribers to pay for credit ratings or other services.

~~1.14~~1.22 A CRA and its employees should ~~prohibit its analysts from making~~not make proposals or recommendations regarding the activities of rated entities or obligors that could impact a credit rating of the rated entity or obligation, including but not limited to proposals or recommendations about corporate or legal structure, assets and liabilities, business operations, investment plans, lines of financing, business combinations, and the design of structured finance products ~~that a CRA rates~~.

1.23 A CRA should establish and maintain policies, procedures, and controls designed to ensure compliance with the CRA's code of conduct and applicable laws and regulations.

a. The CRA should establish a compliance function responsible for monitoring and reviewing the compliance of the CRA and its employees with the provisions of the CRA's code of conduct and with applicable laws and regulations.

b. The compliance function also should be responsible for reviewing the adequacy of the CRA's policies, procedures, and controls designed to ensure compliance with the CRA's code of conduct and applicable laws and regulations.

c. ~~1.15—A CRA should institute policies and procedures that clearly specify a person responsible for a CRA's and a CRA's employees' compliance with the provisions of a CRA's code of conduct and with applicable laws and regulations. This person~~The CRA should assign a senior level employee with the requisite skill set to serve as the CRA's compliance officer in charge of the compliance function. The compliance officer's reporting lines and compensation should be independent of the CRA's credit rating operations.

~~1.16~~1.24 Upon becoming aware that another employee or ~~entity under common control with~~an affiliate of the CRA is or has engaged in conduct that is illegal, unethical, or contrary to the CRA's code of conduct, ~~the~~ CRA employee should report such information immediately to the ~~individual in charge of~~ compliance officer or ~~an~~another officer of the CRA, as appropriate, so proper action may be taken. ~~A~~The CRA's employees are not necessarily expected to be experts in the law. Nonetheless, ~~its~~CRA employees are expected to report ~~the~~ activities that a reasonable person would question. ~~Any CRA officer who~~

~~receives~~ Upon receiving such a report from ~~a CRA~~ an employee, the CRA is obligated to take appropriate action, as determined by the laws and regulations of the jurisdiction and the ~~rules and guidelines set forth~~ policies, procedures, and controls established, maintained, documented, and enforced by the CRA. A CRA management should prohibit retaliation by ~~other~~ the CRA staff or ~~by the CRA itself~~ an employee against any employees who, in good faith, make such reports.

## 2. CRA INDEPENDENCE AND AVOIDANCE OF CONFLICTS OF INTEREST

### A. General

- 2.1 A CRA should not ~~forbear or~~ refrain from or unnecessarily delay taking a credit rating action based on the potential effect (economic, political, or otherwise) of the action on the CRA, ~~an issuer, an~~ a rated entity, obligor, underwriter, arranger, investor, or other market participant.
- 2.2 A CRA and its ~~analysts~~ employees should use care and professional judgment to maintain both the substance and appearance of the CRA's and its employees' independence and objectivity.
- 2.3 ~~The~~ A CRA's determination of a credit rating should be influenced only by factors relevant to ~~the credit assessment~~ assessing the creditworthiness of the rated entity or obligation.
- 2.4 The credit rating a CRA assigns to an ~~issuer~~ entity or ~~security~~ obligation should not be affected by ~~the existence of~~ whether there is an existing or potential ~~for a~~ business relationship between the CRA (or its affiliates) and the ~~issuer (or its~~ rated entity, obligor, underwriter, or arranger (or any of their affiliates), or any other party, ~~or the non-existence of such a relationship.~~
- 2.5 A CRA should ~~separate, operationally and,~~ legally, and, if practicable, physically separate its credit rating business and ~~CRA~~ its analysts from any other businesses of the CRA, ~~including consulting businesses,~~ that may present a conflict of interest. ~~A CRA should ensure that ancillary business operations which~~ For other businesses that do not necessarily present ~~conflicts of interest with the CRA's rating business have in place~~ a conflict of interest, the CRA should establish, maintain, document, and enforce policies, procedures, and mechanisms controls designed to minimize the likelihood that conflicts of interest will arise. A CRA should ~~also define what it considers, and does not consider, to be an ancillary business and why~~ disclose why it believes those other businesses do not present a conflict of interest with its credit rating business.



