



THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS

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CESR's Report to the European Commission on the compliance of credit rating agencies with the IOSCO Code

December 2006

EXECUTIVE SUMMARY

Background

1. On 30 March 2005, at the request of the European Commission, CESR delivered its advice (CESR/05-139b) regarding the potential options to regulate Credit Rating Agencies (CRAs). In its advice, CESR proposed not to regulate the Credit Rating Agencies industry at an EU level for the time being, and instead proposed that a pragmatic approach should be adopted to keep under review how CRAs would implement the standards set out in the IOSCO Code of Conduct.
2. CESR therefore developed this strategy on the basis of voluntary participation from CRAs and in December 2005 published a press release outlining the process to review implementation of the IOSCO Code.
3. This framework, agreed with the main CRAs operating in the European Union, included three elements: (i) an annual letter from each CRA to be sent to CESR, and made public, outlining how it had complied with the IOSCO Code and indicating any deviations from the Code; (ii) an annual meeting between CESR and the CRAs to discuss any issues related to implementation of the IOSCO Code; and (iii) CRAs would provide an explanation to the national CESR member where any substantial incident occur with a particular issuer in its market.
4. Four rating agencies sent letters to CESR adhering to such voluntary framework (Moody's, Standard and Poors', Fitch Ratings and Dominion Bond Rating Service Limited). These letters are posted on CESR's website.
5. In January 2006 the European Commission published a Communication setting out its approach to credit rating agencies. In line with the advice provided by CESR, the Commission concluded that at that moment no new legislative proposals were needed. The European Commission considered that the existing financial services directives, combined with self-regulation by the CRAs on the basis of the IOSCO Code, would provide an answer to all the major issues of concern in relation to CRAs. However, the communication concluded that there was a need for the Commission to monitor the global development of the rating business and for CESR to monitor compliance with the IOSCO Code and to report back to the Commission on an annual basis.
6. On 17 May 2006, CESR received a letter from the European Commission formally requesting CESR to report on credit rating agencies' compliance with the IOSCO Code by the end of 2006. In its formal letter the Commission requested CESR not only to carry out the theoretical work of comparing codes, but also to assess the level of day to day application of the IOSCO Code in practice.
7. CESR set up a task force responsible for following the steps outlined in CESR's voluntary framework and for developing the report to the Commission. The task force, which is the same as the one that prepared the advice to the Commission, is chaired by Ms Ingrid Bonde, Director General of the Swedish Finansinspektionen and supported by Raquel García Alcubilla from the CESR secretariat. In addition, representatives from the Commission and from the Committee of European Banking Supervisors (CEBS) take part in the task force as observers.

8. In June 2006, following the steps outlined in the voluntary framework, CESR published on its website the annual letters of disclosure from the CRAs on their compliance with the IOSCO Code.
9. On 19 June 2006 the task force held a meeting in Stockholm with CRAs representatives to discuss further how the codes are being applied in practice. Separate meetings were held with each CRA and the members of the CESR task force had the opportunity to ask a number of questions to the CRAs representatives. Prior to the meeting, CESR wrote a letter to each CRA (12 June) setting out the questions that were to be raised on 19 June and asking for a written response.
10. In particular, CESR asked the CRAs to provide information on the practical measures they had put in place in relation to the following issues:
 - Separation of the rating business activities and handling of conflicts of interest;
 - Treatment of confidential information within the various departments of their organisation. In particular, CESR wanted to know how CRAs apply in practice the third subparagraph of Article 6.3 of the Directive 2003/6/EC in relation to insiders lists;
 - Disclosure of income structures;
 - Position of compliance officer.
11. In addition, in June 2006 CESR published on its website an open survey addressed to all market participants with the purpose of gathering their experience on the day-to-day application of the CRAs codes in practice. The deadline for comments was initially set for 15 August and extended afterwards to 15 September, to provide additional time for market participants to submit their comments. CESR received around 17 responses to the questionnaire and those that are public can be viewed on CESR's website (www.cesr.eu).

