

Chapter 6

Request for Comments

6.1.1 CSA Notice and Request for Comment Relating to Designated Rating Organizations



Canadian Securities
Administrators

Autorités canadiennes
en valeurs mobilières

CSA Notice and Request for Comment Relating to Designated Rating Organizations

Proposed Amendments to
National Instrument 25-101 *Designated Rating Organizations*,
National Instrument 31-103 *Registration Requirements,
Exemptions and Ongoing Registrant Obligations*,
National Instrument 33-109 *Registration Information*,
National Instrument 41-101 *General Prospectus Requirements*,
National Instrument 44-101 *Short Form Prospectus Distributions*,
National Instrument 44-102 *Shelf Distributions*,
National Instrument 45-106 *Prospectus Exemptions*,
National Instrument 51-102 *Continuous Disclosure Obligations*,
National Instrument 81-102 *Investment Funds*
and
National Instrument 81-106 *Investment Fund Continuous Disclosure*
and
Proposed Changes to
Companion Policy 21-101CP *Marketplace Operation*
and
Companion Policy 81-102CP *Investment Funds*

July 6, 2017

Introduction

The Canadian Securities Administrators (the **CSA** or **we**) are publishing for a 90-day comment period proposed amendments (the **Proposed Amendments**) to:

- National Instrument 25-101 *Designated Rating Organizations* (**NI 25-101**),
- National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**),
- National Instrument 33-109 *Registration Information* (**NI 33-109**),
- National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**),
- National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**),
- National Instrument 44-102 *Shelf Distributions* (**NI 44-102**),

- National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**),
- National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**),
- National Instrument 81-102 *Investment Funds* (**NI 81-102**), and
- National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**).

We are also publishing for a 90-day comment period proposed changes (the **Proposed Changes**) to:

- Companion Policy 21-101CP *Marketplace Operation* (**21-101CP**), and
- Companion Policy 81-102CP *Investment Funds* (**81-102CP**).

The Proposed Amendments and the Proposed Changes relate to designated rating organizations (**DROs**) and credit ratings of DROs.

The text of the Proposed Amendments and the Proposed Changes is contained in Annexes C to N of this notice and will also be available on websites of CSA jurisdictions, including:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
nssc.novascotia.ca
www.fcnb.ca
www.osc.gov.on.ca
www.sfsc.gov.sk.ca
www.msc.gov.mb.ca

Substance and Purpose

The Proposed Amendments and the Proposed Changes consist of the following:

1. Proposed Amendments relating to EU equivalency and IOSCO Code revision

We propose to amend NI 25-101 to reflect new requirements for credit rating organizations in the European Union (**EU**) that must be included in NI 25-101 by June 1, 2018 in order for:

- the EU to continue to recognize the Canadian regulatory regime as “equivalent” for regulatory purposes in the EU (**EU equivalency**), and
- credit ratings of a Canadian office of a DRO to continue to be used for regulatory purposes in the EU.

We also propose to amend NI 25-101 to reflect new provisions in the March 2015 version of the IOSCO *Code of Conduct Fundamentals for Credit Rating Agencies* (the **IOSCO Code**) of the International Organization of Securities Commissions (**IOSCO**). Since NI 25-101 is based on the previous version of the IOSCO Code, we want to continue to be able to represent that NI 25-101 reflects the IOSCO Code.

2. Proposed Amendments and Proposed Changes relating to Kroll application for designation as a DRO and Other Matters

As discussed in greater detail in the “Background” section of this notice, Kroll Bond Rating Agency, Inc. (**Kroll**) has filed an application for designation as a DRO.

We propose to amend NI 44-101 and NI 44-102 to recognize credit ratings of Kroll, but only for the purposes of the alternative eligibility criteria in section 2.6 of NI 44-101 and section 2.6 of NI 44-102 for issuers of asset-backed securities (**ABS**) to file a short form prospectus or shelf prospectus, respectively (the **ABS Short Form Eligibility Criteria**).

The Proposed Amendments and Proposed Changes also address the following matters (the **Other Matters**):

- To ensure that Kroll credit ratings are only recognized for purposes of the ABS Short Form Eligibility Criteria, we propose to include clarifying language in provisions of NI 31-103, NI 33-109, NI 41-101, NI 45-106, NI 81-102, NI 81-106 and 21-101CP that refer to DROs or credit ratings of DROs.
- We have included certain “housekeeping” revisions in the Proposed Amendments and the Proposed Changes.

Background

1. *Proposed Amendments relating to EU equivalency and IOSCO Code revision*

EU equivalency

We propose to amend NI 25-101 to reflect new EU requirements that must be included in NI 25-101 by June 1, 2018 in order to maintain EU equivalency.

The EU regulation on credit rating agencies (the **EU CRA Regulation**) allows credit ratings issued outside the EU to be used for regulatory purposes in the EU when they are issued by certified credit rating agencies or endorsed by credit rating agencies established in the EU. As the legal and supervisory framework for DROs in NI 25-101 has been deemed as stringent as the EU framework by the European Securities and Markets Authority (**ESMA**) and equivalent by the European Commission (**EC**) pursuant to an EC implementing decision of October 5, 2012, both mechanisms are currently operational in respect of credit ratings of a Canadian office of a DRO.

In 2013, the EU CRA Regulation was amended to include a range of new requirements. While some of these new requirements are explicitly excluded from the assessment of EU equivalency, ESMA and the EC are required to ensure that the remaining provisions are taken into account for their past EU equivalency decisions. The entry into force of these new requirements for the purposes of EU equivalency is June 1, 2018.

IOSCO Code revision

We also propose to amend NI 25-101 to reflect new provisions in the IOSCO Code.

The IOSCO Code offers a set of robust measures as a framework for credit rating organizations to protect the integrity of the rating process, ensure that investors and issuers are treated fairly, and safeguard confidential material information provided to credit rating organizations by issuers. In March 2015, the IOSCO Code was revised to include new provisions.

Since NI 25-101 is based on the previous version of the IOSCO Code, we want to continue to be able to represent that NI 25-101 reflects the IOSCO Code.

2. *Proposed Amendments and Proposed Changes relating to Kroll application for designation as a DRO and Other Matters*

Kroll application

Currently, there are four DROs in Canada: S&P Global Ratings Canada (**S&P**), Moody's Canada Inc. (**Moody's**), Fitch Ratings, Inc. (**Fitch**) and DBRS Limited (**DBRS**).

Kroll has filed an application for designation as a DRO. The Ontario Securities Commission (**OSC**) is the principal regulator for the Kroll application.

Kroll's application is significant and novel since it is the first designation application from a credit rating organization whose credit ratings have:

- not previously been referred to in CSA rules and policies, and
- not generally been used in the Canadian marketplace.

Kroll mainly operates in the United States, where it is registered as a "nationally recognized statistical rating organization" with the United States Securities and Exchange Commission.

Regulatory approach to Kroll application

Under applicable securities legislation, the OSC can only make a designation for the purpose of allowing an applicant credit rating organization (a **DRO Applicant**) to satisfy:

- a requirement in securities law that a credit rating be given by a DRO, or
- a condition for an exemption under securities law that a credit rating be given by a DRO, (collectively, **Credit Rating Provisions**).

The Credit Rating Provisions serve a “minimum standards” function by establishing minimum levels of credit quality of securities for certain regulatory purposes (e.g., the availability of an exemption or an alternative process in a rule). The Credit Rating Provisions currently refer to specific credit ratings of the four existing DROs. It is therefore appropriate for the principal regulator to consider whether a DRO Applicant’s credit ratings can satisfy this minimum standards function for specific Credit Rating Provisions.

This requires the principal regulator to consider the following as part of its designation decision:

- whether the Applicant DRO has sufficient experience and expertise in rating the particular types of securities and issuers covered by specific Credit Rating Provisions; and
- the appropriate credit rating level for the specific Credit Rating Provisions.

As a result, the principal regulator should only make its final designation order in conjunction with appropriate rule and policy amendments being made to the relevant Credit Rating Provisions.

Analysis of Kroll application

Based on the information provided by Kroll, it appears that Kroll has sufficient expertise and experience in rating ABS for purposes of the ABS Short Form Eligibility Criteria. Consequently, subject to confirmation and completion of certain matters, staff anticipate recommending that Kroll be designated as a DRO, but only:

- for the purposes of the ABS Short Form Eligibility Criteria, and
- if the Proposed Rule Amendments and Policy Changes are enacted as final rule amendments and policy changes and those amendments and changes come into effect following Ministerial approval of the rule amendments.

At this time, staff do not anticipate recommending that Kroll be designated as a DRO for purposes of other Credit Rating Provisions.

Appropriate rating categories of Kroll for ABS Short Form Eligibility Criteria

Based on the information provided by Kroll, it appears that a Kroll long term credit rating of “BBB” and a Kroll short term credit rating of “K3” are the appropriate rating categories for purposes of the ABS Short Form Eligibility Criteria.

- Under the ABS Short Form Eligibility Criteria, an ABS issuer must have a “designated rating” from a DRO, which would include a long term credit rating at or above “BBB” (for DBRS, Fitch and S&P) or “Baa” (for Moody’s).
- As part of its work in determining the appropriate rating categories of Kroll, staff compared a large number of credit ratings of Kroll for numerous ABS issuers in the United States against those of DBRS, Fitch, S&P and Moody’s for the same issuers. This work allowed staff to consider whether Kroll regularly gave higher or lower credit ratings than its competitors.
- Staff considered the experience of Kroll in rating ABS issuers in the United States to be relevant in determining the appropriate rating categories of Kroll for purposes of the ABS Short Form Eligibility Criteria.

Summary of the Proposed Amendments and Proposed Changes

1. Proposed Amendments relating to EU equivalency and IOSCO Code revision

Annex A sets out a summary of the Proposed Amendments relating to EU equivalency and the IOSCO Code revision.

2. Proposed Amendments and Proposed Changes relating to Kroll application for designation as a DRO and Other Matters

Annex B sets out a summary of the Proposed Amendments and Proposed Changes relating to the Kroll application for designation as a DRO and the Other Matters.

Impact on Investors

1. *Proposed Amendments relating to EU equivalency and IOSCO Code revision*

If the Proposed Amendments relating to EU equivalency and the IOSCO Code revision are enacted, investors may benefit from the additional safeguards in NI 25-101 that DROs will be required to follow. In particular, the Proposed Amendments will provide additional safeguards for protecting the integrity of the rating process, ensuring that investors and issuers are treated fairly, and safeguarding confidential material information provided to DROs by issuers.

2. *Proposed Amendments and Proposed Changes relating to Kroll application for designation as a DRO and Other Matters*

If the Proposed Amendments and Proposed Changes relating to the Kroll application for designation as a DRO are enacted and Kroll is designated as a DRO for purposes of the ABS Short Form Eligibility Criteria, Kroll may increase its presence in the Canadian marketplace and more investors in Canada may use Kroll's credit ratings.

The Proposed Amendments and Proposed Changes do not detract from (or contradict) past CSA efforts to help ensure that investors are cautioned about undue mechanistic reliance on credit ratings and the limits of credit ratings. In particular, under existing prospectus and continuous disclosure rules, reporting issuers are required to provide disclosure (including cautionary statements) about the attributes and limitations of their credit ratings.

Anticipated Costs and Benefits

1. *Proposed Amendments relating to EU equivalency and IOSCO Code revision*

The benefits of the Proposed Amendments relating to EU equivalency and the IOSCO Code revision include the following:

- Issuers and investors may benefit from the additional safeguards in NI 25-101 that DROs will be required to follow. In particular, the Proposed Amendments will provide additional safeguards for protecting the integrity of the rating process, ensuring that investors and issuers are treated fairly, and safeguarding confidential material information provided to DROs by issuers.
- DROs, issuers and investment dealers will benefit if EU equivalency is maintained so that credit ratings of a Canadian office of a DRO can continue to be used for regulatory purposes in the EU. Continued EU equivalency is important for Canadian issuers that pay for such a credit rating and sell their rated securities to EU investors, investment dealers that structure cross-border transactions involving rated securities of Canadian issuers on the basis of EU equivalency, and institutional investors that use such a credit rating for regulatory purposes in the EU.

DROs will incur costs associated with understanding and complying with the new requirements. One-time start-up costs include:

- a DRO revising its code of conduct to comply with the new requirements in Appendix A of NI 25-101;
- a DRO revising its existing policies and procedures, or developing new policies and procedures, to comply with the new requirements.

However, we understand that:

- certain DROs have already revised their codes of conduct, revised existing policies and procedures and developed new policies and procedures to comply with new provisions in the March 2015 version of the IOSCO Code; and
- certain DROs, or their DRO affiliates that operate in the EU, have policies and procedures that comply with the new EU requirements.

2. *Proposed Amendments and Proposed Changes relating to Kroll application for designation as a DRO and Other Matters*

In terms of potential benefits to Kroll and other market participants, if the Proposed Amendments and Proposed Changes relating to the Kroll application for designation as a DRO come into effect and Kroll is designated as a DRO for purposes of the ABS Short Form Eligibility Criteria:

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- More ABS issuers may retain Kroll to rate their ABS.
- Issuers, investment dealers and institutional investors may have an increased choice of DROs and competition among DROs may increase.

Market participants will need to understand and comply with the new provisions.

“Rating shopping” may occur if an issuer seeks to retain those credit rating organizations that are more likely to provide the most favourable credit ratings of the issuer and its securities. There may be an increased potential for rating shopping by ABS issuers from the Proposed Amendments.

Local Matters

Where applicable, Annex P provides additional information required by the local securities legislation.

Request for Comments

We welcome your comments on the Proposed Amendments and the Proposed Changes. In addition to any general comments you may have, we also invite comments on the following specific questions:

1. Do you agree that a Kroll long term credit rating of “BBB” and a Kroll short term credit rating of “K3” would be the appropriate rating categories for purposes of the ABS Short Form Eligibility Criteria?
2. We have considered the experience of Kroll in rating ABS issuers in the United States in determining the appropriate rating categories of Kroll for purposes of the ABS Short Form Eligibility Criteria. Do you agree that this U.S. experience is relevant to the Canadian marketplace?
3. Do you think there is an increased potential for rating shopping by ABS issuers if the Proposed Amendments are implemented? If so, why or why is that a concern?
4. What would be the implications to Canadian market participants if the EU did not continue to recognize the Canadian regulatory regime in NI 25-101 as “equivalent” for regulatory purposes in the EU? We are interested in details of how you would be impacted.

How to Provide Comments

Please submit your comments in writing on or before **October 4, 2017**. If you are not sending your comments by email, an electronic file containing the submissions should also be provided (in Microsoft Word format).

Address your submission to all of the CSA as follows:

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Nunavut

Deliver your comments **only** to the addresses below. Your comments will be distributed to the other participating CSA.

The Secretary
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
comment@osc.gov.on.ca

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Me Anne-Marie Beaudoin
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Autorité des marchés financiers
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Montréal (Québec) H4Z 1G3
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consultation-en-cours@lautorite.qc.ca

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Alberta Securities Commission at www.albertasecurities.com, the Autorité des marchés financiers at www.lautorite.qc.ca and the Ontario Securities Commission at www.osc.gov.on.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Contents of Annexes

This notice includes the following annexes:

- Annex A sets out a summary of the Proposed Amendments relating to EU equivalency and the IOSCO Code revision,
- Annex B sets out a summary of the Proposed Amendments and Proposed Changes relating to the Kroll application for designation as a DRO and the Other Matters,
- Annex C sets out the Proposed Amendments to NI 25-101,
- Annex D sets out the Proposed Amendments to NI 31-103,
- Annex E sets out the Proposed Amendments to NI 33-109,
- Annex F sets out the Proposed Amendments to NI 41-101,
- Annex G sets out the Proposed Amendments to NI 44-101,
- Annex H sets out the Proposed Amendments to NI 44-102,
- Annex I sets out the Proposed Amendments to NI 45-106,
- Annex J sets out the Proposed Amendments to NI 51-102,
- Annex K sets out the Proposed Amendments to NI 81-102,
- Annex L sets out the Proposed Amendments to NI 81-106,
- Annex M sets out the Proposed Change to 21-101CP, and
- Annex N sets out the Proposed Change to 81-102CP.

Certain jurisdictions may set out, in Annex O, a full text version of NI 25-101 that includes the Proposed Amendments, blacklined to show the changes from the current version of NI 25-101.

Where applicable, Annex P provides additional information relevant for local jurisdictions.

Questions

Please refer your questions to any of the following:

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ANNEX A

SUMMARY OF PROPOSED AMENDMENTS RELATING TO EU EQUIVALENCY AND IOSCO CODE REVISION

This Annex summarizes the Proposed Amendments to NI 25-101, including the Proposed Amendments to:

- Appendix A *Provisions Required to be Included in a Designated Rating Organization's Code of Conduct (Appendix A to NI 25-101)*, and
- Form 25-101F1 *Designated Rating Organization Application and Annual Filing (Form 25-101F1)*.