**B. CRA Policies, Procedures, Controls and ~~Policies~~Disclosures**

2.6 A CRA should ~~adopt written internal~~establish, maintain, document, and enforce policies, procedures, and mechanisms~~controls~~ to ~~(1)-identify; and (2)-eliminate, or manage and disclose, as appropriate, any actual or potential conflicts of interest that may influence the~~ opinions and credit rating methodologies, credit rating actions, or analyses of the CRA makes or the judgment and analyses of the individuals a CRA employs who have an influence on ratings decisions. A CRA's code of conductCRA's employees. Among other things, the policies, procedures, and controls should address (as applicable to the CRA's business model) how the following conflicts can potentially influence the CRA's credit rating methodologies or credit rating actions:

- a. being paid to issue a credit rating by the rated entity or by the obligor, underwriter, or arranger of the rated obligation;
- b. being paid by subscribers with a financial interest that could be affected by a credit rating action of the CRA;
- c. being paid by rated entities, obligors, underwriters, arrangers, or subscribers for services other than issuing credit ratings or providing access to the CRA's credit ratings;
- d. being part of a pool of CRAs that each provides a preliminary indication of a credit rating to an entity, obligor, underwriter, or arranger prior to being hired to determine the credit rating for the entity, obligor, underwriter, or arranger; and
- e. having a direct or indirect ownership interest in a rated entity or obligor, or having a rated entity or obligor have a direct or indirect ownership interest in the CRA.

2.7 A CRA should also state that the CRA will publicly disclose such conflict avoidance and management measures.2.7 A CRA's disclosures of actual and potential conflicts of interest should be (including, but not limited to, those conflicts of interest identified in Principle 2.6 above) in a complete, timely, clear, concise, specific and prominent, and prominent manner. When the conflict is unique to a particular rated entity, obligor, underwriter, arranger, or obligation, the conflict should be disclosed in the relevant credit rating report or elsewhere, as appropriate.

2.8 A CRA should publicly disclose the general nature of its compensation arrangements with rated entities, obligors, underwriters, or arrangers.

- a. ~~a. Where a~~When the CRA receives from a rated entity, obligor, underwriter, or arranger compensation unrelated to its ~~ratings service, such as compensation for consulting~~credit rating services, at the CRA should disclose ~~the proportion such non-rating fees constitute against the fees the CRA receives from the entity for ratings services~~such unrelated fees as a percentage of total fees received from the rated entity, obligor,

underwriter, or arranger in the relevant credit rating report or elsewhere, as appropriate.

~~b.~~ b.—A CRA should publicly disclose in the relevant credit rating report or elsewhere, as appropriate, if it receives 10 percent or more of its annual revenue from a single ~~issuer, originator~~ client (e.g., a rated entity, obligor, underwriter, arranger, ~~client~~ or subscriber (including, or any of their affiliates ~~of that issuer, originator, arranger, client or subscriber).~~

~~e.~~ CRAs ~~as an industry should encourage structured finance issuers and originators of structured finance products to publicly disclose all relevant information regarding these products so that investors and other CRAs can conduct their own analyses independently of the CRA contracted by the issuers and/or originators to provide a rating. CRAs should disclose in their~~ 2.9 A CRA should publicly disclose in its credit rating announcements ~~announcement~~ whether the issuer of a structured finance product has informed ~~the CRA~~ that it is publicly disclosing all relevant information about the ~~product~~ obligation ~~being rated or if the information remains non-public. If the information remains non-public, the CRA should encourage the issuer to publicly disclose the information.~~

~~2.92.10~~ A CRA ~~and its employees~~ should not ~~engage in any securities or derivatives~~ hold or transact in trading instruments presenting ~~conflicts~~ a conflict of interest with the CRA's credit rating activities.

~~2.102.11~~ In instances where rated entities or obligors (e.g., ~~governments~~ sovereign nations or states) have, or are simultaneously pursuing, oversight functions related to the CRA, the ~~CRA should use different employees to conduct~~ its employees responsible for interacting with the rated entity or obligor's officials (e.g., government regulators) regarding supervisory matters should be separate from the employees that participate in taking credit rating actions than those employees involved in its oversight issues ~~or developing or modifying credit rating methodologies.~~

### C. ~~CRA Analyst and~~ Employee Independence

~~2.112.12~~ Reporting lines for CRA employees and their compensation arrangements should be structured to eliminate or effectively manage actual and potential conflicts of interest.