Areas covered

12. This paper includes in section II an analysis of the CRAs codes in relation to the IOSCO Code. It has been prepared following the structure of the IOSCO Code and compares, in a columnar format, the provisions of the IOSCO Code with the corresponding ones in the four CRAs codes. In addition, for those measures where the CRAs have chosen to explain rather than comply with, the CRAs' explanations have been included. For some other provisions CESR has also provided some indications of how the measures are being applied in practice. CESR sent each CRA a letter on 12 June 2006 asking for these explanations. In addition, the CRAs were able to convey further information to the CESR task force in the meetings that were held with them on 19 June 2006. Finally, another input for the CESR task force has been the report on implementation of the code that each CRA has published during 2006.
13. Section III of this report deals with practical aspects in relation with the day to day application of the CRAs codes. CESR obtained input from interested parties through the publication on its website of an open questionnaire. A summary of the responses received is included in this section. Another source of information in this section has been the responses from the CRAs to the questions relating to insider lists that were included in the abovementioned 12 June CESR letter.
14. Finally, the last section of the paper provides CESR's conclusions on the monitoring of the compliance of CRAs with the IOSCO Code.

Conclusive remarks

15. In this report CESR concludes that CRAs codes comply to a large extent with the IOSCO Code. There are however some areas or provisions where the CRAs codes do not comply. Some of these are of minor importance, because the CRAs reach the outcome that the IOSCO Code aims at, without formally having provisions in their codes that mirror the IOSCO Code (these minor deviations can be found in the analysis provided in section II).
16. There are however some areas, highlighted in the last section of the report and mostly coincident with those pointed out by market participants, where the deviations are of greater importance. Some of them are common to all four CRAs, and some of them are specific to individual CRAs.
17. CESR thinks that there is room for improvement in these areas. CESR will in its review for 2007 look particularly into these issues, to see whether there have been improvements. Moreover, CESR will also assess in its next report the impact of the new US legislation and the SEC implementing rules on the rating business in the European Union.

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I. INTRODUCTION

Objectives of CESR's report

18. This paper has been prepared to give effect to the formal request from the European Commission to CESR to prepare a report on CRAs compliance with the IOSCO Code. This request fits well into CESR's intention, expressed in the voluntary framework, to assess CRAs compliance with the IOSCO Code by reviewing the codes of conduct published by the CRAs and analysing the letters submitted by them to CESR, outlining how they have complied with the IOSCO Code (and indicating any deviations from it).
19. In addition, following the Commission's request, the report also covers the level of day-to-day application of the IOSCO Code in practice. In absence of relevant reporting duties on the CRAs and due to the lack of necessary supervisory powers, the information on this aspect has been gathered from market participants through the survey, along with that supplied by the CRAs on the practical measures put in place to comply with the IOSCO Code.

Summary of main actions undertaken in relation to CRAs and relevant documents

20. In CESR's advice to the European Commission on CRAs (CESR/05-139b) in March 2005 a summary of the main strands that have been undertaken internationally on credit rating agencies was included in the introductory section. A brief summary of the main actions undertaken since the date of that report is provided below, including a brief update of the initiatives undertaken in several Member States in relation to the monitoring or regulation of CRAs.

1. European Commission

1.1 Communication from the Commission on Credit Rating Agencies

In January 2006, following CESR's advice, the European Commission published its communication with the purpose to report back to the Council and European Parliament on the Commission's regulatory approach towards CRAs (Annex A). The Commission explains how existing EU financial services directives apply to CRAs and how - combined with self-regulation by the CRAs on the basis of the IOSCO Code - this will provide an answer to all the major issues of concern raised in relation to CRAs. The Commission will monitor developments in this area very carefully and ask CESR to report back regularly to the Commission on CRAs compliance with the IOSCO Code. The Commission stipulates in its Communication that it may consider introducing new proposals if it becomes clear that compliance with EU rules or the IOSCO Code is unsatisfactory or if new circumstances arise - including serious problems of market failure or fresh developments in other parts of the world.