1. EU equivalency

The Proposed Amendments to NI 25-101 relating to EU equivalency are summarized as follows:

Credit ratings and rating outlooks

We added a definition of “rating outlook” in section 1 of NI 25-101 and included references to “rating outlooks” in appropriate provisions in NI 25-101 and Appendix A to NI 25-101.

We also included requirements providing that:

- A DRO must provide additional disclosure in respect of credit ratings or rating outlooks (sections 4.13.1 and 4.13.2 of Appendix A to NI 25-101).
- A DRO must inform an issuer of a credit rating or rating outlook during the business hours of the issuer (section 4.12 of Appendix A to NI 25-101).

Initial reviews and preliminary ratings

We revised the disclosure requirement in section 4.7 of Appendix A to NI 25-101 so that it also applies to initial reviews and preliminary ratings for debt securities.

Rating categories

We included additional requirements regarding rating categories (section 4.14 of Appendix A to NI 25-101).

Rating methodologies

We included requirements providing that:

- A DRO must take certain actions where it becomes aware of errors in a rating methodology or its application, if those errors could have an impact on its credit ratings (section 2.12.1 of Appendix A to NI 25-101).
- A DRO must make any changes to credit ratings in accordance with the DRO's published rating methodologies (section 2.13.1 of Appendix A to NI 25-101).
- A DRO must include certain guidance when disclosing methodologies, models and key rating assumptions (section 4.8.1 of Appendix A to NI 25-101).
- A DRO must publish, for comment, proposed changes to its rating methodologies (sections 4.15.1 and 4.15.2 of Appendix A to NI 25-101).

Significant security holders

We added a definition of “significant security holder” in section 1 of NI 25-101 and included requirements regarding a significant security holder of a DRO or an affiliate that is a parent of a DRO (paragraph 2.20(d) and section 3.6.1 of Appendix A to NI 25-101).

Treatment of confidential information

We added requirements regarding the treatment of confidential information (section 4.16.1 of Appendix A to NI 25-101). We revised section 4.19 of Appendix A to NI 25-101 so that it also applies to transactions by a DRO.

Internal control mechanisms

We added a requirement regarding internal control mechanisms (section 2.26 of Appendix A to NI 25-101).

Policies and procedures

We added requirements for a DRO to have additional policies and procedures to prevent and mitigate conflicts of interest and to ensure the independence of credit ratings, rating outlooks and DRO employees (section 3.11.1 of Appendix A to NI 25-101).

Fees

We added requirements regarding fees charged to rated entities (section 3.9.1 of Appendix A to NI 25-101).

Form 25-101F1

We revised:

- Item 11 of Form 25-101F1 to require disclosure of the number of ratings employees, and the number of ratings employees supervisors, allocated to credit rating activities for different asset classes.
- Item 13 of Form 25-101F1 to require additional disclosure on revenues.

We added Item 14A to Form 25-101F1, which requires a DRO or a DRO applicant to disclose its pricing policy for credit rating services and any ancillary services. Since we expect that a DRO or a DRO applicant may apply for confidentiality in respect of its pricing policy, we revised Instruction (4) to Form 25-101F1 to clarify the circumstances in which confidentiality may be granted.

2. IOSCO Code revision

The Proposed Amendments to NI 25-101 relating to the IOSCO Code revision are summarized as follows:

Credit ratings

We replaced certain references to “credible rating” with “high-quality credit rating” (section 2.7 and 2.9 of Appendix A to NI 25-101).

Novel structures

We revised section 2.8 of Appendix A to NI 25-101 so that it also applies to novel instruments, securities and entities.

We added a requirement that a DRO will not issue or maintain a credit rating for entities or securities for which it does not have appropriate information, knowledge or expertise (section 2.9 of Appendix A to NI 25-101).

Rating methodologies

We revised the requirements regarding rating methodologies in section 2.2 of Appendix A to NI 25-101.

Discontinued credit ratings

We revised section 2.15 of Appendix A to NI 25-101 to clarify when a DRO must disclose that it has discontinued a credit rating.

Prospective assessments

We revised section 2.19 of Appendix A to NI 25-101 to clarify when a DRO may develop prospective assessments.

Books and records

We added a requirement that a DRO must keep books and records and other documents that are sufficiently detailed to reconstruct the credit rating process for any credit rating action (subsection 13(1.1) of NI 25-101).

Integrity of the rating process

We revised section 2.18 of Appendix A to NI 25-101 to include a reference to ethical behaviour.

We added a requirement that a DRO and its employees must not make promises or threats to influence rated entities or other market participants to pay for credit ratings or other services (section 2.19.1 of Appendix A to NI 25-101).

Independence and conflicts of interest

We revised:

- Section 3.1 of Appendix A to NI 25-101 to add the phrase “or unnecessarily delay”.
- Section 3.5 of Appendix A to NI 25-101 to add the phrase “and, if practicable, physically”.
- Section 3.11 of Appendix A to NI 25-101 to add the phrase “or to develop or modify methodologies that apply to that entity”.
- Section 3.14 of Appendix A to NI 25-101 to clarify and enhance certain requirements.

We added requirements that:

- A DRO must disclose why it believes that its ancillary services do not present a conflict of interest with its credit rating activities (section 3.5 of Appendix A to NI 25-101).
- If an actual or potential conflict of interest is unique or specific to a credit rating action with respect to a particular rated entity or related entity, the conflict of interest must be disclosed in the same form and through the same means as the relevant credit rating action (section 3.8 of Appendix A to NI 25-101).

Transparency and timeliness of ratings disclosure and other disclosure

We revised section 4.10 of Appendix A to NI 25-101 so that:

- A DRO must disclose the risks of relying on a credit rating to make investment or other financial decisions.
- A DRO must prepare the disclosure required by this section using plain language.
- A DRO must not
 - state or imply that a regulator or securities regulatory authority endorses its credit ratings, or
 - use its designation status to promote the quality of its credit ratings.

We revised:

- Section 4.11 of Appendix A to NI 25-101 to also require disclosure of financial statement adjustments that deviate materially from those contained in the issuer’s published financial statements.
- Section 4.13 of Appendix A to NI 25-101 to clarify and enhance certain requirements.
- Section 4.15 of Appendix A to NI 25-101 to require that any disclosure of material modifications to a DRO’s methodologies, models and key rating assumptions be made in a non-selective manner.

We added requirements that:

- If a DRO discloses to the public or its subscribers, any decision on a credit rating or rating outlook regarding a rated entity or the securities of a rated entity, as well as any subsequent decisions to discontinue the rating, it must do so on a non-selective basis (section 4.3.1 of Appendix A to NI 25-101).
- In each of its ratings reports in respect of a credit rating or rating outlook for a structured finance product, a DRO must disclose whether the issuer of the structured finance product has informed the DRO that it is publicly disclosing all relevant information about the product being rated or if the information remains non-public (paragraph 4.5(c) of Appendix A to NI 25-101).
- When issuing a credit rating or rating outlook, the DRO must clearly indicate the extent to which the DRO verifies information provided to it by the rated entity (section 4.10.1 of Appendix A to NI 25-101).
- If a credit rating involves a type of entity or obligation for which there is limited historical data, the DRO must disclose this fact and how it may limit the credit rating (section 4.10.1 of Appendix A to NI 25-101).
- For any credit rating or rating outlook, a DRO must be transparent with the rated entity and investors about how the rated entity or its securities are rated (section 4.10.2 of Appendix A to NI 25-101).
- A DRO's disclosures must be complete, fair, accurate, timely, and understandable to reasonable investors and other expected users of credit ratings (section 4.15.3 of Appendix A to NI 25-101).
- A DRO must publicly and prominently disclose, free of charge, certain information on its primary website (section 4.15.4 of Appendix A to NI 25-101).

Treatment of confidential information

We revised:

- Section 4.16 of Appendix A to NI 25-101 to require that a DRO and its DRO employees must take all reasonable measures to protect non-public information about a credit rating action, including information about a credit rating action before the credit rating or rating outlook is publicly disclosed or disseminated to subscribers.
- Section 4.18 of Appendix A to NI 25-101 to include a reference to inadvertent disclosure.

Compliance officer

We added requirements relating to a DRO's compliance officer:

- The compliance officer must be designated as an officer of the DRO, or a DRO affiliate that is a parent of the DRO, under a by-law or similar authority of the DRO or the DRO affiliate. This requirement will help ensure that the compliance officer is a senior level employee (subsection 12(1.1) of NI 25-101).
- The compliance officer must have the education, training and experience that a reasonable person would consider necessary to competently perform the activities of the compliance officer required under NI 25-101 and the DRO's code of conduct (subsection 12(1.2) of NI 25-101).
- The compliance officer must monitor and evaluate the adequacy and effectiveness of the DRO's policies, procedures and controls designed to ensure compliance with the DRO's code of conduct and securities legislation (section 2.28.2 of Appendix A to NI 25-101).

Board monitoring of compliance

We added a requirement that the board of directors of a DRO or a DRO affiliate that is a parent of the DRO must monitor the compliance by the DRO and its DRO employees with the DRO's code of conduct and with securities legislation (paragraph 2.25(e) of Appendix A to NI 25-101).

Risk management

We added requirements for a DRO to establish and maintain a risk management committee (section 2.29 of Appendix A to NI 25-101).

Treatment of complaints

We added requirements for a DRO to establish and maintain a committee charged with receiving, retaining, and handling complaints from market participants and the public (section 4.25 of Appendix A to NI 25-101).

Policies, procedures and controls

We added requirements for a DRO to have additional policies, procedures and controls, including requirements for:

- Policies, procedures and controls reasonably designed to avoid issuing a credit rating, action or report that is false or misleading as to the general creditworthiness of a rated entity or rated securities (section 2.6.1 of Appendix A to NI 25-101).
- Policies, procedures and controls to ensure that a DRO does not use the services of a DRO employee which a reasonable person would consider to be lacking in or have compromised integrity (section 2.18.1 of Appendix A to NI 25-101).
- Policies, procedures and controls reasonably designed to ensure that the DRO and its DRO employees comply with the DRO's code of conduct and securities legislation (section 2.28.1 of Appendix A to NI 25-101).
- Policies and procedures requiring DRO employees to undergo ongoing training (section 2.30 of Appendix A to NI 25-101).
- 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 by the DRO or the judgment, opinions or analysis by ratings employees (section 3.7.1 of Appendix A to NI 25-101).
- Policies, procedures and controls for distributing credit ratings, actions, updates, rating outlooks and related reports and for when a credit rating will be withdrawn or discontinued (section 4.1.1 of Appendix A to NI 25-101). Section 4.2 of Appendix A to NI 25-101 requires that a DRO must publicly disclose the policies and procedures.
- Policies, procedures and controls governing the treatment of confidential information and record-keeping (section 4.24 of Appendix A to NI 25-101).

3. Other

We also made a few "housekeeping" revisions to NI 25-101, including correcting a typographical error in the definition of "DRO affiliate" in section 1.

ANNEX B

SUMMARY OF PROPOSED AMENDMENTS AND PROPOSED CHANGES RELATING TO KROLL APPLICATION FOR DESIGNATION AS A DRO AND OTHER MATTERS

Overview

As described earlier in this notice,

- We propose to amend NI 44-101 and NI 44-102 to recognize credit ratings of Kroll, but only for the purposes of the ABS Short Form Eligibility Criteria.
- The Proposed Amendments and Proposed Changes also address the Other Matters:
 - To ensure that Kroll credit ratings are only recognized for purposes of the ABS Short Form Eligibility Criteria, we propose to include clarifying language in provisions of NI 31-103, NI 33-109, NI 41-101, NI 45-106, NI 81-102, NI 81-106 and 21-101CP that refer to DROs or credit ratings of DROs.
 - We have included certain “housekeeping” revisions in the Proposed Amendments and the Proposed Changes.

Drafting approach

The Proposed Amendments and Proposed Changes relating to the Kroll application for designation as a DRO and the Other Matters reflect the following drafting approach:

1. We sought to primarily amend existing definitions, rather than introduce interpretative provisions.
2. In order to reduce the number of future rule amendments when we have another DRO Applicant similar to Kroll, we sought (where appropriate) to have the definitions of “designated rating” and “designated rating organization” in various rules refer to the amended definitions in NI 44-101. This approach may result in us only having to amend the definitions in NI 44-101 when we have another DRO applicant like Kroll.
3. As a housekeeping matter, we replaced references to:
 - “Fitch, Inc.” with “Fitch Ratings, Inc.”, and
 - “Standard & Poor’s Ratings Services (Canada)” with “S&P Global Ratings Canada”.

Proposed Amendments

The Proposed Amendments relating to the Kroll application for designation as a DRO and the Other Matters may be further detailed as follows:

NI 31-103¹

We revised:

The definition of “designated rating” to provide that it has the same meaning as in paragraph (b) of the definition of “designated rating” in NI 81-102.

- The definition of “designated rating organization” to provide that it has the same meaning as in NI 44-101.
- Subparagraph (a)(i) of Schedule 1 of Form 31-101F1 to:
 - Include the applicable long term and short term credit ratings of DBRS and Fitch.
 - Include the applicable short term credit ratings of S&P and Moody’s.

¹ On July 7, 2016, the CSA published for comment proposed amendments to NI 31-103, including proposed amendments to subparagraph (a)(i) of Schedule 1 of Form 31-103F1. It is expected that these amendments will be finalized before the Proposed Amendments.

NI 33-109²

We revised subparagraph (a)(i) of Schedule 1 of Schedule C of Form 33-109F6 to:

- Include the applicable long term and short term credit ratings of DBRS and Fitch.
- Include the applicable short term credit ratings of S&P and Moody's.

NI 41-101

We revised:

- The definition of “designated rating” to provide that it has the same meaning as in NI 44-101.
- Section 7.2 so that the relevant provision only applies to Kroll credit ratings for a distribution of ABS.

NI 44-101

We revised the definition of “designated rating”.

- Paragraph (a) of the definition applies for the ABS Short Form Eligibility Criteria and includes the applicable credit ratings of Kroll and the existing four DROs.
- Paragraph (b) of the definition applies for a security referred to in any other provision of NI 44-101 and only includes the applicable credit ratings of the existing four DROs.
- As a housekeeping matter, we replaced the reference to the applicable credit rating of Moody's for preferred shares.

We revised the definition of “designated rating organization”. Paragraph (a) of the definition includes Kroll and the existing four DROs.

NI 44-102

We revised the definition of “designated rating”.

- Paragraph (a) of the definition applies for the ABS Short Form Eligibility Criteria and provides that it has the same meaning as in paragraph (a) of the definition of “designated rating” in NI 44-101.
- Paragraph (b) of the definition applies for a security referred to in any other provision of NI 44-102 and provides that it has the same meaning as in paragraph (b) of the definition of “designated rating” in NI 44-101.

NI 45-106

We revised:

- The definition of “designated rating” to provide that it has the same meaning as in paragraph (b) of the definition of “designated rating” in NI 81-102.
- The definition of “designated rating organization” to provide that it has the same meaning as in NI 44-101.
- Subsection 2.35(1) and section 2.35.2 to address the Other Matters.

NI 51-102

We deleted the definitions of “designated rating organization” and “DRO affiliate” since NI 51-102 no longer refers to “designated ratings” or “designated rating organizations”.

² On July 7, 2016, the CSA published for comment proposed amendments to NI 33-109, including proposed amendments to subparagraph (a)(i) of Schedule 1 of Schedule C of Form 33-109F6. It is expected that these amendments will be finalized before the Proposed Amendments.

NI 81-102

We revised the definition of “designated rating”.

- Paragraph (a) of the definition applies for a security referred to in paragraph 4.1(4)(b) of NI 81-102 and provides that it has the same meaning as in paragraph (b) of the definition of “designated rating” in NI 44-101.
- Paragraph (b) of the definition applies for a security referred to in any other provision of NI 81-102 and only includes the applicable credit ratings of the existing four DROs.

We revised the definition of “designated rating organization” so that it only applies to the existing four DROs.

We deleted subsection 4.1(4.1) since the subject matter of that provision is covered by paragraph (a) of the definition of “designated rating” in NI 81-102.

NI 81-106

We added a definition of “designated rating” which provides that it has the same meaning as in paragraph (b) of the definition of “designated rating” in NI 81-102.

We revised subsection 1.3(2) to add the phrase “if not defined in section 1.1”.

Proposed Changes

The Proposed Changes are summarized as follows:

21-101CP

We revised subsection 10.1(6) of 21-101CP to address the Other Matters. We also included definitions of “designated rating organization” and “DRO affiliate” for purposes of that subsection.

81-102CP

We deleted section 3.1 of 81-102CP. We believe that this guidance is no longer necessary since filers can apply for relief from any provision in NI 81-102.