a. ~~A CRA's code of conduct should also state that a CRA analyst will~~ A CRA employee who participates in or who might otherwise have an effect on a credit rating action with respect to an entity or obligation should not be compensated or evaluated on the basis of the amount of revenue that the CRA derives from ~~issuers that the analyst rates or with which the analyst regularly interacts~~ the entity or obligor.

b. A CRA should conduct formal and periodic reviews of compensation policies, procedures, and practices for CRA ~~analysts and other~~ employees who participate in or who might otherwise have an effect on ~~the~~ a credit rating ~~process~~ action to ensure that these policies, procedures and

practices applied have not compromised and do not compromise the objectivity of the CRA's credit rating process.

~~2.12~~ ~~A~~ ~~2.13~~ ~~CRA should not have employees who are directly involved in the rating process initiate, employees who participate in or who might otherwise have an effect on a credit rating action should not initiate or participate in, discussions with rated entities, obligors, arrangers, or subscribers regarding fees or payments with any entity they rate, charged to such rated entity, obligor, arranger, or subscriber.~~

~~2.13~~ ~~No~~ ~~2.14~~ ~~A~~ CRA employee should not participate in or otherwise influence ~~the determination of the~~ CRA's credit rating ~~of any particular~~ action with respect to an entity or obligation if the employee, a close relative of the employee (e.g., spouse, domestic partner, or dependent), or an entity managed by the employee (e.g., a trust):

a. Holds or transacts in a trading instrument issued by the rated entity or obligor;

~~b. a. — Owns securities or derivatives of the rated entity,~~ Holds or transacts in a trading instrument (other than holdings in a diversified collective investment schemes ~~scheme) that itself owns an interest in the rated entity or obligor, or is a derivative based on a trading instrument issued by the rated entity or obligor;~~

~~c. b. — Owns securities or derivatives of any entity related to a~~ Holds or transacts in a trading instrument issued by an affiliate of the rated entity or obligor, the ownership of which may cause or may be perceived as causing a conflict of interest, other than holdings in diversified collective investment schemes with respect to the employee or the CRA;

d. Holds or transacts in a trading instrument issued by an arranger or underwriter of the obligation, the ownership of which may cause or may be perceived as causing a conflict of interest with respect to the employee or the CRA;

~~e. e. — Has had~~ Had a recent employment or other significant business relationship with the rated entity or obligor or an arranger or underwriter of the obligation that may cause or may be perceived as causing a conflict of interest;

~~f. d. — Has an immediate relation (i.e., a spouse, partner, parent, child, or sibling) who currently~~ Currently works for or is a director of the rated entity or obligor, or underwriter or arranger of the rated obligation; or

~~g. e. — Has, or had, any other~~ another relationship with the rated entity ~~or any related entity thereof,~~ obligor, or the underwriter or arranger of the rated obligation (or any of their affiliates) that may cause or may be perceived as causing a conflict of interest.



~~2.14~~—A CRA's analysts and anyone involved in the rating process (or their spouse, partner or minor children) should not buy or sell or engage in any transaction in any security or derivative based on a security issued, guaranteed, or otherwise supported by any ~~2.15~~ 2.15A CRA analyst should not hold or transact in a trading instrument issued by a rated entity ~~within such~~ or obligor in the analyst's area of primary analytical responsibility, ~~other than holdings in.~~ This would not preclude an analyst from holding or trading a diversified collective investment ~~schemes~~ scheme that owns a trading instrument issued by a rated entity or obligor in the analyst's area of primary analytical responsibility.

~~2.15~~ 2.16 A CRA ~~employees~~ employee should be prohibited from soliciting money, gifts, or favors from anyone with whom the CRA does business and should be prohibited from accepting gifts offered in the form of cash or cash equivalents or any gifts exceeding a minimal monetary value.

~~2.16~~—~~Any~~ 2.17 A CRA ~~analyst~~ employee who becomes involved in ~~anya~~ any personal relationship that creates ~~the~~ an actual or potential ~~for any real or apparent~~ conflict of interest (including, for example, ~~anya~~ any personal relationship with an employee of a rated entity ~~or agent of such entity within his or her area of analytic responsibility,~~ obligor, or the underwriter or arranger of a rated obligation), should be required under the CRA's policies, procedures, and controls to disclose ~~such~~ the relationship to the ~~appropriate manager~~ or compliance officer or another officer of the CRA, as ~~determined by the CRA's compliance policies~~ appropriate.