1.2 Letter from the Commission to CESR on Credit Rating Agencies and CESR's response

On 17 May 2006, the European Commission sent a letter to CESR formally requesting CESR to report on credit rating agencies' compliance with the IOSCO Code by the end of 2006. The Commission's letter and CESR's response are included as Annex B.

2. International Organization of Securities Commissions (IOSCO)

2.1 IOSCO's review of the implementation by Credit Rating Agencies of the IOSCO Code

IOSCO is currently reviewing the implementation by the CRAs of the IOSCO Code. It has set up a task force that is examining the codes of conduct released by CRAs of all sizes and task force jurisdictions in response to the IOSCO Code, to determine whether any trends exist with regard to non-compliance or consistent variations in interpretation by CRAs of what constitutes compliance.

If the task force finds out that such trends exist, this information may prove valuable for determining whether any aspects of the IOSCO Code should be modified to better reflect market realities, or better explained to help ensure more consistent compliance. IOSCO expects to publish its report by January 2007.

While preparing its report CESR has kept an ongoing dialogue with IOSCO about the interpretation of the provisions of the IOSCO Code and about the codes of the 4 CRAs object of this paper and related published documents.

CESR expects that its main findings are consistent with the IOSCO work. However, IOSCO has not finalised yet its paper so it is not possible to assess with certainty the exact differences between both reports. The contacts so far suggest that it is likely that non substantive differences between the conclusions of the two reports will arise, due to the different methodologies used to produce them.

CESR will continue this cooperation with IOSCO and in particular has set out in section IV some suggestions with the aim of improving several areas of the IOSCO Code.

3. Initiatives in the European Union in relation the CRAs

3.1 AMF 2005 report on credit rating agencies

Pursuant to the Financial Security Act of 1 August 2003, the French securities regulator, Autorité des Marchés Financiers (AMF), is required to publish an annual report "on the role of [...] rating agencies, their ethical rules, the transparency of their methods and the impact of their activities on the issuers and the financial markets". The AMF published its first report in January 2005.

In its second report, published in January 2006, the AMF has focused on the changes that have occurred in the domestic and international environment in which CRAs operate and has published two studies alongside: the first on ratings in the securitisation industry, the second on the impact of rating decisions on the market.

In view of the developments at the international level, in particular the publication of the IOSCO Code of conduct fundamentals for credit rating agencies in December 2004, the AMF has looked at how agencies have put in place the IOSCO principles and the IOSCO Code into practice.

The AMF main conclusions are that the agencies concerned by this review (Fitch, Moody's, Standard & Poor's, A.M.Best) adhere closely to the principles of the IOSCO Code: CRAs deal with all areas covered in the code and have incorporated almost all the recommended measures in their national procedures. However, there are a few significant differences between the agencies' codes and the IOSCO Code. Some of the IOSCO measures are either excluded or handled in a manner that does not always reflect the spirit of the IOSCO Code, according to the AMF. The AMF has also discovered that some areas deserve further discussion, such as unsolicited ratings, separation of business activities and treatment of confidential information.

The AMF report is available at the AMF's website:

http://www.amf-france.org/styles/default/documents/general/6539_1.pdf

http://www.amf-france.org/styles/default/documents/general/6537_1.pdf

http://www.amf-france.org/styles/default/documents/general/6538_1.pdf

3.2 Germany

Although BaFin has not set a national register of CRAs, it has been very active in the monitoring of the development of CRAs and more specifically in the monitoring of the implementation and use of the IOSCO Code by the CRAs operating in the German market. Besides the international CRAs (Fitch, Moody's, Standard & Poor's and DBRS) BaFin has up to now identified 12 national, mainly small, CRAs operating only in the German market. 10 out of the identified group did not adopt or publish their own code of conduct containing the measures of the IOSCO Code. One CRA is working on its own code of conduct and just one CRA adopted and published an individual code of conduct.