ANNEX C

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 25-101 *DESIGNATED RATING ORGANIZATIONS*

1. ***National Instrument 25-101 Designated Rating Organizations is amended by this Instrument.***
2. ***Section 1 is amended***
 - (a) ***in the definition of “DRO affiliate”, by replacing “organizations’” with “organization’s”,***
 - (b) ***in the definition of “DRO employee”, by adding “or rating outlook” after “credit rating”,***
 - (c) ***in the definition of “ratings employee”, by adding “or rating outlook” after “credit rating”, and***
 - (d) ***by adding the following definitions:***

“rating outlook” means an assessment regarding the likely direction of a credit rating over the short term, the medium term or both;

“significant security holder” means a person or company that has beneficial ownership of, or control or direction over, whether direct or indirect, or a combination of beneficial ownership of, and control or direction over, whether direct or indirect, securities of an issuer carrying more than 10 per cent of the voting rights attached to all of the issuer’s outstanding voting securities;.
3. ***Subsection 6(4) is amended by replacing “agency” with “organization”.***
4. ***Section 12 is amended by adding the following after subsection (1):***
 - (1.1) The compliance officer must be designated as an officer of the designated rating organization, or a DRO affiliate that is a parent of the designated rating organization, under a by-law or similar authority of the designated rating organization or the DRO affiliate.
 - (1.2) The compliance officer must have the education, training and experience that a reasonable person would consider necessary to competently perform the activities of the compliance officer required under this Instrument and the designated rating organization’s code of conduct..
5. ***Section 13 is amended by adding the following after subsection (1):***
 - (1.1) A designated rating organization must keep such books and records and other documents that are sufficiently detailed to reconstruct the credit rating process for any credit rating action..
6. ***Subsection 15(3) is amended by adding “Alberta and” before “Ontario”.***
7. ***Section 2.1 of Appendix A is amended***
 - (a) ***by adding “and rating outlooks” after “credit ratings”, and***
 - (b) ***by replacing “its rating” with “the applicable rating”.***
8. ***Section 2.2 of Appendix A is replaced with the following:***

2.2 A designated rating organization must include a provision in its code of conduct that it will use only rating methodologies that are rigorous, systematic, continuous, capable of being applied consistently and subject to some means of objective validation based on historical experience, including back-testing..
9. ***Appendix A is amended by adding the following after section 2.6:***
 - 2.6.1 The designated rating organization must adopt, implement and enforce policies, procedures and controls reasonably designed to avoid issuing a credit rating, action or report that is false or misleading as to the general creditworthiness of a rated entity or rated securities..

10. Section 2.7 of Appendix A is replaced with the following:

2.7 The designated rating organization must ensure that it has and devotes sufficient resources to carry out and maintain high-quality credit ratings for all rated entities and rated securities. When deciding whether to rate or continue rating an entity or securities, the organization must assess whether it is able to devote sufficient personnel with sufficient skill sets to provide a high-quality credit rating, and whether its personnel are likely to have access to sufficient information needed in order to provide such a rating. A designated rating organization must adopt all necessary measures so that the information it uses in assigning a credit rating or a rating outlook is of sufficient quality to support what a reasonable person would conclude is a high-quality credit rating and is obtained from a source that a reasonable person would consider to be reliable..

11. Section 2.8 of Appendix A is amended

- (a) **by adding** “, instrument, security or entity” **after** “structure”, **and**
- (b) **by adding** “, instruments, securities or entities that” **after** “structures”.

12. Section 2.9 of Appendix A is replaced with the following:

2.9 The designated rating organization must not issue or maintain a credit rating for structures, instruments, securities or entities for which it does not have appropriate information, knowledge or expertise. The designated rating organization must assess whether the methodologies and models used for determining credit ratings of a structured finance product are appropriate when the risk characteristics of the assets underlying the structured finance product change significantly. If the quality of the available information is not satisfactory or if the complexity of a type of structure, instrument, security or entity should reasonably raise concerns about whether the designated rating organization can provide a high-quality credit rating, the designated rating organization must not issue or maintain a credit rating..

13. Section 2.12 of Appendix A is amended by replacing “will do each” with “must do all”.

14. Appendix A is amended by adding the following after section 2.12:

2.12.1 If a designated rating organization becomes aware of errors in a rating methodology or its application, the designated rating organization must do all of the following if the errors could have an impact on its ratings:

- (a) promptly notify the regulator or securities regulatory authority and all affected rated entities of the errors and explain the impact or potential impact of the errors on its ratings, including the need to review existing ratings;
- (b) promptly publish a notice of the errors on its website, where the errors have an impact on its ratings;
- (c) promptly correct the errors in the rating methodology or the application;
- (d) apply the measures set out in paragraphs 2.12 (a) to (d) as if the correction of the error were a change contemplated by that section..

15. Appendix A is amended by adding the following after section 2.13:

2.13.1 A change in ratings must be made in accordance with the designated rating organization’s published rating methodologies..

16. Section 2.15 of Appendix A is amended by replacing “will disclose” wherever it occurs with “must, as soon as practicable, disclose”.

17. Section 2.18 of Appendix A is amended by adding “and ethical behaviour” after “high standard of integrity”.

18. Appendix A is amended by adding the following after section 2.18:

2.18.1 A designated rating organization must adopt, implement and enforce policies, procedures and controls to ensure that it does not use of the services of a DRO employee which a reasonable person would consider to be lacking in or have compromised integrity..

19. **The second sentence of section 2.19 of Appendix A is amended by replacing** “The designated rating organization” **with** “Subject to section 2.20 and paragraph 3.7.1(d), the designated rating organization”.

20. **Appendix A is amended by adding the following after section 2.19:**

2.19.1 A designated rating organization or a DRO employee must not make promises or threats to influence rated entities, related entities, other issuers, subscribers, users of the designated rating organization’s credit ratings or other market participants to pay for credit ratings or other services..

21. **Section 2.20 of Appendix A is amended**

(a) **in paragraph (c), by replacing** “above.” **with** “above;”, **and**

(b) **by adding the following after paragraph (c):**

(d) a significant security holder of the designated rating organization or of an affiliate that is a parent of the designated rating organization..

22. **Section 2.22 of Appendix A is amended by adding** “or a rating outlook” **after** “credit rating” **wherever it occurs.**

23. **Section 2.23 of Appendix A is amended**

(a) **by adding** “or rating outlook” **after** “credit rating”,

(b) **by replacing** “specific rating” **with** “specific credit rating or rating outlook”, **and**

(c) **by replacing** “outcome of the rating” **with** “outcome of the credit rating or rating outlook”.

24. **Section 2.25 of Appendix A is amended**

(a) **by adding** “all of” **after** “monitor”,

(b) **in paragraph (d), by replacing** “section 2.11.” **with** “section 2.11;”, **and**

(c) **by adding the following after paragraph (d):**

(e) the compliance by the designated rating organization and its DRO employees with the organization’s code of conduct and with securities legislation..

25. **Section 2.26 of Appendix A is amended by adding** “, including internal control mechanisms in relation to the policies and procedures described in section 3.11.1” **after** “mechanisms”.

26. **Appendix A is amended by adding the following after section 2.28:**

2.28.1 A designated rating organization must adopt, implement and enforce policies, procedures and controls reasonably designed to ensure that the organization and its DRO employees comply with the organization’s code of conduct and securities legislation.

2.28.2 The designated rating organization’s compliance officer must monitor and evaluate the adequacy and effectiveness of the designated rating organization’s policies, procedures and controls referred to in section 2.28.1.

E. Risk management

2.29 A designated rating organization must establish and maintain a risk management committee made up of one or more senior managers or DRO employees with the appropriate level of experience responsible for identifying, assessing, monitoring, and reporting the risks arising from its activities, including legal risk, reputational risk, operational risk, and strategic risk. The committee must be independent of any internal audit system and make periodic reports to the board of directors of the designated rating organization, or of a DRO affiliate that is a parent of the designated rating organization, and senior management to assist the board and senior management in assessing the adequacy of the policies and procedures the designated rating organization adopted, and how well the organization implemented and enforces the policies and procedures to manage risk, including the policies and procedures specified in the organization’s code of conduct.

F. Training

2.30 A designated rating organization must adopt, implement and enforce policies and procedures ensuring DRO employees undergo appropriate formal ongoing training at reasonably regular time intervals. For greater certainty, the policies and procedures must

- (a) include measures reasonably designed to verify that DRO employees undergo the training,
- (b) be designed to ensure the subject matter covered by the training be relevant to the DRO employee's responsibilities and cover, as applicable, the following:
 - (i) the designated rating organization's code of conduct;
 - (ii) the designated rating organization's credit rating methodologies;
 - (iii) the laws governing the designated rating organization's credit rating activities;
 - (iv) the designated rating organization's policies and procedures for managing conflicts of interest and governing the holding and transacting in securities;
 - (v) the designated rating organization's policies and procedures for handling confidential or material non-public information..

27. **Section 3.1 of Appendix A is amended by adding “, or unnecessarily delay,” after “from”.**

28. **Section 3.3 of Appendix A is amended by adding “or rating outlook” after “credit rating”.**

29. **Section 3.4 of Appendix A is amended by adding “or rating outlook” after “credit rating”.**

30. **Section 3.5 of Appendix A is amended**

(a) **by replacing “operationally and legally” with “operationally, legally and, if practicable, physically”, and**

(b) **by adding the following after the second sentence:**

The designated rating organization must publicly disclose why it believes that those ancillary services do not present a conflict of interest with its credit rating activities..

31. **Sections 3.6 to 3.8 of Appendix A are replaced with the following:**

3.6 The designated rating organization must not rate, or assign a rating outlook to, a person or company that is an affiliate or associate of the organization or a ratings employee. The designated rating organization must not assign a credit rating or rating outlook to a person or company if a ratings employee is an officer or director of the person or company, its affiliates or related entities.

3.6.1 A designated rating organization must not rate, or assign a rating outlook to, a person or company in any of the following circumstances:

- (a) a significant security holder of the designated rating organization, or of an affiliate that is a parent of the designated rating organization, is a significant security holder of the person or company, its affiliates or related entities;
- (b) an officer or director of a significant security holder of the designated rating organization, or of an affiliate that is a parent of the designated rating organization, is an officer or director of the person or company, its affiliates or related entities.

B. Procedures and policies

3.7 The designated rating organization must identify and eliminate or manage and publicly disclose any actual or potential conflicts of interest that may influence the opinions and analyses of ratings employees, including opinions and analyses in respect of a credit rating or rating outlook.

3.7.1 A designated rating organization must adopt, implement 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 by the designated rating organization or the judgment, opinions or analyses by ratings employees. Without limiting the generality of the foregoing, the policies, procedures and controls must address all of the following conflicts and ensure that no conflict influences the designated rating organization's credit rating methodologies or credit rating actions:

- (a) the designated rating organization is paid to issue a credit rating by the rated entity or a related entity;
- (b) the designated rating organization is paid by subscribers with a financial interest that could be affected by a credit rating action of the designated rating organization;
- (c) the designated rating organization is paid by rated entities, related entities or subscribers for services other than issuing credit ratings or providing access to the designated rating organization's credit ratings;
- (d) the designated rating organization provides a preliminary indication or similar indication of credit quality to a rated entity or related entity prior to being retained to determine the final credit rating for the rated entity or related entity;
- (e) the designated rating organization has a direct or indirect ownership interest in a rated entity or related entity;
- (f) a rated entity or related entity has a direct or indirect ownership interest in the designated rating organization.

3.8 The designated rating organization must disclose the actual or potential conflicts of interest it identifies under the policies, procedures and controls referred to in section 3.7.1 in a complete, timely, clear, concise, specific and prominent manner. If the actual or potential conflict of interest is unique or specific to a credit rating action with respect to a particular rated entity or related entity, the conflict of interest must be disclosed in the same form and through the same means as the relevant credit rating action..

32. Appendix A is amended by adding the following after section 3.9:

3.9.1 A designated rating organization must ensure both of the following:

- (a) fees charged to rated entities for the provision of credit ratings and ancillary services, as referred to in section 3.5, do not discriminate among rated entities in an unfair manner and have a reasonable relation to actual costs;
- (b) fees charged to rated entities for the provision of credit ratings must not depend on the category of credit rating or any other result or outcome of the work performed..

33. Section 3.10 of Appendix A is amended by adding "or rating outlook" after "credit rating".

34. Section 3.11 of Appendix A is replaced with the following:

3.11 If a designated rating organization is subject to the oversight of a rated entity, or an affiliate or related entity of the rated entity, the designated rating organization must use different DRO employees to conduct the rating actions in respect of that entity, or to develop or modify methodologies that apply to that entity, than those that are subject to the oversight.

3.11.1 A designated rating organization must adopt, implement and enforce policies and procedures to prevent and mitigate conflicts of interest and to ensure the independence of credit ratings, rating outlooks and DRO employees, including policies and procedures in relation to the matters described in section 3.4. The designated rating organization must periodically monitor and review these policies and procedures in order to evaluate their effectiveness and assess whether they should be updated..

35. Section 3.12 of Appendix A is amended by adding "or assigns rating outlooks to," after "rates".

36. Section 3.14 of Appendix A is replaced with the following:

3.14 The designated rating organization must not permit a ratings employee to participate in or otherwise influence the determination of a credit rating or rating outlook if any of the following apply:

- (a) the ratings employee or an associate of the ratings employee has beneficial ownership of, or control or direction over, whether direct or indirect, securities, derivatives or exchange contracts of, or in respect of, the rated entity, other than holdings through an investment fund;
- (b) the ratings employee or an associate of the ratings employee has beneficial ownership of, or control or direction over, whether direct or indirect, derivatives or exchange contracts of, or in respect of, a rated entity, its affiliates or its related entities, the ownership of which, or control or direction over, causes or may reasonably be perceived as causing a conflict of interest;
- (c) the ratings employee or an associate of the ratings employee has, or has recently had, an employment, business or other relationship with, or interest in, the rated entity, its affiliates or related entities that causes or may reasonably be perceived as causing a conflict of interest;
- (d) an associate of the ratings employee is a director of, the rated entity, its affiliates or related entities..

37. Section 3.17 of Appendix A is replaced with the following:

3.17 If a DRO employee of a designated rating organization becomes involved in any relationship that creates any actual or potential conflict of interest, the DRO employee must disclose the relationship to the designated rating organization's compliance officer. The designated rating organization must not issue a credit rating or rating outlook if a DRO employee has an actual or potential conflict of interest with a rated entity. If such a credit rating or rating outlook has been issued, the designated rating organization must promptly publicly disclose that the credit rating or rating outlook might be affected..

38. Section 3.18 of Appendix A is amended

- (a) **by adding** "one or both of the following apply:" **after** "if", **and**
- (b) **in paragraph (a), by replacing** "entity, or" **with** "entity or assigning it a rating outlook;".

39. Sections 4.1 to 4.5 of Appendix A are replaced with the following:

4.1 The designated rating organization must distribute in a timely manner its decisions on credit ratings and rating outlooks regarding the entities and securities it rates.

4.1.1 A designated rating organization must adopt, implement and enforce policies, procedures and controls for distributing credit ratings, actions, updates, rating outlooks and related reports and for when a credit rating will be withdrawn or discontinued.

4.2 A designated rating organization must publicly disclose its policies and procedures for distributing credit ratings, actions, updates, rating outlooks and related reports and for when a credit rating will be withdrawn or discontinued.

4.3 Except for a credit rating or a rating outlook it discloses only to the rated entity, a designated rating organization must disclose to the public, on a non-selective basis and free of charge, any decision on a credit rating or rating outlook regarding a rated entity that is a reporting issuer or regarding the securities of such an issuer, as well as any subsequent decision to discontinue such a rating, if the decision is based in whole or in part on material non-public information.

4.3.1 If a designated rating organization discloses to the public or its subscribers any decision on a credit rating or rating outlook regarding a rated entity or the securities of a rated entity, as well as any subsequent decisions to discontinue the rating, it must do so on a non-selective basis.

4.4 In each of its ratings reports in respect of a credit rating or rating outlook, a designated rating organization must disclose all of the following:

- (a) when the credit rating was first released and when it was last updated, reviewed or assigned a rating outlook;

- (b) the principal methodology or methodology version that was used in determining the credit rating and where a description of that methodology can be found. If the credit rating is based on more than one methodology, or if a review of only the principal methodology might cause investors to overlook other important aspects of the credit rating, the designated rating organization must explain this fact in the ratings report, and include a discussion of how the different methodologies and other important aspects factored into the rating decision;
- (c) the meaning of each rating category and the definition of default or recovery, and the time horizon the designated rating organization used when making a rating decision;
- (d) any attributes and limitations of the credit rating or rating outlook. If the rating or rating outlook involves a type of financial product presenting limited historical data, such as an innovative financial vehicle, the designated rating organization must disclose, in a prominent place, the limitations of the credit rating or rating outlook;
- (e) all significant sources, including the rated entity, its affiliates and related entities, that were used to prepare the credit rating or rating outlook and whether the credit rating or rating outlook has been disclosed to the rated entity or its related entities and amended following that disclosure before being issued.