~~2.17~~ 2.18 A CRA should establish, maintain, document, and enforce policies ~~and,~~ procedures, and controls for reviewing without unnecessary delay the past work of ~~analysts that leave~~ an employee who participated in the credit rating process who leaves the employ of the CRA and ~~join an issuer the CRA analyst has been involved in rating, or a financial firm with which the CRA analyst has~~ joins an entity that the employee participated in rating, an obligor whose obligation the employee participated in rating, an underwriter or arranger with which the employee had significant dealings as part of his or her duties at the CRA, or any of their affiliates.

### **3. CRA RESPONSIBILITIES TO THE INVESTING PUBLIC ~~AND ISSUERS,~~ RATED ENTITIES, OBLIGORS, ORIGINATORS, AND ARRANGERS**

#### **A. Transparency and Timeliness of Credit Ratings Disclosure**

3.1 A CRA should ~~distribute in a timely manner its ratings decisions regarding the entities and securities it rates.~~ assist investors and other users of credit ratings in developing a greater understanding of credit ratings by publicly disclosing in plain language, among other things, the nature and limitations of credit ratings and the risks of unduly relying on them to make investment or other financial decisions. A CRA that is subject to a CRA registration and oversight program administered by a regional or national authority should not state or imply that the authority endorses its credit ratings or use its registration status to advertise the quality of its credit ratings.

- 3.2 A CRA should publicly disclose ~~its policies for distributing ratings, reports and updates,~~ sufficient information about its credit rating process and its credit rating methodologies, so that investors and other users of credit ratings can understand how a credit rating was determined by the CRA.
- 3.3 A CRA should ~~indicate with each of its ratings when the rating was last updated. Each rating announcement should also indicate the principal methodology or methodology version that was used in determining the rating and where a description of that methodology can be found. Where the rating is based on more than one methodology, or where a review of only the principal methodology might cause investors to overlook other important aspects of the rating, the CRA should explain this fact in the ratings announcement, and indicate where a discussion of how the different methodologies and other important aspects factored into the rating decision.~~ publicly disclose any material modification to a credit rating methodology. Disclosure of the material modification should be made prior to the modification taking effect unless doing so would negatively impact the integrity of a credit rating by unduly delaying the taking of a credit rating action. The CRA should carefully consider the various uses of credit ratings before modifying a credit rating methodology.
- 3.4 ~~Except for “private ratings” provided only to the issuer, the CRA should disclose to the public, on a non-selective basis and free of charge, any rating regarding publicly issued securities, or public issuers themselves, as well as any subsequent decisions to discontinue such a rating, if the rating action is based in whole or in part on material non-public information. A CRA should~~ publicly disclose its policies, procedures, and controls that are unique to the issuance of unsolicited credit ratings.
- 3.5 A CRA should ~~publish sufficient information about~~ publicly disclose its ~~policies, procedures, methodologies and assumptions (including financial statement adjustments that deviate materially from those contained in the issuer’s published financial statements and a description of the rating committee process, if applicable)~~ so that outside parties can understand how a rating was arrived at by the CRA. This information will include (but not be limited to) and controls for distributing credit ratings and reports, and for when a credit rating will be withdrawn.
- 3.6 A CRA should publicly disclose clear definitions of the meaning of each rating category and in its rating scales, including the definition of default or recovery, and the time horizon the CRA used when making a rating decision.
- ~~a. Where a CRA rates a structured finance product, it should provide investors and/or subscribers (depending on the CRA’s business model) with sufficient information about its loss and cash flow analysis so that an investor allowed to invest in the product can understand the basis for the CRA’s rating. A CRA should also disclose the degree to which it analyzes how sensitive a rating of a structured finance product is to changes in the CRA’s underlying rating assumptions.~~