In addition, BaFin has received complaints from market participants in relation to noteworthy issues that have occurred in the German market. Some of these complaints have been highlighted in the responses provided by German market participants to the survey published by CESR and can be seen on CESR's website.

3.3 Italy: Consob Communication 28 March 2006

In Italy currently only three international CRAs (Fitch, Moody's and Standard & Poor's) issue, on a regular basis, ratings on Italian securities and issuers. Moreover, some Italian CRAs have been recently established but have not yet carried out any formal rating activity. This is because they are either still organizing their operational structure or they have thus far only produced documents and analyses which can not be considered to be ratings but rather macroeconomic analyses (referred to specific sectors) or general analyses of the economic and financial characteristics of some firms, without however expressing a credit score.

The transposition of the Market Abuse Directive in the Italian framework and the adoption of the IOSCO's Code of Conduct by the CRAs operating in Italy have emphasized some critical issues in relation to the activities of the CRAs, as also highlighted by market participants. Specifically, these issues concern: the treatment of confidential information by the CRAs, with particular regard to the flow of information between CRAs and issuers before a rating is issued; the creation and maintenance by CRAs of "insiders' lists" of persons who can have access to confidential information.

Consob dealt with these two aspects in its **Communication, dated 28th of March 2006**, on "The information to the public on relevant events and circumstances and on accomplishments to prevent market abuses":

- About the relationships between CRAs and issuers, the Consob Communication referring to measure 3.7 of the IOSCO Code states that a CRA should advise the issuer, prior to issuing or revising a rating, of the critical information and principal considerations upon which the rating opinion will be based. This will allow the issuer to conduct an appropriate evaluation (which is its own responsibility) of the possible confidential information which have to be immediately disclosed to the public. Moreover, this information and these considerations should be specific and detailed in relation to facts underlying the rating opinion.

- About the creation and maintenance of a register of persons who can have access to insider information, though Consob Communication does not expressly include CRAs in the (non exhaustive) list of subjects which have to hold this register, it highlights that CRAs should adopt adequate procedures to ensure a proper management and circulation of confidential information, in line with the register requirements.

4. United States

4.1 US Credit Rating Agency Reform Act of 2006 (S.3850)

On September 29 2006, President Bush signed S.3850 the “Credit Rating Agency Reform Act of 2006”, into law. This law aims to improve the quality of credit ratings to protect investors by fostering accountability, transparency, and competition in the industry.

The key provisions of the Credit Rating Agency Reform Act (see Annex C) are:

- **Definition of Nationally Recognized Statistical Rating Organization (NRSRO):** A NRSRO means a CRA that:
 - (A) has been in business as a CRA for at least the past 3 consecutive years immediately preceding the date of its application for registration;
 - (B) issues credit ratings certified by qualified institutional buyers with respect to financial institutions, brokers, dealers, insurance companies, corporate issuers, issuers of asset-backed securities, issuers of government securities (including municipal or foreign government securities) or a combination of the above; and
 - (C) is registered.
- **Registration process:** the Act establishes a new registration process for CRAs that seek NRSRO status. A CRA will be able to register as an NRSRO if it meets certain criteria. The Act permits CRAs that are currently identified as NRSROs to register with the SEC following the new process, and includes a transition provision that allows them to continue to be treated as NRSROs pending the SEC’s review of their applications for registration.
- **Application form:** a CRA seeking NRSRO status must submit an application to the SEC containing the following information:
 1. Its credit ratings performance measurement statistics over short-term, mid-term, and long-term periods (as applicable);
 2. The procedures and methodologies that the applicant uses in determining credit ratings;
 3. The policies or procedures adopted and implemented to prevent the misuse, in violation of this title (or the rules and regulations hereunder), of material, non-public information;
 4. Description of its organizational structure;
 5. Whether or not the applicant has in effect a code of ethics, and if not, the reasons therefore;
 6. Description of any conflict of interest the CRA faces relating to the issuance of credit ratings;
 7. The categories of obligors with respect to which the applicant intends to apply for registration;
 8. On a confidential basis, a list of the 20 largest issuers and subscribers that use the credit rating services of the CRA, by amount of net revenues;