4.5 In each of its ratings reports in respect of a credit rating or rating outlook for a structured finance product, a designated rating organization must disclose all of the following:

- (a) all information about loss and cash-flow analysis it has performed or is relying upon and an indication of any expected change in the credit rating or rating outlook. The designated rating organization must also disclose the degree to which it analyzes how sensitive a credit rating of a structured finance product is to changes in the designated rating organization's underlying rating assumptions;
- (b) the level of assessment the designated rating organization has performed concerning the due diligence processes carried out at the level of underlying financial instruments or other assets of structured finance products. The designated rating organization must also disclose whether it has undertaken any assessment of such due diligence processes or whether it has relied on a third-party assessment and how the outcome of such assessment impacts the credit rating;
- (c) whether the issuer of the structured finance product has informed the designated rating organization that it is publicly disclosing all relevant information about the product being rated or whether the information remains non-public..

40. Section 4.7 of Appendix A is replaced with the following:

4.7 A designated rating organization must disclose on an ongoing basis information about all debt securities and structured finance products submitted to it for its initial review or for a preliminary rating, including whether the issuer requested the designated rating organization to provide a final rating..

41. Appendix A is amended by adding the following after section 4.8:

4.8.1 When disclosing the methodologies, models and key rating assumptions referred to in section 4.8, the designated rating organization must include guidance that explains assumptions, parameters, limits and uncertainties surrounding the methodologies and models it uses in its credit rating activities, including simulations of stress scenarios undertaken by the designated rating organization when determining credit ratings, information on cash-flow analysis it has performed or is relying upon and, where applicable, an indication of any expected change in the credit rating. The designated rating organization must prepare the guidance required by this section using plain language..

42. Section 4.10 of Appendix A is amended by replacing the second sentence with the following:

The designated rating organization must indicate the attributes and limitations of each credit rating and the risks of relying on the credit rating to make investment or other financial decisions. When issuing a credit rating or a rating outlook, the designated rating organization must disclose that the credit rating or rating outlook is the designated rating organization's assessment and should only be relied on to a limited degree. A designated rating organization must prepare the disclosure required by this section using plain language. A designated rating organization must not state or imply that a regulator or securities regulatory authority endorses its credit ratings or use its designation status to promote the quality of its credit ratings..

43. Appendix A is amended by adding the following after section 4.10:

4.10.1 When issuing a credit rating or rating outlook, the designated rating organization must clearly indicate the extent to which the designated rating organization verifies information provided to it by the rated entity. If the credit rating involves a type of entity or obligation for which there is limited historical data, the designated rating organization must disclose this fact and how it may limit the credit rating.

4.10.2 For any credit rating or rating outlook, a designated rating organization must be transparent with the rated entity and investors about how the rated entity or its securities are rated..

44. Sections 4.11 to 4.16 of Appendix A are replaced with the following:

4.11 When issuing or revising a credit rating or a rating outlook, the designated rating organization must provide in its press releases and public reports an explanation of the key elements underlying the rating opinion or rating outlook, including financial statement adjustments that deviate materially from those contained in the issuer's published financial statements.

4.12 Before issuing or revising a credit rating or a rating outlook, the designated rating organization must inform the issuer of the critical information and principal considerations upon which a credit rating or rating outlook will be based and afford the issuer a reasonable opportunity to clarify any likely factual misperceptions or other matters that the designated rating organization would want to be made aware of in order to produce an accurate credit rating or rating outlook. The designated rating organization must inform the issuer during the business hours of the issuer. The designated rating organization must duly evaluate the response.

4.13 Every year, the designated rating organization must publicly disclose data about the historical transition and default rates of its rating categories with respect to the classes of issuers and securities it rates and whether the transition and default rates of these categories have changed over time. If the nature of the rating or other circumstances make a historical transition or default rate inappropriate, statistically invalid, or otherwise likely to mislead the users of the rating, the designated rating organization must explain this. This information must include verifiable, quantifiable historical information about the performance of its rating opinions, organized over a period of time, and, where possible, standardized in such a way so as to assist investors in drawing performance comparisons between different designated rating organizations.

4.13.1 When disclosing a credit rating or rating outlook, the designated rating organization must include a reference to where the data referred to in section 4.13 can be accessed on its website and a brief explanation of the meaning of that data.

4.13.2 When disclosing a rating outlook, the designated rating organization must indicate the time period during which a change in the credit rating may occur.

4.14 For each credit rating, the designated rating organization must disclose whether the rated entity and its related entities participated in the rating process and whether the designated rating organization had access to the accounts, management and other relevant internal documents of the rated entity or its related entities. Each credit rating without that access must be identified as such using a clearly distinguishable colour code for the rating category. Each credit rating not initiated at the request of the rated entity must be identified as such. The designated rating organization must also publicly disclose its policies and procedures regarding unsolicited ratings.

4.15 The designated rating organization must publicly disclose, in a timely fashion, any material modification to its methodologies, models, key ratings assumptions and significant systems, resources or procedures. Where a reasonable person would consider it feasible and appropriate, disclosure of such material modifications must be made before they go into effect. Any disclosure of such material modifications must be made in a non-selective manner. The designated rating organization must carefully consider the various uses of credit ratings before modifying its methodologies, models, key ratings assumptions and significant systems, resources or procedures.

4.15.1 If the designated rating organization intends to make a significant change to an existing rating methodology, model or key rating assumption or use a new rating methodology that could have an impact on a credit rating, the designated rating organization must do both of the following:

- (a) publish the proposed significant change or proposed new rating methodology on its website together with a detailed explanation of the reasons for, and the implications of, the proposed significant change or proposed new rating methodology;

- (b) invite interested persons to submit written comments with respect to the proposed significant change or proposed new rating methodology within a period of at least 30 days after the publication.

4.15.2 If following the publication referred to in section 4.15.1, the designated rating organization makes a significant change to an existing rating methodology, model or key rating assumption or issues a new rating methodology that could have an impact on a credit rating, the designated rating organization must promptly publish on its website all of the following:

- (a) the revised or new rating methodology, model or key rating assumption,
- (b) a detailed explanation of the revised or new methodology, model or key rating assumption, its date of application and the results of the consultation referred to in section 4.15.1;
- (c) copies of the written comments referred to in paragraph 4.15.1(b), except in the case where confidentiality is requested by the person who submitted the comment.

4.15.3 A designated rating organization's disclosures, including those specified in the organization's code of conduct, must be complete, fair, accurate, timely, and understandable to reasonable investors and other expected users of credit ratings.

4.15.4 A designated rating organization must publicly and prominently disclose, free of charge, all of the following information on its primary website:

- (a) the designated rating organization's code of conduct;
- (b) a description of the designated rating organization's credit rating methodologies;
- (c) information about the designated rating organization's historical performance data;
- (d) any other disclosures specified in the provisions of the designated rating organization's code of conduct and securities legislation.

B. The treatment of confidential information

4.16 The designated rating organization and its DRO employees must take all reasonable measures to protect both of the following:

- (a) non-public information about a credit rating action, including information about a credit rating action before the credit rating or rating outlook is publicly disclosed or disseminated to subscribers;
- (b) the confidential nature of information shared with them by rated entities under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially.

Unless otherwise permitted by a written agreement or required by applicable laws, regulations or court orders, the designated rating organization and its DRO employees must not disclose confidential information, including information about a credit rating action before the credit rating or rating outlook is publicly disclosed or disseminated to subscribers.

4.16.1 A designated rating organization must consider applicable securities legislation governing insider trading or tipping when dealing with non-public information that it receives from an issuer. A designated rating organization must maintain a list of all persons who have access to non-public information about a credit rating action, including information about a credit rating action before the credit rating or rating outlook is publicly disclosed or disseminated to subscribers. For any credit rating action, the list must include applicable DRO employees and any person identified by the rated entity for purposes of the list.

45. Sections 4.18 and 4.19 of Appendix A are replaced with the following:

4.18 The designated rating organization and its DRO employees must take all reasonable measures to protect all property and records relating to credit rating activities and belonging to or in possession of the designated rating organization from fraud, theft, misuse or inadvertent disclosure.

4.19 The designated rating organization must ensure that the organization and its DRO employees do not engage in transactions in securities, derivatives or exchange contracts when they possess confidential information concerning the

issuer of such security or to which the derivative or exchange contract relates, including information about a credit rating action before the credit rating or rating outlook is publicly disclosed or disseminated to subscribers..

46. Section 4.21 of Appendix A is replaced with the following:

4.21 The designated rating organization and its DRO employees must not selectively disclose any non-public information about credit ratings, rating outlooks or possible future rating actions of the designated rating organization, except to the issuer or its designated agents..

47. Appendix A is amended by adding the following after section 4.23:

4.24 A designated rating organization must adopt, implement and enforce policies, procedures and controls to ensure all of the following:

- (a) compliance with applicable laws governing the treatment and use of confidential or material non-public information;
- (b) DRO employees take all reasonable steps to protect confidential or material non-public information from fraud, theft, misuse, or inadvertent disclosure;
- (c) compliance with sections 4.16, 4.16.1, 4.19, 4.21 and 4.23;
- (d) compliance with the designated rating organization's internal record maintenance, retention and disposition policies, procedures and controls and with laws governing the maintenance, retention and disposition of the designated rating organization's records.

C. The treatment of complaints

4.25 A designated rating organization must establish and maintain a committee charged with receiving, retaining, and handling complaints from market participants and the public. The designated rating organization must adopt implement and enforce policies, procedures and controls for receiving, retaining, and handling complaints, including those that are provided on a confidential basis. The policies and procedures must specify the circumstances under which a complaint must be reported to one or both of the following:

- (a) senior management of the designated rating organization;
- (b) the board of directors of the designated rating organization or of a DRO affiliate that is a parent of the designated rating organization..

48. Instruction (4) of Form 25-101F1 Designated Rating Organization Application and Annual Filing is replaced with the following:

- (4) *Applicants may apply to the securities regulatory authority or regulator to hold in confidence portions of this form which disclose sensitive financial, personal or other information. The securities regulatory authority or regulator will consider the application and may determine to accord confidential treatment to those portions to the extent permitted by law..*

49. Item 5 of Form 25-101F1 is amended by replacing, in the 5th bullet, "agencies" with "organizations".

50. Item 11 of Form 25-101F1 is amended

- (a) **by adding the following after "The total number of ratings employees,":**
 - The number of ratings employees allocated to credit rating activities for different asset classes,, **and**
- (b) **by adding the following after "The total number of ratings employees supervisors,":**
 - The number of ratings employees supervisors allocated to credit rating activities for different asset classes,.

51. The second paragraph of Item 13 of Form 25-101F1 is replaced with the following:

Include financial information about the revenue of the applicant separated into fees from credit rating services and non-credit rating services, including a comprehensive description of each. In providing this information, disclose the following:

- Revenue from non-credit rating services provided to persons that also obtained credit rating services,
- Revenue from credit rating services for different asset classes, and
- Revenue from credit rating services and non-credit rating services provided to persons located in Canada..

52. Form 25-101F1 is amended by adding the following after Item 14:

Item 14A. Pricing Policy

Disclose the applicant's pricing policy for credit rating services and any ancillary services, including the fee structure and pricing criteria in relation to credit ratings for different asset classes..

53. This Instrument comes into force on •.

ANNEX D

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 31-103 REGISTRATION REQUIREMENTS,
EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS**

1. **National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations is amended by this Instrument.**

2. **Section 1.1 is amended by replacing the definition of “designated rating” with the following:**

“designated rating” has the same meaning as in paragraph (b) of the definition of “designated rating” in National Instrument 81-102 *Investment Funds*;

3. **Section 1.1 is amended by replacing the definition of “designated rating organization” with the following:**

“designated rating organization” has the same meaning as in National Instrument 44-101 *Short Form Prospectus Distributions*;

4. **Schedule 1 of Form 31-103F1 Calculation of Excess Working Capital is amended by replacing subparagraph (a)(i) with the following:**

(i) Bonds, debentures, treasury bills and other securities of or guaranteed by the Government of Canada, of the United Kingdom, of the United States of America and of any other national foreign government (provided those foreign government securities have a current credit rating described in subparagraph (i.1)) maturing (or called for redemption):

within 1 year:	1% of fair value multiplied by the fraction determined by dividing the number of days to maturing by 365
over 1 year to 3 years:	1% of fair value
over 3 years to 7 years:	2% of fair value
over 7 years to 11 years:	4% of fair value
over 11 years	4% of fair value

(i.1) A credit rating from a designated rating organization listed below, or any of its DRO affiliates, that is at one of the following corresponding rating categories or that is at a category that replaces one of the following corresponding rating categories:

Designated Rating Organization	Long Term Debt	Short Term Debt
DBRS Limited	AAA	R-1(high)
Fitch Ratings, Inc.	AAA	F1+
Moody’s Canada Inc.	Aaa	Prime-1
S&P Global Ratings Canada	AAA	A-1+

5. This Instrument comes into force on •.

ANNEX E

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 33-109 REGISTRATION INFORMATION**

1. **National Instrument 33-109 Registration Information is amended by this Instrument.**
2. **Schedule 1 of Schedule C – Form 31-103F1 Calculation of Excess Working Capital of Form 33-109F6 Firm Registration is amended by replacing subparagraph (a)(i) with the following:**
 - (i) Bonds, debentures, treasury bills and other securities of or guaranteed by the Government of Canada, of the United Kingdom, of the United States of America and of any other national foreign government (provided those foreign government securities have a current credit rating described in subparagraph (i.1)) maturing (or called for redemption):
 - within 1 year: 1% of fair value multiplied by the fraction determined by dividing the number of days to maturing by 365
 - over 1 year to 3 years: 1% of fair value
 - over 3 years to 7 years: 2% of fair value
 - over 7 years to 11 years: 4% of fair value
 - over 11 years 4% of fair value
 - (i.1) A credit rating from a designated rating organization listed below, or any of its DRO affiliates, that is at one of the following corresponding rating categories or that is at a category that replaces one of the following corresponding rating categories:

Designated Rating Organization	Long Term Debt	Short Term Debt
DBRS Limited	AAA	R-1(high)
Fitch Ratings, Inc.	AAA	F1+
Moody's Canada Inc.	Aaa	Prime-1
S&P Global Ratings Canada	AAA	A-1+

3. This Instrument comes into force on •.

ANNEX F

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*

1. ***National Instrument 41-101 General Prospectus Requirements is amended by this Instrument.***
2. ***Section 1.1 is amended by replacing the definition of “designated rating organization” with the following:***

“designated rating organization” has the same meaning as in National Instrument 44-101 *Short Form Prospectus Distributions*;
3. ***Section 7.2 is amended***
 - (a) ***in subsection (2), by adding “and subject to subsection (2.1),” after “Despite subsection (1),”***
 - (b) ***in subsection (2), by replacing “received a rating” with “received a credit rating”, and***
 - (c) ***by adding the following subsection after subsection (2):***
 - (2.1) If the only credit ratings of the securities referred to in subsection (2) were issued by Kroll Bond Rating Agency, Inc. or any of its DRO affiliates, subsection (2) does not apply, except in the case of a distribution of asset-backed securities..
4. ***Subsection 19.1(3) is amended by adding “Alberta and” before “Ontario”.***
5. This Instrument comes into force on •.