- ~~b.3.7~~ A CRA should differentiate credit ratings of structured finance products from ~~traditional corporate bond~~ credit ratings of other types of entities or obligations, preferably through a different credit rating symbol ~~identifier~~. ~~A~~ The CRA should also publicly disclose how this differentiation functions. ~~A~~ CRA should clearly define a given rating symbol and apply it in a consistent manner for all types of securities to which that symbol is assigned.
- ~~e.~~ ~~A CRA should assist investors in developing a greater understanding of what a credit rating is, and the limits to which credit ratings can be put to use vis à vis a particular type of financial product that the CRA rates. A CRA should clearly indicate the attributes and limitations of each credit opinion, and the limits to which the CRA verifies information provided to it by the issuer or originator of a rated security.~~
- ~~3.6~~ ~~When issuing or revising a rating, the CRA should explain in its press releases and reports the key elements underlying the rating opinion.~~
- 3.8 A CRA should be transparent with investors, rated entities, obligors, underwriters, and arrangers about how the relevant entity or obligation is rated.
- ~~3.73.9~~ Where feasible and appropriate, ~~prior to issuing or revising a rating, the~~ CRA should inform the ~~issuer of~~ rated entity, or the obligor, underwriter, or arranger of the rated obligation about the critical information and principal considerations upon which a credit rating will be based prior to taking a credit rating action and afford the ~~issuer an~~ rated entity, obligor, underwriter, or arranger an adequate opportunity to clarify any ~~likely~~ factual errors, omissions, or other misperceptions ~~or other matters that the CRA would wish to be made aware of in order to produce an accurate~~ would have a material effect on the credit rating. ~~A~~ The CRA ~~will~~ should duly evaluate ~~the~~ any response from the rated entity, obligor, underwriter, or arranger. Where in particular circumstances the CRA has not informed the ~~issuer~~ rated entity, obligor, or arranger prior to ~~issuing or revising a~~ taking a credit rating action, the CRA should inform the ~~issuer~~ rated entity, obligor, or arranger as soon as practical thereafter and, generally, should explain ~~the reason for the delay~~ why the CRA did not inform the rated entity, obligor, or arranger prior to taking the credit rating action.
- 3.10 A CRA should publicly disclose or distribute to its subscribers (depending on the CRA's business model) a credit rating action as soon as practicable after reaching the rating decision.
- 3.11 A CRA should publicly disclose or distribute to its subscribers (depending on the CRA's business model) a credit rating action on a non-selective basis.
- 3.12 A CRA should disclose with a credit rating action whether the rated entity, or the obligor, underwriter, or arranger of the rated obligation participated in the credit rating process. Each credit rating not initiated at the request of the rated entity, or the obligor, underwriter, or arranger of the rated obligation should be identified as such.

- 3.13 A CRA should clearly indicate the attributes and limitations of each credit rating, and the extent to which the CRA verifies information provided to it by the rated entity, or the obligor, underwriter, or arranger of the rated obligation. For example, if the credit rating involves a type of entity or obligation for which there is limited historical data, the CRA should disclose this fact and how it may limit the credit rating.
- 3.14 A CRA should indicate in the announcement of a credit rating action when the credit rating was last updated or reviewed. The credit rating announcement should also indicate the principal credit rating methodology or methodology version that was used in determining the credit rating and where a description of that credit rating methodology can be found. Where the credit rating is based on more than one credit rating methodology, or where a review of only the principal credit rating methodology might cause investors and other users of credit ratings to overlook important aspects of the credit rating, the CRA should explain this fact in the credit rating announcement, and indicate where to find a discussion of how the different credit rating methodologies and other important aspects factored into the credit rating decision.
- 3.15 When rating a structured finance product, a CRA should publicly disclose or distribute to its subscribers (depending on the CRA's business model) sufficient information about its loss and cash-flow analysis with the credit rating, so that investors, other users of credit ratings, and/or subscribers can easily understand the basis for the CRA's credit rating. The CRA should also publicly disclose or distribute information about the degree to which it analyzes how sensitive a credit rating of a structured finance product is to changes in the assumptions underlying the applicable credit rating methodology.
- 3.16 When issuing or revising a credit rating, a CRA should explain in its announcement and/or report the key assumptions and data underlying the credit rating, including financial statement adjustments that deviate materially from those contained in the rated entity, obligor, or arranger's published financial statements.
- 3.17 If a CRA discontinues monitoring a credit rating for a rated entity or obligation, it should either withdraw the credit rating or disclose such discontinuation to the public or to its subscribers (depending on the CRA's business model) as soon as practicable. A publication by the CRA of a credit rating that is no longer being monitored should indicate the date the credit rating was last updated or reviewed, the reason the credit rating is no longer monitored, and the fact that the credit rating is no longer being updated.
- ~~3.8 In order to~~ 3.18 To promote transparency and to enable investors and other users of credit ratings to compare the performance of the ratings, the CRA, where possible, should publish different CRAs, a CRA should disclose sufficient information about the historical transition and default rates of CRA rating categories and whether the default rates of these categories have changed over time, so that interested parties can understand the historical performance of each category and if and how rating categories have changed, and be able to draw quality comparisons among ratings given