9. On a confidential basis, written certifications from at least 10 qualified institutional buyers (including at least 2 for each applicable category of obligor) attesting that they have used the credit ratings of the CRAs for the 3 preceding years; and
10. Any other information and documents concerning the applicant as the SEC, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

- **SEC authority:**

- The SEC will have exclusive NRSRO registration and qualification authority.
- The SEC is directed to issue rules regarding NRSROs' conflicts of interest, the misuse of non-public information, and prohibited acts and practices.

- **Oversight of registered NRSROs:** the SEC, through examinations and enforcement actions, will oversee the registered NRSROs,
- **Disclosure requirements for NRSROs:** registered NRSROs will be subject to disclosure requirements that enhance transparency of the industry, including information on conflicts of interest; procedures and methodologies used in determining credit ratings; and performance measurement statistics over short, medium, and long-term periods.
- **Timing:** the operative provisions of the Act become effective on the earlier of the date the Commission adopts final implementing regulations, as required by the Act, or 270 days after the date of enactment. In addition, the SEC has 270 days from the date of enactment to review its existing rules and regulations using the term NRSRO and promulgate new or revised rules and regulations as necessary.

21. In addition to the abovementioned initiatives, and in line with the global approach outlined in CESR's advice, more specifically in relation with the Capital Requirements Directive, CESR considers the following documents and initiatives to be relevant.

5. CEBS's work to promote convergence on the recognition of External Credit Assessment Institutions (ECAIs)

The Capital Requirements Directive provides for the use of external credit assessments in the determination of the risk weights (and consequential capital requirements) applied to a bank or investment firm's exposures. Only the use of assessments provided by eligible ECAIs will be acceptable to the Competent Authorities.

In January 2006 CEBS published its final guidelines for a common approach to the recognition of ECAIs under the Capital Requirements Directive, establishing procedures for recognising both local and cross-border ECAIs and a common understanding of the eligibility criteria laid down in the CRD. These procedures include a 'joint assessment process' which aims at streamlining the recognition of ECAIs seeking application in more than one Member State.

In August 2006 CEBS published a press release announcing that the competent supervisory authorities across Europe, following the guidelines published by CEBS, had reached a shared view on the Fitch Ratings, Standard & Poor's Ratings Services, and Moody's Investors Service eligibility for regulatory capital purposes and on the mapping of their credit assessments. This is of course without prejudice to any applications - current or future - that may be received from other ECAI applicants. They will be considered on their merits in line with the CRD and on the basis of the CEBS guidelines.

II. ANALYSIS OF THE CRAS CODES IN RELATION TO IOSCO CODE

22. In this section CESR is providing in a columnar format a comparison of the codes of the CRAs with the IOSCO Code.
23. Row I of the tables gathers the different provisions of the codes of each CRA in a user-friendly way to allow a quick comparison with the relevant measures of the IOSCO code. This row has been prepared using the cross-reference guide provided by the CRAs matching each section of the CRAs code to the IOSCO code.
24. Row II collects the explanations given by the CRAs as to why for that specific provision they have opted to “explain rather than comply with” and may include indications of how the provision is being applied in practice.
25. To ease the understanding of this section, CESR has used the visual effect of the red and bold letter to draw the attention of the readers to those provisions where the CRAs have not fully included in their codes the IOSCO language and CESR sees room for improvement. In addition, a summary table is provided on the next page.