ANNEX G

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-101 SHORT FORM PROSPECTUS DISTRIBUTIONS**

1. **National Instrument 44-101 Short Form Prospectus Distributions is amended by this Instrument.**

2. **Section 1.1 is amended by replacing the definition of “designated rating” with the following:**

“designated rating” means the following:

- (a) for a security referred to in paragraph 2.6(1)(c), a credit rating issued by a designated rating organization listed in this paragraph, or any of its DRO affiliates, that is at or above one of the following corresponding rating categories or that is at or above a category that replaces one of the following corresponding rating categories:

Designated Rating Organization	Long Term Debt	Short Term Debt	Preferred Shares
DBRS Limited	BBB	R-2	Pfd-3
Fitch Ratings, Inc.	BBB	F3	BBB
Kroll Bond Rating Agency, Inc.	BBB	K3	BBB
Moody’s Canada Inc.	Baa	Prime-3	Baa
S&P Global Ratings Canada	BBB	A-3	P-3

- (b) for a security referred to in any other provision of this Instrument, a credit rating issued by a designated rating organization listed in this paragraph, or any of its DRO affiliates, that is at or above one of the following corresponding rating categories or that is at or above a category that replaces one of the following corresponding rating categories:

Designated Rating Organization	Long Term Debt	Short Term Debt	Preferred Shares
DBRS Limited	BBB	R-2	Pfd-3
Fitch Ratings, Inc.	BBB	F3	BBB
Moody’s Canada Inc.	Baa	Prime-3	Baa
S&P Global Ratings Canada	BBB	A-3	P-3

3. **Section 1.1 is amended by replacing the definition of “designated rating organization” with the following:**

“designated rating organization” means

- (a) if designated under securities legislation, any of DBRS Limited, Fitch Ratings, Inc., Kroll Bond Rating Agency, Inc., Moody’s Canada Inc., S&P Global Ratings Canada; or
- (b) any other credit rating organization designated under securities legislation;

4. **Subsection 8.1(4) is amended by adding “Alberta and” before “Ontario”.**

5. This Instrument comes into force on •.

ANNEX H

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-102 *SHELF DISTRIBUTIONS*

1. ***National Instrument 44-102 Shelf Prospectus Distributions is amended by this Instrument.***
2. ***Subsection 1.1(1) is amended by adding the following definition:***
“designated rating” has
 - (a) for a security referred to in section 2.6, the meaning ascribed to that term in paragraph (a) of the definition of “designated rating” in NI 44-101, and
 - (b) for a security referred to in any other provision of this Instrument, the meaning ascribed to that term in paragraph (b) of the definition of “designated rating” in NI 44-101;.
3. ***Subsection 11.1(2.1) is amended by adding “Alberta and” before “Ontario”.***
4. This Instrument comes into force on •.

ANNEX I

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 45-106 *PROSPECTUS EXEMPTIONS*

1. ***National Instrument 45-106 Prospectus Exemptions is amended by this Instrument.***
2. ***Section 1.1 is amended by replacing the definition of “designated rating” with the following:***

“designated rating” has the same meaning as in paragraph (b) of the definition of “designated rating” in National Instrument 81-102 *Investment Funds*;
3. ***Section 1.1 is amended by replacing the definition of “designated rating organization” with the following:***

“designated rating organization” has the same meaning as in National Instrument 44-101 *Short Form Prospectus Distributions*;
4. ***Subsection 2.35(1) is amended by replacing paragraphs (b) and (c) with the following:***
 - (b) the note or commercial paper has a credit rating from a designated rating organization listed below, or any of its DRO affiliates, that is at or above one of the following corresponding rating categories or that is at or above a category that replaces one of the following corresponding rating categories:
 - (i) R-1(low) if issued by DBRS Limited;
 - (ii) F1 if issued by Fitch Ratings, Inc.;
 - (iii) P-1 if issued by Moody’s Canada Inc.;
 - (iv) A-1(Low) (Canada national scale) if issued by S&P Global Ratings Canada;
 - (c) the note or commercial paper has no credit rating from a designated rating organization listed below, or any of its DRO affiliates, that is below one of the following corresponding rating categories or that is below a category that replaces one of the following corresponding rating categories:
 - (i) R-1(low) if issued by DBRS Limited;
 - (ii) F2 if issued by Fitch Ratings, Inc.;
 - (iii) P-2 if issued by Moody’s Canada Inc.;
 - (iv) A-1(Low) (Canada national scale) or A-2 (global scale) if issued by S&P Global Ratings Canada..
5. ***Section 2.35.2 is amended by replacing subparagraphs (a)(i) and (a)(ii) with the following:***
 - (i) it has a credit rating from not less than two designated rating organizations listed below, or any of their respective DRO affiliates, and at least one of the credit ratings is at or above one of the following corresponding rating categories or is at or above a category that replaces one of the following corresponding rating categories:
 - (A) R-1(high)(sf) if issued by DBRS Limited;
 - (B) F1+sf if issued by Fitch Ratings, Inc.;
 - (C) P-1(sf) if issued by Moody’s Canada Inc.;
 - (D) A-1(High)(sf) (Canada national scale) or A-1+(sf) (global scale) if issued by S&P Global Ratings Canada;
 - (ii) it has no credit rating from a designated rating organization listed below, or any of its DRO affiliates, that is below one of the following corresponding rating categories or that is below a category that replaces one of the following corresponding rating categories:

- (A) R-1(low)(sf) if issued by DBRS Limited;
- (B) F2sf if issued by Fitch Ratings, Inc.;
- (C) P-2(sf) if issued by Moody's Canada Inc.;
- (D) A-1(Low)(sf) (Canada national scale) or A-2(sf) (global scale) if issued by S&P Global Ratings Canada,.

6. Section 2.35.2 is amended by replacing clause (a)(iv)(C) with the following:

- (C) the liquidity provider has a credit rating from each of the designated rating organizations, or any of their respective DRO affiliates, providing a credit rating on the short-term securitized product referred to in subparagraph 2.35.2(a)(i), for its senior, unsecured short-term debt, none of which is dependent upon a guarantee by a third party, and each credit rating from those designated rating organizations, or any of their respective DRO affiliates, is at or above the following corresponding rating categories or is at or above a category that replaces one of the following corresponding rating categories:
 - 1. R-1(low) if issued by DBRS Limited;
 - 2. F2 if issued by Fitch Ratings, Inc.;
 - 3. P-2 if issued by Moody's Canada Inc.;
 - 4. A-1(Low) (Canada national scale) or A-2 (global scale) if issued by S&P Global Ratings Canada,.

7. This Instrument comes into force on •.

ANNEX J

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 51-102 *CONTINUOUS DISCLOSURE OBLIGATIONS*

1. *National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.*
2. *Section 1.1 is amended by deleting the definitions of “designated rating organization” and “DRO affiliate”.*
3. *Subsection 13.1(3) is amended by adding “Alberta and” before “Ontario”.*
4. This Instrument comes into force on •.

ANNEX K

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 81-102 INVESTMENT FUNDS**

1. ***National Instrument 81-102 Investment Funds is amended by this Instrument.***
2. ***Section 1.1 is amended by replacing the definition of “designated rating” with the following:***

“designated rating” means

- (a) for a security referred to in paragraph 4.1(4)(b), a designated rating under paragraph (b) of the definition of “designated rating” in National Instrument 44-101 *Short Form Prospectus Distributions*, or
- (b) for a security or instrument referred to in any other provision of this Instrument, a credit rating issued by a designated rating organization listed below, or any of its DRO affiliates, that is at or above one of the following corresponding rating categories, or that is at or above a category that replaces one of the following corresponding rating categories, if
 - (i) there has been no announcement by the designated rating organization or any of its DRO affiliates of which the investment fund or its manager is or reasonably should be aware that the credit rating of the security or instrument to which the designated rating was given may be down-graded to a rating category that would not be a designated rating, and
 - (ii) no designated rating organization listed below or any of its DRO affiliates has rated the security or instrument in a rating category that is not a designated rating:

Designated Rating Organization	Commercial Paper/Short Term Debt	Long Term Debt
DBRS Limited	R-1 (low)	A
Fitch Ratings, Inc.	F1	A
Moody’s Canada Inc.	P-1	A2
S&P Global Ratings Canada	A-1 (Low)	A

3. ***Section 1.1 is amended by replacing the definition of “designated rating organization” with the following:***

“designated rating organization” means, if designated under securities legislation, any of DBRS Limited, Fitch Ratings, Inc., Moody’s Canada Inc., and S&P Global Ratings Canada;.

4. ***Subsection 4.1(4.1) is repealed.***
5. This Instrument comes into force on •.

ANNEX L

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 81-106 *INVESTMENT FUND CONTINUOUS DISCLOSURE*

1. ***National Instrument 81-106 Investment Fund Continuous Disclosure is amended by this Instrument.***
2. ***Section 1.1 is amended by adding the following definition:***

“designated rating” has the same meaning as in paragraph (b) of the definition of “designated rating” in National Instrument 81-102 *Investment Funds*;
3. ***Subsection 1.3(2) is amended by adding “if not defined in section 1.1” after “that Instrument”.***
4. This Instrument comes into force on •.

ANNEX M

PROPOSED CHANGE TO
COMPANION POLICY 21-101CP MARKETPLACE OPERATION

1. **Companion Policy 21-101CP Marketplace Operation is changed by this Document.**

2. **Subsection 10.1(6) is replaced with the following:**

- (6) An “investment grade corporate debt security” is a corporate debt security that has a credit rating from a designated rating organization listed below, or any of its DRO affiliates, that is at or above one of the following corresponding rating categories or that is at or above a category that replaces one of the following corresponding rating categories:

Designated Rating Organization	Long Term Debt	Short Term Debt
DBRS Limited	BBB	R-2
Fitch Ratings, Inc.	BBB	F3
Moody’s Canada Inc.	Baa	Prime-3
S&P Global Ratings Canada	BBB	A-3

In this subsection,

“designated rating organization” has the same meaning as in National Instrument 44-101 *Short Form Prospectus Distributions*; and

“DRO affiliate” has the same meaning as in National Instrument 25-101 *Designated Rating Organizations*..

3. This change becomes effective on •.

ANNEX N

PROPOSED CHANGE TO
COMPANION POLICY 81-102CP *INVESTMENT FUNDS*

1. *Companion Policy 81-102CP Investment Funds is changed by this Document.*
2. *Section 3.1 is deleted.*
3. This change becomes effective on •.

ANNEX O

FULL TEXT VERSION OF NI 25-101 THAT INCLUDES PROPOSED AMENDMENTS,
BLACKLINED TO SHOW CHANGES FROM CURRENT VERSION OF NI 25-101

NATIONAL INSTRUMENT 25-101
DESIGNATED RATING ORGANIZATIONS

Part 1 – Definitions and Interpretation

Definitions

1. In this Instrument

“board of directors” means, in the case of a designated rating organization that does not have a board of directors, a group that acts in a capacity similar to a board of directors;

“code of conduct” means the code of conduct referred to in Part 4 of this Instrument and may include, for greater certainty, one or more codes;

“compliance officer” means the compliance officer referred to in section 12;

“designated rating organization” means a credit rating organization that has been designated under securities legislation;

“DRO affiliate” means an affiliate of a designated rating organization that issues credit ratings in a foreign jurisdiction and that has been designated as a DRO affiliate under the terms of the designated rating ~~organizations’~~organization’s designation;

“DRO employee” means an individual, other than an employee or agent of a DRO affiliate, who is

- (a) employed by a designated rating organization, or
- (b) an agent who provides services directly to the designated rating organization and who is involved in determining, approving or monitoring a credit rating or rating outlook issued by the designated rating organization;

“Form NRSRO” means the annual certification on Form NRSRO, including exhibits, required to be filed by an NRSRO under the 1934 Act;

“NRSRO” means a nationally recognized statistical rating organization, as defined in the 1934 Act;

“rated entity” means a person or company that is issuing, or that has issued, securities that are the subject of a credit rating issued by a designated rating organization and includes a person or company that made a submission to a designated rating organization for the designated rating organization’s initial review or for a preliminary rating but did not request a final rating;

“rated securities” means the securities issued by a rated entity that are the subject of a credit rating issued by a designated rating organization;

“rating outlook” means an assessment regarding the likely direction of a credit rating over the short term, the medium term or both;

“ratings employee” means any DRO employee who participates in determining, approving or monitoring a credit rating or rating outlook issued by the designated rating organization;

“related entity” means in relation to an issuer of a structured finance product, an originator, arranger, underwriter, servicer or sponsor of the structured finance product or any person or company performing similar functions;

“significant security holder” means a person or company that has beneficial ownership of, or control or direction over, whether direct or indirect, or a combination of beneficial ownership of, and control or direction over, whether direct or indirect, securities of an issuer carrying more than 10 per cent of the voting rights attached to all of the issuer’s outstanding voting securities;

“structured finance product” means any of the following:

- (a) a security that entitles the security holder to receive payments that primarily depend on the cash flow from self-liquidating financial assets collateralizing the security, such as loans, leases, mortgages, and secured or unsecured receivables, including:
 - (i) an asset-backed security;
 - (ii) a collateralized mortgage obligation;
 - (iii) a collateralized debt obligation;
 - (iv) a collateralized bond obligation;
 - (v) a collateralized debt obligation of asset-backed securities;
 - (vi) a collateralized debt obligation of collateralized debt obligations;
- (b) a security that entitles the security holder to receive payments that substantially reference or replicate the payments made on one or more securities of the type described in paragraph (a) but that do not primarily depend on the cash flow from self-liquidating financial assets that collateralize the security, including:
 - (i) a synthetic asset-backed security;
 - (ii) a synthetic collateralized mortgage obligation;
 - (iii) a synthetic collateralized debt obligation;
 - (iv) a synthetic collateralized bond obligation;
 - (v) a synthetic collateralized debt obligation of asset-backed securities;
 - (vi) a synthetic collateralized debt obligation of collateralized debt obligations.

Interpretation

- 2. Nothing in this Instrument is to be interpreted as regulating the content of a credit rating or the methodology a credit rating organization uses to determine a credit rating.

Affiliate

- 3. (1) In this Instrument, a person or company is an affiliate of another person or company if either of the following apply:
 - (a) one of them is the subsidiary of the other;
 - (b) each of them is controlled by the same person or company.
- (2) For the purposes of paragraph (1)(b), a person or company (first person) is considered to control another person or company (second person) if any of the following apply:
 - (a) the first person beneficially owns, or controls or directs, directly or indirectly, securities of the second person carrying votes which, if exercised, would entitle the first person to elect a majority of the directors of the second person, unless that first person holds the voting securities only to secure an obligation;
 - (b) the second person is a partnership, other than a limited partnership, and the first person holds more than 50% of the interests of the partnership;
 - (c) the second person is a limited partnership and the general partner of the limited partnership is the first person.

Credit rating

4. In British Columbia, credit rating means an assessment that is publicly disclosed or distributed by subscription concerning the creditworthiness of an issuer,
- (a) as an entity, or
 - (b) with respect to specific securities or a specific pool of securities or assets.

Market participant in Ontario

5. In Ontario, a DRO affiliate is deemed to be a market participant.

Part 2 – Designation of Rating Organizations

Application for designation

6. (1) A credit rating organization that applies to be a designated rating organization must file a completed Form 25-101F1.
- (2) Despite subsection (1), a credit rating organization that is an NRSRO may file its most recent Form NRSRO.
- (3) A credit rating organization that applies to be a designated rating organization that is incorporated or organized under the laws of a foreign jurisdiction and does not have an office in Canada must file a completed Form 25-101F2.
- (4) Any person or company that will be a DRO affiliate upon the designation of a credit rating [agency organization](#) that does not have an office in Canada must file a completed Form 25-101F2.

Part 3 – Board of Directors

Board of directors

7. A designated rating organization must not issue a credit rating unless it, or a DRO affiliate that is a parent of the designated rating organization, has a board of directors.

Composition

8. (1) For the purposes of section 7, a board of directors of a designated rating organization, or the board of directors of the DRO affiliate that is a parent of the designated rating organization, as the case may be, must be composed of a minimum of three members.
- (2) At least one-half, but not fewer than two, of the members of the board of directors must be independent of the organization and any DRO affiliate.
- (3) For the purposes of subsection (2), a member of the board of directors is not considered independent if the director
- (a) other than in his or her capacity as a member of the board of directors or a board committee, accepts any consulting, advisory or other compensatory fee from the designated rating organization or a DRO affiliate;
 - (b) is a DRO employee or an employee or agent of a DRO affiliate;
 - (c) has a relationship with the designated rating organization that could, in the opinion of the board of directors, be reasonably expected to interfere with the exercise of a director's independent judgment; or
 - (d) has served on the board of directors for more than five years in total.
- (4) For the purposes of paragraph 3(c), in forming its opinion, the board of directors is not required to conclude that a member is not independent solely on the basis that the member is, or was, a user of the designated rating organization's rating services.

Part 4 – Code of Conduct

Code of conduct

9. (1) A designated rating organization must establish, maintain and comply with a code of conduct.
- (2) A designated rating organization's code of conduct must incorporate each of the provisions set out in Appendix A.

Filing and publication

10. (1) A designated rating organization must file a copy of its code of conduct and post a copy of it prominently on its website promptly upon designation.
- (2) Each time an amendment is made to a code of conduct by a designated rating organization, the amended code of conduct must be filed, and prominently posted on the organization's website, within five business days of the amendment coming into effect.

Waivers

11. A designated rating organization's code of conduct must specify that a designated rating organization must not waive provisions of its code of conduct.