~~by different CRAs. If the nature of the rating or other circumstances make a historical default rate inappropriate, statistically invalid, or otherwise likely to mislead the users of the rating, the CRA should explain this: its credit rating categories with respect to the classes of entities and obligations it rates. This information should include verifiable, quantifiable historical information about the performance of its rating opinions, organized and structured over a range of years, and, where possible, standardized in such a way to assist investors in drawing performance comparisons between different CRAs and other users of credit ratings in comparing different CRAs. If the nature of the rated entity or obligation or other circumstances make a historical transition or default rate inappropriate, statistically invalid, or otherwise likely to mislead investors or other users of credit ratings, the CRA should disclose why this is the case.~~

~~3.9 For each rating, the CRA should disclose whether the issuer participated in the rating process. Each rating not initiated at the request of the issuer should be identified as such. A CRA should also disclose its policies and procedures regarding unsolicited ratings.~~

~~3.10 Because users of credit ratings rely on an existing awareness of CRA methodologies, practices, procedures and processes, the CRA should fully and publicly disclose any material modification to its methodologies and significant practices, procedures, and processes. Where feasible and appropriate, disclosure of such material modifications should be made prior to their going into effect. A CRA should carefully consider the various uses of credit ratings before modifying its methodologies, practices, procedures and processes.~~

## **B. The Treatment of Confidential Information**

~~3.11 A CRA should adopt procedures and mechanisms to protect the confidential nature of information shared with them by issuers under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially. Unless otherwise permitted by the confidentiality agreement and consistent with applicable laws or regulations, the CRA and its employees should not disclose confidential information in press releases, through research conferences, to future employers, or in conversations with investors, other issuers, other persons, or otherwise.~~

3.19 A CRA should establish, maintain, document, and enforce policies, procedures, and controls to protect confidential and/or material non-public information, including confidential information received from a rated entity, or the obligor, underwriter, or arranger of a rated obligation, and non-public information about a credit rating action (e.g., information about a credit rating action before the action is publicly disclosed or disseminated to subscribers).

~~3.12 A CRA should use~~

a. The policies, procedures, and controls should prohibit the CRA and its employees from using or disclosing confidential and/or material non-public information only for purposes related to its rating activities or otherwise in accordance with any confidentiality agreements with the issuer for any purpose unrelated to the CRA's credit rating activities.



including disclosing such information to other employees where the disclosure is not necessary in connection with the CRA's credit rating activities, unless disclosure is required by applicable law or regulation.

~~b. 3.13—CRA~~The policies, procedures, and controls should require the CRA and its employees ~~should to~~ take ~~all-reasonable measures to protect all property and records belonging to or in possession of the CRA~~steps to protect confidential and/or material non-public information from fraud, ~~theft or, misuse, or inadvertent disclosure.~~

~~c. 3.14—CRA employees should be prohibited from engaging in transactions in securities when they possess confidential information concerning the issuer of such security.~~With respect to confidential information received from a rated entity, obligor, underwriter, or arranger, the policies, procedures, and controls should prohibit the CRA and its employees from using or disclosing such information in violation of the terms of any applicable agreement or understanding with the rated entity, obligor, underwriter, or arranger, unless disclosure is required by applicable law or regulation.

~~3.15—In preservation of confidential information, CRA employees should familiarize themselves with the internal securities trading policies maintained by their employer, and periodically certify their compliance as required by such policies.~~

~~d. 3.16—CRA~~With respect to a pending credit rating action, the policies, procedures, and controls should prohibit the CRA and its employees ~~should not from~~ selectively ~~disclose any non-public~~disclosing information about ~~rating opinions or possible future rating actions of the CRA~~the pending credit rating action, except to the ~~issuer or its~~rated entity, obligor, underwriter, arranger, or their designated agents, or as required by applicable law or regulation.