DBRS	FTCH	MOODY'S	S&P
1.1	1.1	1.1	1.1
1.2	1.2	1.2	1.2
1.3	1.3	1.3	1.3
1.4	1.4	1.4	1.4
1.5	1.5	1.5	1.5
1.6	1.6	1.6	1.6
1.7	1.7	1.7	1.7
1.8	1.8	1.8	1.8
1.9	1.9	1.9	1.9
1.10	1.10	1.10	1.10
1.11	1.11	1.11	1.11
1.12	1.12	1.12	1.12
1.13	1.13	1.13	1.13
1.14	1.14	1.14	1.14
1.15	1.15	1.15	1.15
1.16	1.16	1.16	1.16
2.1	2.1	2.1	2.1
2.2	2.2	2.2	2.2
2.3	2.3	2.3	2.3
2.4	2.4	2.4	2.4
2.5	2.5	2.5	2.5
2.6	2.6	2.6	2.6
2.7	2.7	2.7	2.7
2.8	2.8	2.8	2.8
2.9	2.9	2.9	2.9
2.10	2.10	2.10	2.10
2.11	2.11	2.11	2.11
2.12	2.12	2.12	2.12
2.13	2.13	2.13	2.13
2.14	2.14	2.14	2.14
2.15	2.15	2.15	2.15
2.16	2.16	2.16	2.16
3.1	3.1	3.1	3.1
3.2	3.2	3.2	3.2
3.3	3.3	3.3	3.3
3.4	3.4	3.4	3.4
3.5	3.5	3.5	3.5
3.6	3.6	3.6	3.6
3.7	3.7	3.7	3.7
3.8	3.8	3.8	3.8
3.9	3.9	3.9	3.9
3.10	3.10	3.10	3.10
3.11	3.11	3.11	3.11
3.12	3.12	3.12	3.12
3.13	3.13	3.13	3.13
3.14	3.14	3.14	3.14
3.15	3.15	3.15	3.15
3.16	3.16	3.16	3.16
3.17	3.17	3.17	3.17
3.18	3.18	3.18	3.18
4.1	4.1	4.1	4.1
4.2	4.2	4.2	4.2

1. Quality and integrity of the rating process

1.1	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA should adopt, implement and enforce written procedures to ensure that the opinions it disseminates are based on a thorough analysis of all information known to the CRA that is relevant to its analysis according to the CRA's published rating methodology.	DBRS's ratings are formed and disseminated based on established rating philosophies, methodologies, and processes. DBRS's rating methodologies are published on www.dbrs.com and cover all rated industry sectors including corporate Issuers, financial institutions, public finance entities (collectively referred to as "Corporate"), and structured finance transactions ("Structured Finance"). DBRS's rating processes include having a Rating Committee ensure that all relevant information is factored in the rating analysis and that ratings are comparable across a wide range of different industries and countries.	<p>The rating analysis and rating decision shall be based on a thorough analysis of all information known to Fitch and believed by Fitch to be relevant to such analysis and rating decision, according to Fitch's established criteria and methodologies. Fitch shall have no obligation to verify or audit any information provided to it from any source or to conduct any investigation or review, or to take any other action, to obtain any information that the issuer has not otherwise provided to Fitch.</p> <p>All rating criteria and methodologies shall be available on Fitch's free public website, www.fitchratings.com</p>	Since Credit Ratings are probabilistic opinions about future creditworthiness, the performance of an individual Credit Rating opinion will not be judged on the basis of the individual outcome, but on whether the individual Credit Rating was formed pursuant to Moody's established processes. Where possible, the performance of Credit Ratings collectively will be evaluated on the basis of how they perform on a statistical basis ex post (e.g. default studies, accuracy ratios and stability measures).	Each rating shall be based on a thorough analysis of all information known to Ratings Services and believed by Ratings Services to be relevant to its analysis according to Ratings Services' established criteria and methodology.
II		Please see Section IV for comments on the transparency of the methodology.	Please see Section IV for comments on the transparency of the methodology.	<p>Moody's code refers to 'established processes' and not to 'published rating methodology' as in the IOSCO code.</p> <p>However, the rating methodologies are publicly available on its website. Please see Section IV for comments on the transparency of the methodology.</p>	<p>S&P's code refers to 'established criteria and methodology' and not to 'published rating methodology' as in the IOSCO code.</p> <p>However, the rating methodologies are publicly available on its website. Please see Section IV for comments on the transparency of the methodology.</p>