Part 5 – Compliance Officer

Compliance officer

12. (1) A designated rating organization must not issue a credit rating unless it, or a DRO affiliate that is a parent of the designated rating organization, has a compliance officer that monitors and assesses compliance by the designated rating organization and its DRO employees with the organization's code of conduct and with securities legislation.
 - (1.1) [The compliance officer must be designated as an officer of the designated rating organization, or a DRO affiliate that is a parent of the designated rating organization, under a by-law or similar authority of the designated rating organization or the DRO affiliate.](#)
 - (1.2) [The compliance officer must have the education, training and experience that a reasonable person would consider necessary to competently perform the activities of the compliance officer required under this Instrument and the designated rating organization's code of conduct.](#)
- (2) The compliance officer must regularly report on his or her activities directly to the board of directors.
- (3) The compliance officer must report to the board of directors as soon as reasonably possible if the compliance officer becomes aware of any circumstances indicating that the designated rating organization or its DRO employees may be in non-compliance with the organization's code of conduct or securities legislation and any of the following apply:
 - (a) the non-compliance would reasonably be expected to create a significant risk of harm to a rated entity or the rated entity's investors;
 - (b) the non-compliance would reasonably be expected to create a significant risk of harm to the capital markets;
 - (c) the non-compliance is part of a pattern of non-compliance.
- (4) The compliance officer must not, while serving in such capacity, participate in any of the following:
 - (a) the development of credit ratings, methodologies or models;
 - (b) the establishment of compensation levels, other than for DRO employees reporting directly to the compliance officer.
- (5) The compensation of the compliance officer and of any DRO employee that reports directly to the compliance officer must not be linked to the financial performance of the designated rating organization or its DRO affiliates and must be determined in a manner that preserves the independence of the compliance officer's judgment.

Part 6 – Books and Records

Books and records

13. (1) A designated rating organization must keep such books and records and other documents as are necessary to account for the conduct of its credit rating activities, its business transactions and financial affairs and must keep such other books, records and documents as may otherwise be required under securities legislation.

(1.1) A designated rating organization must keep such books and records and other documents that are sufficiently detailed to reconstruct the credit rating process for any credit rating action.

- (2) A designated rating organization must retain the books and records maintained under this section
- (a) for a period of seven years from the date the record was made or received, whichever is later;
 - (b) in a safe location and a durable form; and
 - (c) in a manner that permits it to be provided promptly to the securities regulatory authority upon request.

Part 7 – Filing Requirements

Filing requirements

14. (1) No later than 90 days after the end of its most recently completed financial year, each designated rating organization must file a completed Form 25-101F1.
- (2) Upon any of the information in a Form 25-101F1 filed by a designated rating organization becoming materially inaccurate, the designated rating organization must promptly file an amendment to, or an amended and restated version of, its Form 25-101F1.
- (3) Until six years after it has ceased to be a designated rating organization in any jurisdiction of Canada, a designated rating organization must file a completed amended Form 25-101F2 at least 30 days before
- (a) the termination date of Form 25-101F2, or
 - (b) the effective date of any changes to Form 25-101F2.
- (4) Until six years after it has ceased to be a DRO affiliate in any jurisdiction of Canada, a DRO affiliate must file a completed amended Form 25-101F2 at least 30 days before
- (a) the termination date of Form 25-101F2, or
 - (b) the effective date of any changes to Form 25-101F2.

Part 8 – Exemptions and Effective Date

Exemptions

15. (1) The regulator or the securities regulatory authority may grant an exemption from the provisions of this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario, only the regulator may grant an exemption.
- (3) Except in Alberta and Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.

Effective date

16. This Instrument comes into force on April 20, 2012.

Appendix A to National Instrument 25-101 Designated Rating Organizations – Provisions Required to be Included in a Designated Rating Organization’s Code of Conduct

1. INTERPRETATION

1.1 A term used in this code of conduct has the same meaning as in National Instrument 25-101 *Designated Rating Organizations* if used in that Instrument.

2. QUALITY AND INTEGRITY OF THE RATING PROCESS

A. Quality of the rating process

I – General requirements

2.1 A designated rating organization must adopt, implement and enforce procedures in its code of conduct to ensure that the credit ratings and rating outlooks it issues are based on a thorough analysis of all information known to the designated rating organization that is relevant to its analysis according to ~~its~~the applicable rating methodologies.

2.2 A designated rating organization must include a provision in its code of conduct that it will use only rating methodologies that are rigorous, systematic, continuous, capable of being applied consistently and subject to some means of objective validation based on historical experience, including back-testing.

II – Specific provisions

2.3 Each ratings employee involved in the preparation, review or issuance of a credit rating, action or report must use methodologies established by the designated rating organization. Each ratings employee must apply a given methodology in a consistent manner, as determined by the designated rating organization.

2.4 A credit rating must be assigned by the designated rating organization and not by an employee or agent of the designated rating organization.

2.5 A credit rating must reflect all information known, and believed to be relevant, to the designated rating organization, consistent with its published methodology. The designated rating organization will ensure that its ratings employees and agents have appropriate knowledge and experience for the duties assigned.

2.6 The designated rating organization, its ratings employees and its agents must take all reasonable steps to avoid issuing a credit rating, action or report that is false or misleading as to the general creditworthiness of a rated entity or rated securities.

2.6.1 The designated rating organization must adopt, implement and enforce policies, procedures and controls reasonably designed to avoid issuing a credit rating, action or report that is false or misleading as to the general creditworthiness of a rated entity or rated securities.

2.7 The designated rating organization ~~will~~must ensure that it has and devotes sufficient resources to carry out and maintain high-quality credit ~~assessments of ratings for~~ all rated entities and rated securities. When deciding whether to rate or continue rating an entity or securities, the organization ~~will~~must assess whether it is able to devote sufficient personnel with sufficient skill sets to ~~make a credible~~provide a high-quality credit rating ~~assessment~~, and whether its personnel are likely to have access to sufficient information needed in order ~~make to provide~~ such ~~an assessment a~~ rating. A designated rating organization ~~will~~must adopt all necessary measures so that the information it uses in assigning a credit rating or a rating outlook is of sufficient quality to support ~~a credible~~what a reasonable person would conclude is a high-quality credit rating and is obtained from a source that a reasonable person would consider to be reliable.

2.8 The designated rating organization will appoint a senior manager, or establish a committee made up of one or more senior managers, with appropriate experience to review the feasibility of providing a credit rating for a structure, instrument, security or entity that is significantly different from the structures, instruments, securities or entities that the designated rating organization currently rates.

2.9 The designated rating organization ~~will~~must not issue or maintain a credit rating for structures, instruments, securities or entities for which it does not have appropriate information, knowledge or expertise. The designated rating organization must assess whether the methodologies and models used for determining credit ratings of a structured finance product are appropriate when the risk characteristics of the assets underlying the structured finance product change significantly. If the quality of the available information is not satisfactory or if the complexity of a ~~new~~ type of structure, instrument or security should reasonably raise concerns about whether the designated rating organization can provide a ~~credible~~high-quality credit rating, the designated rating organization ~~will~~must not issue or maintain a credit rating.

2.10 The designated rating organization will ensure continuity and regularity, and avoid conflicts of interest, in the rating process.

B. Monitoring and updating

2.11 The designated rating organization will establish a committee to be responsible for implementing a rigorous and formal process for reviewing, on at least an annual basis, and making changes to the methodologies, models and key ratings assumptions it uses. This review will include consideration of the appropriateness of the designated rating organization's methodologies, models and key ratings assumptions if they are used or intended to be applied to new types of structures, instruments or securities. This process will be conducted independently of the business lines that are responsible for credit rating activities. The committee will report to its board of directors or the board of directors of a DRO affiliate that is a parent of the designated rating organization.

2.12 If a methodology, model or key ratings assumption used in a credit rating activity is changed, the designated rating organization ~~will~~must do ~~each~~all of the following:

- (a) promptly identify each credit rating likely to be affected if the credit rating were to be re-rated using the new methodology, model or key ratings assumption and, using the same means of communication the organization generally uses for the credit ratings, disclose the scope of credit ratings likely to be affected by the change in methodology, model or key ratings assumption;
- (b) promptly place each credit rating identified under subsection (a) under surveillance;
- (c) within six months of the change, review each credit rating identified under subsection (a) with respect to its accuracy;
- (d) re-rate a credit rating if, following the review required in subsection (c), the change, alone or combined with all other changes, affects the accuracy of the credit rating.

2.12.1 If a designated rating organization becomes aware of errors in a rating methodology or its application, the designated rating organization must do all of the following if the errors could have an impact on its ratings:

- (a) promptly notify the regulator or securities regulatory authority and all affected rated entities of the errors and explain the impact or potential impact of the errors on its ratings, including the need to review existing ratings;
- (b) promptly publish a notice of the errors on its website, where the errors have an impact on its ratings;
- (c) promptly correct the errors in the rating methodology or the application;
- (d) apply the measures set out in paragraphs 2.12 (a) to (d) as if the correction of the error were a change contemplated by that section.

2.13 The designated rating organization will ensure that adequate personnel and financial resources are allocated to monitoring and updating its credit ratings. Except for ratings that clearly indicate they do not entail ongoing monitoring, once a rating is published the designated rating organization will monitor the rated entity's creditworthiness on an ongoing basis and, at least annually, update the rating. In addition, the designated rating organization must initiate a review of the accuracy of a rating upon becoming aware of any information that might reasonably be expected to result in a rating action (including termination of a rating), consistent with the applicable rating methodology and must promptly update the rating, as appropriate, based on the results of such review.

Subsequent monitoring will incorporate all cumulative experience obtained.

2.13.1 A change in ratings must be made in accordance with the designated rating organization's published rating methodologies.

2.14 If the designated rating organization uses separate analytical teams for determining initial ratings and for subsequent monitoring, the organization will ensure each team has the requisite level of expertise and resources to perform their respective functions competently and in a timely manner.

2.15 If the designated rating organization discloses a credit rating to the public and subsequently discontinues the rating, the designated rating organization ~~will~~must, as soon as practicable, disclose that the rating has been discontinued using the same means of communication as was used for the disclosure of the rating. If the designated rating organization discloses a rating only to its subscribers, if it discontinues the rating, the designated rating organization ~~will~~must, as soon as practicable, disclose to each subscriber of that rating that the rating has been discontinued. In both cases, a subsequent publication by the

designated rating organization of the discontinued rating will indicate the date the rating was last updated and disclose that the rating is no longer being updated and the reasons for the decision to discontinue the rating.

C. Integrity of the rating process

2.16 The designated rating organization, its ratings employees and agents will comply with all applicable laws and regulations governing its activities.

2.17 The designated rating organization, its ratings employees and agents must deal fairly, honestly and in good faith with rated entities, investors, other market participants, and the public.

2.18 The designated rating organization will hold its ratings employees and agents to a high standard of integrity and ethical behaviour, and the designated rating organization will not employ an individual which a reasonable person would consider to be lacking in or have compromised integrity.

2.18.1. A designated rating organization must adopt, implement and enforce policies, procedures and controls to ensure that it does not use the services of a DRO employee which a reasonable person would consider to be lacking in or have compromised integrity.

2.19 The designated rating organization and its ratings employees and agents will not, either implicitly or explicitly, give any assurance or guarantee of a particular rating prior to a rating assessment. ~~The~~Subject to section 2.20 and paragraph 3.7.1(d), the designated rating organization may develop prospective assessments if the assessment is to be used in a structured finance product or similar transaction.

2.19.1 A designated rating organization or a DRO employee must not make promises or threats to influence rated entities, related entities, other issuers, subscribers, users of the designated rating organization's credit ratings or other market participants to pay for credit ratings or other services.

2.20 A person or company listed below must not make a recommendation to a rated entity about the corporate or legal structure, assets, liabilities, or activities of the rated entity:

- (a) a designated rating organization;
- (b) an affiliate or related entity of the designated rating organization;
- (c) the ratings employees of any of the above;
- (d) a significant security holder of the designated rating organization or of an affiliate that is a parent of the designated rating organization.

2.21 The designated rating organization will instruct its employees and agents that, upon becoming aware that the organization, another employee or an affiliate, or an employee of an affiliate of the designated rating organization, is or has engaged in conduct that is illegal, unethical or contrary to the designated rating organization's code of conduct, the employee or agent must report that information immediately to the compliance officer. Upon receiving the information, the compliance officer will take appropriate action, as determined by the laws and regulations of the jurisdiction and the rules and guidelines set forth by the designated rating organization. The designated rating organization will not take or allow retaliation against the employee or agent by employees, agents, the designated rating organization itself or its affiliates.

D. Governance requirements

2.22 The designated rating organization will not issue a credit rating or a rating outlook unless a majority of its board of directors, or the board of directors of a DRO affiliate that is a parent of the designated rating organization, including its independent directors, have, what a reasonable person would consider, sufficient expertise in financial services to fully understand and properly oversee the business activities of the designated rating organization. If the designated rating organization issues a credit rating or a rating outlook for a structured finance product, at least one independent member and one other member must have, what a reasonable person would consider to be, in-depth knowledge and experience at a senior level, regarding the structured finance product.

2.23 The designated rating organization will not issue a credit rating or rating outlook if a member of its board of directors, or the board of directors of a DRO affiliate that is a parent of the designated rating organization, participated in any deliberation involving a specific credit rating or rating outlook in which the member has a financial interest in the outcome of the credit rating or rating outlook.

2.24 The designated rating organization will not compensate an independent member of its board of directors, or the board of directors of a DRO affiliate that is a parent of the designated rating organization, in a manner or in an amount that a reasonable person could conclude that the compensation is linked to the business performance of the designated rating organization or its affiliates. The organization will only compensate directors in a manner that preserves the independence of the director.

2.25 The board of directors of a designated rating organization or a DRO affiliate that is a parent of the designated rating organization must monitor all of the following:

- (a) the development of the credit rating policy and of the methodologies used by the designated rating organization in its credit rating activities;
- (b) the effectiveness of any internal quality control system of the designated rating organization in relation to credit rating activities;
- (c) the effectiveness of measures and procedures instituted to ensure that any conflicts of interest are identified and either eliminated or managed and disclosed, as appropriate;
- (d) the compliance and governance processes, including the performance of the committee identified in section ~~2.11~~2.11;
- (e) the compliance by the designated rating organization and its DRO employees with the organization's code of conduct and with securities legislation.

2.26 The designated rating organization will design reasonable administrative and accounting procedures, internal control mechanisms, including internal control mechanisms in relation to the policies and procedures described in section 3.11.1, procedures for risk assessment, and control and safeguard arrangements for information processing systems. The designated rating organization will implement and maintain decision-making procedures and organizational structures that clearly, and in a documented manner, specify reporting lines and allocate functions and responsibilities.

2.27 The designated rating organization will monitor and evaluate the adequacy and effectiveness of its administrative and accounting procedures, internal control mechanisms, procedures for risk assessment, and control and safeguard arrangements for information processing systems, established in accordance with securities legislation and the designated rating organization's code of conduct, and take any measures necessary to address any deficiencies.

2.28 The designated rating organization will not outsource activities if doing so impairs materially the effectiveness of the designated rating organization's internal controls or the ability of the securities regulatory authority to conduct compliance reviews of the designated rating organization's compliance with securities legislation or its code of conduct. The designated rating organization will not outsource the functions or duties of the designated rating organization's compliance officer.

2.28.1 A designated rating organization must adopt, implement and enforce policies, procedures and controls reasonably designed to ensure that the organization and its DRO employees comply with the organization's code of conduct and securities legislation.

2.28.2 The designated rating organization's compliance officer must monitor and evaluate the adequacy and effectiveness of the designated rating organization's policies, procedures and controls referred to in section 2.28.1.

E. Risk management

2.29 A designated rating organization must establish and maintain a risk management committee made up of one or more senior managers or DRO employees with the appropriate level of experience responsible for identifying, assessing, monitoring, and reporting the risks arising from its activities, including legal risk, reputational risk, operational risk, and strategic risk. The committee must be independent of any internal audit system and make periodic reports to the board of directors of the designated rating organization, or of a DRO affiliate that is a parent of the designated rating organization, and senior management to assist the board and senior management in assessing the adequacy of the policies and procedures the designated rating organization adopted, and how well the organization implemented and enforces the policies and procedures to manage risk, including the policies and procedures specified in the organization's code of conduct.

F. Training

2.30 A designated rating organization must adopt, implement and enforce policies and procedures ensuring DRO employees undergo appropriate formal ongoing training at reasonably regular time intervals. For greater certainty, the policies and procedures must

- (a) include measures reasonably designed to verify that DRO employees undergo the training.
- (b) be designed to ensure the subject matter covered by the training be relevant to the DRO employee's responsibilities and cover, as applicable, the following:
 - (i) the designated rating organization's code of conduct;
 - (ii) the designated rating organization's credit rating methodologies;
 - (iii) the laws governing the designated rating organization's credit rating activities;
 - (iv) the designated rating organization's policies and procedures for managing conflicts of interest and governing the holding and transacting in securities;
 - (v) the designated rating organization's policies and procedures for handling confidential or material non-public information.

3. INDEPENDENCE AND CONFLICTS OF INTEREST

A. General

3.1 The designated rating organization will not refrain from or unnecessarily delay taking a rating action based in whole or in part on the potential effect (economic or otherwise) of the action on the designated rating organization, a rated entity, an investor, or other market participant.