~~3.17—CRA employees should not share confidential information entrusted to the CRA with employees of any affiliated entities that are not CRAs. CRA employees should not share confidential information within the CRA except on an “as needed” basis.~~

~~3.18—CRA employees should not use or share confidential information for the purpose of trading securities, or for any other purpose except the conduct of the CRA's business.~~

3.20 A CRA should establish, maintain, document, and enforce policies, procedures, and controls designed to prevent violations of applicable laws and regulations governing the treatment and use of confidential and/or material non-public information.

3.21 A CRA should establish, maintain, document, and enforce policies, procedures, and controls that prohibit employees that possess confidential and/or material non-public information concerning a trading instrument from engaging in a transaction in the trading instrument or using the information to

advise or otherwise advantage another person in transacting in the trading instrument.

#### 4. ~~DISCLOSURE OF THE CODE OF CONDUCT AND COMMUNICATION WITH MARKET PARTICIPANTS~~ GOVERNANCE, RISK MANAGEMENT, AND EMPLOYEE TRAINING

4.1 A CRA's board (or similar body) should have ultimate responsibility for ensuring that the CRA establishes, maintains, documents, and enforces a code of conduct that gives full effect to the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies.

4.2 A CRA should establish a risk management function made up of one or more senior managers or employees with the appropriate level of experience responsible for identifying, assessing, monitoring, and reporting the risks arising from its activities, including, but not limited to legal risk, reputational risk, operational risk, and strategic risk. The function should be independent of the internal audit function (if practicable given the CRA's size) and make periodic reports to the board (or similar body) and senior management to assist them in assessing the adequacy of the policies, procedures, and controls the CRA establishes, maintains, documents, and enforces to manage risk, including the policies, procedures, and controls specified in the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies.

4.3 A CRA should establish, maintain, document, and enforce policies, procedures, and controls requiring employees to undergo formal ongoing training at reasonably regular time intervals. The subject matter covered by the training should be relevant to the employee's responsibilities and should cover, as applicable, the CRA's code of conduct, the CRA's credit rating methodologies, the laws governing the CRA's credit rating activities, the CRA's policies, procedures, and controls for managing conflicts of interest and governing the holding and transacting in trading instruments, and the CRA's policies and procedures for handling confidential and/or material non-public information. The policies, procedures, and controls should include measures designed to verify that employees undergo required training.

#### 5. DISCLOSURE AND COMMUNICATION WITH MARKET PARTICIPANTS

5.1 A CRA's disclosures, including those specified in the provisions of the IOSCO CRA Code, should be complete, fair, accurate, timely, and understandable.

~~4.1~~5.2 A CRA should publicly disclose ~~to the public~~ its code of conduct and describe how the provisions of its code of conduct fully implement the provisions of the IOSCO Statement of Principles Regarding the Activities of Credit Rating Agencies and the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies (collectively, the "IOSCO provisions"). If ~~at the~~ CRA's code of conduct deviates from ~~the an~~ IOSCO provisions provision, the CRA should identify the relevant IOSCO provision, explain where and why these deviations exist, and how any deviations ~~the reason for the deviation, and explain how the deviation~~ nonetheless achieve achieves the objectives contained in the IOSCO provisions. ~~A~~The CRA should ~~also~~ describe

~~generally~~ how it ~~intends to enforce~~ implements and enforces its code of conduct ~~and~~. The CRA also should publicly disclose ~~on a timely basis~~ as soon as practicable any changes to its code of conduct or changes to how it is being implemented ~~and/or~~ enforced.

4.25.3 A CRA should establish and maintain a function within its organization charged with ~~communicating with~~ receiving, retaining, and handling questions, concerns or complaints from market participants and the public ~~about any~~. The function should establish, maintain, document, and enforce policies, procedures, and controls for receiving, retaining, and handling questions, concerns or complaints that the CRA may receive. The objective of this function should be to help ensure that the CRA's officers and management are informed of those issues that the CRA's officers and management would want to be made aware of when setting the organization's policies, and complaints, including those that are provided on a confidential basis. The policies, procedures, and controls should specify the circumstances under which a question, concern, or complaint must be reported to senior management and/or the board (or similar body).

4.35.4 A CRA should ~~publish in a prominent position on its home webpage links to~~ (1) make readily accessible on its public website:  
a. the CRA's code of conduct; (2)  
b. a description of the CRA's credit rating methodologies it uses; and (3)  
c. information about the CRA's historic performance data; and  
d. any other disclosures specified in the provisions of the IOSCO CRA Code, as appropriate.