3.2 The designated rating organization and its employees will use care and professional judgment to remain independent and maintain the appearance of independence and objectivity.

3.3 The determination of a credit rating or rating outlook will be influenced only by factors relevant to the credit assessment.

3.4 The designated rating organization will not allow its decision to assign a credit rating or rating outlook to a rated entity or rated securities to be affected by the existence of, or potential for, a business relationship between the designated rating organization or its affiliates and any other person or company including, for greater certainty, the rated entity, its affiliates or related entities.

3.5 The designated rating organization and its affiliates will keep separate, operationally ~~and~~, legally and, if practicable, physically, their credit rating business and their rating employees from any ancillary services (including the provision of consultancy or advisory services) that may present conflicts of interest with their credit rating activities and will ensure that the provision of such services does not present conflicts of interest with their credit rating activities. The designated rating organization will define and publicly disclose what it considers, and does not consider, to be an ancillary service and identify those that are ancillary services. The designated rating organization must disclose why it believes that those ancillary services do not present a conflict of interest with its credit rating activities. The designated rating organization will disclose in each ratings report any ancillary services provided to a rated entity, its affiliates or related entities.

3.6 The designated rating organization ~~will~~must not rate, or assign a rating outlook to, a person or company that is an affiliate or associate of the organization or a ratings employee. The designated rating organization must not assign a credit rating or rating outlook to a person or company if a ratings employee is an officer or director of the person or company, its affiliates or related entities.

3.6.1 A designated rating organization must not rate, or assign a rating outlook to, a person or company in any of the following circumstances:

- (a) a significant security holder of the designated rating organization, or of an affiliate that is a parent of the designated rating organization, is a significant security holder of the person or company, its affiliates or related entities;
- (b) an officer or director of a significant security holder of the designated rating organization, or of an affiliate that is a parent of the designated rating organization, is an officer or director of the person or company, its affiliates or related entities.

B. Procedures and policies

3.7 The designated rating organization ~~will~~must identify and eliminate or manage and publicly disclose any actual or potential conflicts of interest that may influence the opinions and analyses of ratings employees, including opinions and analyses in respect of a credit rating or rating outlook.

3.7.1 A designated rating organization must adopt, implement 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 by the designated rating organization or the judgment, opinions or analyses by ratings employees. Without limiting the generality of the foregoing, the policies, procedures and controls must address all of the following conflicts and ensure that no conflict influences the designated rating organization's credit rating methodologies or credit rating actions:

- (a) the designated rating organization is paid to issue a credit rating by the rated entity or a related entity;
- (b) the designated rating organization is paid by subscribers with a financial interest that could be affected by a credit rating action of the designated rating organization;
- (c) the designated rating organization is paid by rated entities, related entities or subscribers for services other than issuing credit ratings or providing access to the designated rating organization's credit ratings;
- (d) the designated rating organization provides a preliminary indication or similar indication of credit quality to a rated entity or related entity prior to being retained to determine the final credit rating for the rated entity or related entity;
- (e) the designated rating organization has a direct or indirect ownership interest in a rated entity or related entity;
- (f) a rated entity or related entity has a direct or indirect ownership interest in the designated rating organization.

3.8 The designated rating organization ~~will~~must disclose the actual or potential conflicts of interest it identifies under the policies, procedures and controls referred to in section 3.7.1 in a complete, timely, clear, concise, specific and prominent manner. If the actual or potential conflict of interest is unique or specific to a credit rating action with respect to a particular rated entity or related entity, the conflict of interest must be disclosed in the same form and through the same means as the relevant credit rating action.

3.9 The designated rating organization will disclose the general nature of its compensation arrangements with rated entities.

- (1) If the designated rating organization or an affiliate receives from a rated entity, an affiliate or a related entity compensation unrelated to its ratings service, such as compensation for ancillary services (as referred to in section 3.5), the designated rating organization will disclose the percentage that non-rating fees represent out of the total amount of fees received by the designated rating organization or its affiliate, as the case may be, from the rated entity, the affiliate or the related entity.
- (2) If the designated rating organization or its affiliates receives directly or indirectly 10 percent or more of its annual revenue from a particular rated entity or subscriber, including revenue received from an affiliate or related entity of the rated entity or subscriber, the organization will disclose that fact and identify the particular rated entity or subscriber.

3.9.1 A designated rating organization must ensure both of the following:

- (a) fees charged to rated entities for the provision of credit ratings and ancillary services, as referred to in section 3.5, do not discriminate among rated entities in an unfair manner and have a reasonable relation to actual costs;
- (b) fees charged to rated entities for the provision of credit ratings must not depend on the category of credit rating or any other result or outcome of the work performed.

3.10 A designated rating organization and its DRO employees and their associates must not trade a security, derivative or exchange contract if the organization's employee's or associate's interests in the trade conflict with their interests relating to a credit rating or rating outlook.

3.11 If a designated rating organization is subject to the oversight of a rated entity, or an affiliate or related entity of the rated entity, the designated rating organization ~~will~~must use different DRO employees to conduct the rating actions in respect of that entity, or to develop or modify methodologies that apply to that entity, than those ~~involved in that are subject to~~ the oversight.

3.11.1 A designated rating organization must adopt, implement and enforce policies and procedures to prevent and mitigate conflicts of interest and to ensure the independence of credit ratings, rating outlooks and DRO employees, including policies and procedures in relation to the matters described in section 3.4. The designated rating organization must periodically monitor and review these policies and procedures in order to evaluate their effectiveness and assess whether they should be updated.

C. Employee independence

3.12 Reporting lines for a ratings employee or DRO employees and their compensation arrangements will be structured to eliminate or manage actual and potential conflicts of interest.

- (1) The designated rating organization will not compensate or evaluate a ratings employee on the basis of the amount of revenue that the designated rating organization or its affiliates derives from rated entities that the ratings employee rates or assigns rating outlooks to, or with which the ratings employee regularly interacts.
- (2) The designated rating organization will conduct reviews of compensation policies and practices for its DRO employees within reasonable regular time periods to ensure that these policies and practices do not compromise the objectivity of the designated rating organization's rating process.

3.13 The designated rating organization will take reasonable steps to ensure that its ratings employees, and any agent who has responsibility for developing or approving procedures or methodologies used for determining credit ratings, do not initiate, or participate in, discussions or negotiations regarding fees or payments with any rated entity or its affiliates or related entities.

3.14 The designated rating organization ~~will~~must not permit a ratings employee to participate in or otherwise influence the determination of a credit rating or rating outlook if any of the ratings employee following apply:

- (a) ~~owns directly or indirectly~~the ratings employee or an associate of the ratings employee has beneficial ownership of, or control or direction over, whether direct or indirect, securities, derivatives or exchange contracts of, or in respect of, the rated entity, other than holdings through an investment fund;
- (b) ~~owns directly or indirectly securities~~the ratings employee or an associate of the ratings employee has beneficial ownership of, or control or direction over, whether direct or indirect, derivatives or exchange contracts of, or in respect of, a rated entity, its affiliates or its related entities, the ownership of which, or control or direction over, causes or may reasonably be perceived as causing a conflict of interest;
- (c) ~~has~~the ratings employee or an associate of the ratings employee has, or has recently had ~~a recent~~, an employment, business or other relationship with, or interest in, the rated entity, its affiliates or related entities that causes or may reasonably be perceived as causing a conflict of interest; ~~or~~
- (d) ~~has~~ an associate ~~who currently works for~~of the ratings employee is a director of, the rated entity, its affiliates or related entities.

3.15 The designated rating organization will not permit a ratings employee or an associate of such ratings employee to buy or sell or engage in any transaction involving a security, a derivative or an exchange contract based on a security issued, guaranteed, or otherwise supported by any person or company within such ratings employee's area of primary analytical responsibility, other than holdings through an investment fund.

3.16 The designated rating organization will not permit a ratings employee or an associate of such ratings employee to accept gifts, including entertainment, from anyone with whom the designated rating organization does business, other than items provided in the normal course of business if the aggregate value of all gifts received is nominal.

3.17 If a DRO employee of a designated rating organization becomes involved in any ~~personal~~ relationship that creates any actual or potential conflict of interest, the DRO employee must disclose the relationship to the designated rating organization's compliance officer. The designated rating organization ~~will~~must not issue a credit rating or rating outlook if a DRO employee has an actual or potential conflict of interest with a rated entity. If ~~the~~such a credit rating or rating outlook has been issued, the designated rating organization ~~will~~must promptly publicly disclose ~~in a timely manner~~ that the credit rating ~~may~~or rating outlook might be affected.

3.18 The designated rating organization will review the past work of any ratings employee that leaves the organization and joins a rated entity (or an affiliate or related entity of the rated entity) if one or both of the following apply:

- (a) the ratings employee has, within the last year, been involved in rating the rated entity, or [assigning it a related rating outlook](#);
- (b) the rated entity is a financial firm with which the ratings employee had, within the last year, significant dealings as part of his or her duties at the designated rating organization.

4. RESPONSIBILITIES TO THE INVESTING PUBLIC AND ISSUERS

A. Transparency and timeliness of ratings disclosure

4.1 The designated rating organization ~~will~~[must](#) distribute in a timely manner its ~~ratings~~ decisions [on credit ratings and rating outlooks](#) regarding the entities and securities it rates.

[4.1.1 A designated rating organization must adopt, implement and enforce policies, procedures and controls for distributing credit ratings, actions, updates, rating outlooks and related reports and for when a credit rating will be withdrawn or discontinued.](#)

4.2 ~~The~~[A](#) designated rating organization ~~will~~[must](#) publicly disclose its policies [and procedures](#) for distributing [credit ratings, ratings actions, updates, rating outlooks and related reports](#) and ~~updates~~[for when a credit rating will be withdrawn or discontinued](#).

4.3 Except for a [credit rating or a rating outlook](#) it discloses only to the rated entity, a designated rating organization ~~will~~[must](#) disclose to the public, on a non-selective basis and free of charge, any ~~ratings~~ decision [on a credit rating or rating outlook](#) regarding ~~a rated entities~~[entity](#) that ~~are~~[is a](#) reporting ~~issuers~~[issuer](#) or [regarding](#) the securities of such ~~issuers~~[an issuer](#), as well as any subsequent ~~decisions~~[decision](#) to discontinue such a rating, if the ~~rating~~ decision is based in whole or in part on material non-public information.

[4.3.1 If a designated rating organization discloses to the public or its subscribers any decision on a credit rating or rating outlook regarding a rated entity or the securities of a rated entity, as well as any subsequent decisions to discontinue the rating, it must do so on a non-selective basis.](#)

4.4 In each of its ratings reports [in respect of a credit rating or rating outlook](#), a designated rating organization ~~will~~[must](#) disclose [all of](#) the following:

- (a) when the [credit](#) rating was first released and when it was last updated, [reviewed or assigned a rating outlook](#);
- (b) the principal methodology or methodology version that was used in determining the [credit](#) rating and where a description of that methodology can be found. If the [credit](#) rating is based on more than one methodology, or if a review of only the principal methodology might cause investors to overlook other important aspects of the [credit](#) rating, the designated rating organization must explain this fact in the ratings report, and include a discussion of how the different methodologies and other important aspects factored into the rating decision;
- (c) the meaning of each rating category and the definition of default or recovery, and the time horizon the designated rating organization used when making a rating decision;
- (d) any attributes and limitations of the credit rating [or rating outlook](#). If the rating [or rating outlook](#) involves a type of financial product presenting limited historical data, (such as an innovative financial vehicle), the designated rating organization ~~will~~[must](#) disclose, in a prominent place, the limitations of the [credit rating or rating outlook](#);
- (e) all ~~material~~[significant](#) sources, including the rated entity, its affiliates and related entities, that were used to prepare the credit rating [or rating outlook](#) and whether the credit rating [or rating outlook](#) has been disclosed to the rated entity or its related entities and amended following that disclosure before being issued.

4.5 In each of its ratings reports in respect of [a credit rating or rating outlook for](#) a structured finance product, a designated rating organization ~~will~~[must](#) disclose [all of](#) the following:

- (a) all information about loss and cash-flow analysis it has performed or is relying upon and an indication of any expected change in the credit rating [or rating outlook](#). The designated rating organization ~~will~~[must](#) also disclose the degree to which it analyzes how sensitive a [credit](#) rating of a structured finance product is to changes in the designated rating organization's underlying rating assumptions;
- (b) the level of assessment the designated rating organization has performed concerning the due diligence processes carried out at the level of underlying financial instruments or other assets of structured finance

products. The designated rating organization ~~will~~must also disclose whether it has undertaken any assessment of such due diligence processes or whether it has relied on a third-party assessment and how the outcome of such assessment impacts the credit rating.

(c) whether the issuer of the structured finance product has informed the designated rating organization that it is publicly disclosing all relevant information about the product being rated or whether the information remains non-public.

4.6 If, to a reasonable person, the information required to be included in a ratings report under sections 4.4 and 4.5 would be disproportionate to the length of the ratings report, the designated rating organization will include a prominent reference to where such information can be easily accessed.

4.7 A designated rating organization ~~will~~must disclose on an ongoing basis information about all debt securities and structured finance products submitted to it for its initial review or for a preliminary rating, including whether the issuer requested the designated rating organization to provide a final rating.

4.8 The designated rating organization will publicly disclose the methodologies, models and key rating assumptions (such as mathematical or correlation assumptions) it uses in its credit rating activities and any material modifications to such methodologies, models and key rating assumptions. This disclosure will include sufficient information about the designated rating organization's 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 designated rating organization.

4.8.1 When disclosing the methodologies, models and key rating assumptions referred to in section 4.8, the designated rating organization must include guidance that explains assumptions, parameters, limits and uncertainties surrounding the methodologies and models it uses in its credit rating activities, including simulations of stress scenarios undertaken by the designated rating organization when determining credit ratings, information on cash-flow analysis it has performed or is relying upon and, where applicable, an indication of any expected change in the credit rating. The designated rating organization must prepare the guidance required by this section using plain language.

4.9 The designated rating organization will differentiate ratings of structured finance products from traditional corporate bond ratings through a different rating symbology. The designated rating organization will also disclose how this differentiation functions. The designated rating organization will clearly define a given rating symbol and apply it in a consistent manner for all types of securities to which that symbol is assigned.

4.10 The designated rating organization will 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 in relation to a particular type of financial product that the designated rating organization rates. The designated rating organization ~~will clearly~~must indicate the attributes and limitations of each credit rating and the risks of relying on the credit rating to make investment or other financial decisions. When issuing a credit rating or a rating outlook, the designated rating organization must disclose that the credit rating or rating outlook is the designated rating organization's assessment and should only be relied on to a limited degree. A designated rating organization must prepare the disclosure required by this section using plain language. A designated rating organization must not state or imply that a regulator or securities regulatory authority endorses its credit ratings or use its designation status to promote the quality of its credit ratings.

4.10.1 When issuing a credit rating or rating outlook, the designated rating organization must clearly indicate the extent to which the designated rating organization verifies information provided to it by the rated entity. If the credit rating involves a type of entity or obligation for which there is limited historical data, the designated rating organization must disclose this fact and how it may limit the credit rating.

4.10.2 For any credit rating or rating outlook, a designated rating organization must be transparent with the rated entity and investors about how the rated entity or its securities are rated.

4.11 When issuing or revising a credit rating or a rating outlook, the designated rating organization ~~will~~must provide in its press releases and public reports an explanation of the key elements underlying the rating opinion or rating outlook, including financial statement adjustments that deviate materially from those contained in the issuer's published financial statements.

4.12 Before issuing or revising a credit rating or a rating outlook, the designated rating organization ~~will~~must inform the issuer of the critical information and principal considerations upon which a credit rating or rating outlook will be based and afford the issuer ~~an~~ a reasonable opportunity to clarify any likely factual misperceptions or other matters that the designated rating organization would ~~wish~~want to be made aware of in order to produce an accurate credit rating or rating outlook. The designated rating organization ~~will~~must inform the issuer during the business hours of the issuer. The designated rating organization must duly evaluate the response.

4.13 Every year, the designated rating organization ~~will~~must publicly disclose data about the historical transition and default rates of its rating categories with respect to the classes of issuers and securities it rates and whether the transition and default rates of these categories have changed over time. If the nature of the rating or other circumstances make a historical transition or default rate inappropriate, statistically invalid, or otherwise likely to mislead the users of the rating, the designated rating organization ~~will~~must explain this. This information ~~will~~must include verifiable, quantifiable historical information about the performance of its rating opinions, organized ~~and structured~~over a period of time, and, where possible, standardized in such a way so as to assist investors in drawing performance comparisons between different designated rating organizations.

4.13.1 When disclosing a credit rating or rating outlook, the designated rating organization must include a reference to where the data referred to in section 4.13 can be accessed on its website and a brief explanation of the meaning of that data.

4.13.2 When disclosing a rating outlook, the designated rating organization must indicate the time period during which a change in the credit rating may occur.

4.14 For each credit rating, the designated rating organization ~~will~~must disclose whether the rated entity and its related entities participated in the rating process and whether the designated rating organization had access to the accounts, management and other relevant internal documents of the rated entity or its related entities. Each credit rating without that access must be identified as such using a clearly distinguishable colour code for the rating category. Each credit rating not initiated at the request of the rated entity ~~will~~must be identified as such. The designated rating organization ~~will~~must also publicly disclose its policies and procedures regarding unsolicited ratings.

4.15 The designated rating organization ~~will fully and~~must publicly disclose, in a timely fashion, any material modification to its methodologies, models, key ratings assumptions and significant systems, resources or procedures. Where a reasonable person would consider it feasible and appropriate, disclosure of such material modifications ~~will~~must be made before they go into effect. Any disclosure of such material modifications must be made in a non-selective manner. The designated rating organization ~~will~~must carefully consider the various uses of credit ratings before modifying its methodologies, models, key ratings assumptions and significant systems, resources or procedures.

4.15.1 If the designated rating organization intends to make a significant change to an existing rating methodology, model or key rating assumption or use a new rating methodology that could have an impact on a credit rating, the designated rating organization must do both of the following:

- (a) publish the proposed significant change or proposed new rating methodology on its website together with a detailed explanation of the reasons for, and the implications of, the proposed significant change or proposed new rating methodology;
- (b) invite interested persons to submit written comments with respect to the proposed significant change or proposed new rating methodology within a period of at least 30 days after the publication.

4.15.2 If following the publication referred to in section 4.15.1, the designated rating organization makes a significant change to an existing rating methodology, model or key rating assumption or issues a new rating methodology that could have an impact on a credit rating, the designated rating organization must promptly publish on its website all of the following:

- (a) the revised or new rating methodology, model or key rating assumption,
- (b) a detailed explanation of the revised or new methodology, model or key rating assumption, its date of application and the results of the consultation referred to in section 4.15.1;
- (c) copies of the written comments referred to in paragraph 4.15.1(b), except in the case where confidentiality is requested by the person who submitted the comment.

4.15.3 A designated rating organization's disclosures, including those specified in the organization's code of conduct, must be complete, fair, accurate, timely, and understandable to reasonable investors and other expected users of credit ratings.

4.15.4 A designated rating organization must publicly and prominently disclose, free of charge, all of the following information on its primary website:

- (a) the designated rating organization's code of conduct;
- (b) a description of the designated rating organization's credit rating methodologies;
- (c) information about the designated rating organization's historic performance data;

(d) any other disclosures specified in the provisions of the designated rating organization's code of conduct and securities legislation.

B. The treatment of confidential information

4.16 The designated rating organization and its DRO employees ~~will~~must take all reasonable measures to protect both of the following:

(a) non-public information about a credit rating action, including information about a credit rating action before the credit rating or rating outlook is publicly disclosed or disseminated to subscribers;

(b) the confidential nature of information shared with them by rated entities 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~~a written agreement or required by applicable laws, regulations or court orders, the designated rating organization and its DRO employees ~~will~~must not disclose confidential information, including information about a credit rating action before the credit rating or rating outlook is publicly disclosed or disseminated to subscribers.

4.16.1 A designated rating organization must consider applicable securities legislation governing insider trading or tipping when dealing with non-public information that it receives from an issuer. A designated rating organization must maintain a list of all persons who have access to non-public information about a credit rating action, including information about a credit rating action before the credit rating or rating outlook is publicly disclosed or disseminated to subscribers. For any credit rating action, the list must include applicable DRO employees and any person identified by the rated entity for purposes of the list.

4.17 The designated rating organization and its DRO employees will not use confidential information for any purpose except for their rating activities or in accordance with applicable legislation or a confidentiality agreement with the rated entity to which the information relates.

4.18 The designated rating organization and its DRO employees ~~will~~must take all reasonable measures to protect all property and records relating to credit rating activities and belonging to or in possession of the designated rating organization from fraud, theft ~~or~~, misuse or inadvertent disclosure.

4.19 A The designated rating organization ~~will~~must ensure that the organization and its DRO employees do not engage in transactions in securities, derivatives or exchange contracts when they possess confidential information concerning the issuer of such security or to which the derivative or the exchange contract relates, including information about a credit rating action before the credit rating or rating outlook is publicly disclosed or disseminated to subscribers.

4.20 A designated rating organization will cause its DRO employees to familiarize themselves with the internal securities trading policies maintained by the designated rating organization and certify their compliance with such policies within reasonable regular time periods.

4.21 The designated rating organization and its DRO employees ~~will~~must not selectively disclose any non-public information about credit ratings, rating outlooks or possible future rating actions of the designated rating organization, except to the issuer or its designated agents.

4.22 The designated rating organization and its DRO employees will not share confidential information entrusted to the designated rating organization with employees of any affiliate that is not a designated rating organization or a DRO affiliate. The designated rating organization and its DRO employees will not share confidential information within the designated rating organization, except as necessary in connection with the designated rating organization's credit rating functions.

4.23 A designated rating organization will ensure that its DRO employees do not use or share confidential information for the purpose of buying or selling or engaging in any transaction in any security, derivative or exchange contract based on a security issued, guaranteed, or otherwise supported by any person or company, or for any other purpose except the conduct of the designated rating organization's business.

4.24 A designated rating organization must adopt, implement and enforce policies, procedures and controls to ensure all of the following:

(a) compliance with applicable laws governing the treatment and use of confidential or material non-public information;

(b) DRO employees take all reasonable steps to protect confidential or material non-public information from fraud, theft, misuse, or inadvertent disclosure;

(c) compliance with sections 4.16, 4.16.1, 4.19, 4.21 and 4.23;

(d) compliance with the designated rating organization's internal record maintenance, retention and disposition policies, procedures and controls and with laws governing the maintenance, retention and disposition of the designated rating organization's records.

C. The treatment of complaints

4.25 A designated rating organization must establish and maintain a committee charged with receiving, retaining, and handling complaints from market participants and the public. The designated rating organization must adopt implement and enforce policies, procedures and controls for receiving, retaining, and handling complaints, including those that are provided on a confidential basis. The policies and procedures must specify the circumstances under which a complaint must be reported to one or both of the following:

(a) senior management of the designated rating organization;

(b) the board of directors of the designated rating organization or of a DRO affiliate that is a parent of the designated rating organization.

Form 25-101F1
Designated Rating Organization Application and Annual Filing

Instructions

- (1) *Terms used in this form but not defined in this form have the meaning given to them in the Instrument.*
- (2) *Unless otherwise specified, the information in this form must be presented as at the last day of the applicant's most recently completed financial year. If necessary, the applicant must update the information provided so it is not misleading when it is filed. For information presented as at any date other than the last day of the applicant's most recently completed financial year, specify the relevant date in the form.*
- (3) *Applicants are reminded that it is an offence under securities legislation to give false or misleading information on this form.*
- (4) *Applicants may apply to the securities regulatory authority or regulator to hold in confidence portions of this form which disclose intimate sensitive financial, personal or other information. ~~Securities~~The securities regulatory ~~authorities~~authority or regulator will consider the application and may determine to accord confidential treatment to those portions to the extent permitted by law.*
- (5) *When this form is used for an annual filing, the term "applicant" means the designated rating organization.*

Item 1. Name of Applicant

State the name of the applicant.

Item 2. Organization and Structure of Applicant

Describe the organizational structure of the applicant, including, as applicable, an organizational chart that identifies the ultimate and intermediate parent companies, subsidiaries, and material affiliates of the applicant (if any); an organizational chart showing the divisions, departments, and business units of the applicant; and an organizational chart showing the managerial structure of the applicant, including the compliance officer referred to in section 12 of the Instrument. Provide detailed information regarding the applicant's legal structure and ownership.

Item 3. DRO Affiliates

Provide the name, address and governing jurisdiction of each affiliate that is (or, in the case of an applicant, proposes to be) a DRO affiliate.

Item 4. Rating Distribution Model

Briefly describe how the applicant makes its credit ratings readily accessible for free or for a fee. If a person must pay a fee to obtain a credit rating made readily accessible by the applicant, provide a fee schedule or describe the price(s) charged.

Item 5. Procedures and Methodologies

Briefly describe the procedures and methodologies used by the applicant to determine credit ratings, including unsolicited credit ratings. The description must be sufficiently detailed to provide an understanding of the processes employed by the applicant in determining credit ratings, including, as applicable:

- policies for determining whether to initiate a credit rating;
- the public and non-public sources of information used in determining credit ratings, including information and analysis provided by third-party vendors;
- whether and, if so, how information about verification performed on assets underlying or referenced by a security issued by an asset pool or as part of any asset-backed or mortgage-backed securities transaction is relied on in determining credit ratings;
- the quantitative and qualitative models and metrics used to determine credit ratings, including whether and, if so, how assessments of the quality of originators of assets underlying or referenced by a security issued by an asset pool or as part of any asset-backed or mortgage-backed securities transaction factor into the determination of credit ratings;

- the methodologies by which credit ratings of other credit rating ~~agencies~~[organizations](#) are treated to determine credit ratings for securities issued by an asset pool or as part of any asset-backed or mortgaged-backed securities transaction;
- the procedures for interacting with the management of a rated obligor or issuer of rated securities;
- the structure and voting process of committees that review or approve credit ratings;
- procedures for informing rated obligors or issuers of rated securities about credit rating decisions and for appeals of final or pending credit rating decisions; and
- procedures for monitoring, reviewing, and updating credit ratings, including how frequently credit ratings are reviewed, whether different models or criteria are used for ratings surveillance than for determining initial ratings, whether changes made to models and criteria for determining initial ratings are applied retroactively to existing ratings, and whether changes made to models and criteria for performing ratings surveillance are incorporated into the models and criteria for determining initial ratings; and procedures to withdraw, or suspend the maintenance of, a credit rating.

An applicant may provide the location on its website where additional information about the procedures and methodologies is located.

Item 6. Code of Conduct

Unless previously provided, attach a copy of the applicant's code of conduct.

Item 7. Policies and Procedures re Non-public Information

Unless previously provided, attach a copy of the most recent written policies and procedures established, maintained, and enforced by the applicant to prevent the misuse of material non-public information.

Item 8. Policies and Procedures re Conflicts of Interest

Unless previously provided, attach a copy of the most recent written policies and procedures established with respect to conflicts of interest.

Item 9. Policies and Procedures re Internal Controls

Describe the applicant's internal control mechanisms designed to ensure the quality of its credit rating activities.

Item 10. Policies and Procedures re Books and Records

Describe the applicant's policies and procedures regarding record-keeping.

Item 11. Ratings Employees

Disclose the following information about the applicant's ratings employees and the persons who supervise the ratings employees:

- The total number of ratings employees,
- [The number of ratings employees allocated to credit rating activities for different asset classes.](#)
- The total number of ratings employees supervisors,
- [The number of ratings employees supervisors allocated to credit rating activities for different asset classes.](#)
- A general description of the minimum qualifications required of the ratings employees, including education level and work experience (if applicable, distinguish between junior, mid, and senior level ratings employees), and
- A general description of the minimum qualifications required of the ratings employees supervisors, including education level and work experience.

Item 12. Compliance Officer

Disclose the following information about the compliance officer of the applicant:

- Name,
- Employment history,
- Post secondary education, and
- Whether employed by the applicant full-time or part-time.

Item 13. Specified Revenue

Disclose information, as applicable, regarding the applicant's aggregate revenue for the most recently completed financial year:

- Revenue from determining and maintaining credit ratings,
- Revenue from subscribers,
- Revenue from granting licenses or rights to publish credit ratings, and
- Revenue from all other services and products offered by the credit rating organization (include descriptions of any major sources of revenue).

Include financial information ~~on about~~ the revenue of the applicant ~~divided~~separated into fees from credit rating services and non-credit rating ~~activities~~services, including a comprehensive description of each. In providing this information, disclose the following:

- Revenue from non-credit rating services provided to persons that also obtained credit rating services.
- Revenue from credit rating services for different asset classes, and
- Revenue from credit rating services and non-credit rating services provided to persons located in Canada.

This information is not required to be audited.

Item 14. Credit Rating Users

(a) Disclose a list of the largest users of credit rating services of the applicant by the amount of net revenue earned by the applicant attributable to the user during the most recently completed financial year. First, determine and list the 20 largest issuers and subscribers in terms of net revenue. Next, add to the list any obligor or underwriter that, in terms of net revenue during the financial year, equalled or exceeded the 20th largest issuer or subscriber. In making the list, rank the users in terms of net revenue from largest to smallest and include the net revenue amount for each person. For purposes of this Item:

- **“credit rating services”** means any of the following: rating an issuer's securities (regardless of whether the issuer, underwriter, or any other person or company paid for the credit rating) and providing credit ratings, credit ratings data, or credit ratings analysis to a subscriber; and
- **“net revenue”** means revenue earned by the applicant for any type of service or product provided to the person or company, regardless of whether related to credit rating services, and net of any rebates and allowances the applicant paid or owes to the person or company.

(b) Disclose a list of users of credit rating services whose contribution to the growth rate in the generation of revenue of the applicant in the previous fiscal year exceeded the growth rate in the applicant's total revenue in that year by a factor of more than 1.5 times. A user must be disclosed only if, in that year, the user accounted for more than 0.25% of the applicant's worldwide total revenue.

Item 14A. Pricing Policy

Disclose the applicant's pricing policy for credit rating services and any ancillary services, including the fee structure and pricing criteria in relation to credit ratings for different asset classes.

Item 15. Financial Statements

Attach a copy of the audited financial statements of the applicant, which must include a statement of financial position, a statement of comprehensive income, and a statement of changes in equity, for each of the three most recently completed financial years. If the applicant is a division, unit, or subsidiary of a parent company, the applicant may provide audited consolidated financial statements of its parent company.

Item 16. Verification Certificate

Include a certificate of the applicant in the following form:

The undersigned has executed this Form 25-101F1 on behalf of, and on the authority of, [the Applicant]. The undersigned, on behalf of the [Applicant], represents that the information and statements contained in this Form, including appendices and attachments, all of which are part of this Form, are true and correct.

(Date)

(Name of the Applicant/Designated Rating Organization)

By: _____
(Print Name and Title)

(Signature)

Form 25-101F2

Submission to Jurisdiction and Appointment of Agent for Service of Process

1. Name of credit rating organization (the **CRO**):
2. Jurisdiction of incorporation, or equivalent, of CRO:
3. Address of principal place of business of CRO:
4. Name of agent for service of process (the **Agent**):
5. Address for service of process of Agent in Canada (the address may be anywhere in Canada):
6. The CRO designates and appoints the Agent at the address of the Agent stated in Item 5 as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the **Proceeding**) arising out of, relating to or concerning the issuance and maintenance of credit ratings or the obligations of the CRO as a designated rating organization, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.
7. The CRO irrevocably and unconditionally submits to the non-exclusive jurisdiction of
 - (a) the judicial, quasi-judicial and administrative tribunals of each of the provinces and territories of Canada in which it is a designated rating organization; and
 - (b) any administrative proceeding in any such province or territory,in any Proceeding arising out of or related to or concerning the issuance or maintenance of credit ratings or the obligations of the CRO as a designated rating organization.
8. This submission to jurisdiction and appointment of agent for service of process is governed by and construed in accordance with the laws of [insert province or territory of above address of Agent].

Signature of Credit Rating Organization

Date

Print name and title of signing officer
of Credit Rating Organization

AGENT

The undersigned accepts the appointment as agent for service of process of [insert name of CRO] under the terms and conditions of the appointment of agent for service of process set out in this document.

Signature of Agent

Date

Print name of person signing and, if Agent
is not an individual, the title of the person

ANNEX P

ONTARIO LOCAL MATTERS

Alternatives Considered

No alternatives to the Proposed Amendments or the Proposed Changes were considered.

Unpublished Materials

In proposing the Proposed Amendments and the Proposed Changes, we have not relied on any significant unpublished study, report or other written materials.

Authority for Proposed Amendments

In Ontario, the rule making authority for the Proposed Amendments is as follows.

NI 25-101

Paragraph 63 of subsection 143(1) of the *Securities Act* (Ontario) (the **OSA**).

NI 31-103 and NI 33-109

Paragraphs 1, 7 and 39 of subsection 143(1) of the OSA.

NI 41-101, NI 44-101 and NI 44-102

Paragraphs 16 and 39 of subsection 143(1) of the OSA.

NI 45-106

Paragraph 20 of subsection 143(1) of the OSA.

NI 51-102

Paragraph 22 of subsection 143(1) of the OSA.

NI 81-102 and NI 81-106

Paragraph 31 of subsection 143(1) of the OSA.