1.2	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA should use rating methodologies that are rigorous, systematic, and, where possible, result in ratings that can be subjected to some form of objective validation based on historical experience.	DBRS maintains rigorous and systematic rating methodologies and procedures which are monitored by DBRS's Policy Committee to ensure they are current and comprehensive. In April 2005, DBRS published a Corporate Default Study on the historical default performance of DBRS-rated corporate bond Issuers from 1977 to 2004. This study indicates that DBRS ratings are strongly correlated to historical default experience.	<p>The rating analysis and rating decision shall be based on a thorough analysis of all information known to Fitch and believed by Fitch to be relevant to such analysis and rating decision, according to Fitch's established criteria and methodologies ok</p> <p>Fitch shall base its rating analyses and rating decisions, which are Fitch's opinions, upon Fitch's established criteria, methodologies and ratings definitions, applied in a consistent manner. ok</p> <p>Fitch's criteria, methodologies and ratings definitions shall identify the specific factors that it considers during the rating and surveillance processes. Fitch shall review, and update to the extent it deems appropriate, its criteria and methodologies on a regular basis.</p> <p>Fitch shall conduct periodic studies on the performance of Fitch-rated securities and issuers, including current and historical default rates by rating categories and rating transition analyses.</p>	Moody's will develop and maintain rigorous and systematic rating methodologies. Where possible, resulting Credit Ratings will be periodically subject to objective validation based on historical experience. The Credit Policy Committee will be responsible for monitoring the appropriateness and completeness of rating methodologies and procedures, and for approving any significant changes to Moody's rating methodologies and procedures.	Ratings Services shall use rating criteria and methodologies that take into consideration Ratings Services' goal of maintaining rigorous analysis and systematic processes, and, where possible, result in ratings that can be subjected to some form of objective validation based on historical experience.
II					

1.3	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	In assessing an issuer's creditworthiness, analysts involved in the preparation or review of any rating action should use methodologies established by the CRA. Analysts should apply a given methodology in a consistent manner, as determined by the CRA.	In assessing an Issuer's creditworthiness, Analysts are required to use DBRS's established rating methodologies. Analysts must apply these rating methodologies consistently and DBRS's Rating Committee monitors their consistent application within and across industries.	The rating analysis and any rating action shall be based upon Fitch's established criteria and methodologies, applied consistently, and shall be influenced only by factors relevant to such rating analysis and rating action. All analysts and rating committees shall follow Fitch's established policies and procedures. Fitch shall oversee, as appropriate, the application of its established criteria, methodologies, policies and procedures.	In assessing an Issuer's creditworthiness, Analysts involved in the preparation or review of any Credit Rating action will use Moody's methodologies. Analysts will apply a given methodology in a consistent manner, as determined by Moody's.	In assessing the creditworthiness of an issuer or issue, Analysts involved in the preparation or review of any Rating Action shall use criteria and methodologies established by the Ratings Services. Analysts shall consistently apply the then existing rating criteria and methodologies in the analytical process for any Rating Action, in each case, as determined by Ratings Services.
II					



1.4	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	Credit ratings should be assigned by the CRA and not by any individual analyst employed by the CRA; ratings should reflect all information known and believed to be relevant, to the CRA, consistent with its published methodology; and the CRA should use people who, individually or collectively, have appropriate knowledge and experience in developing a rating opinion for the type of credit being applied.	DBRS ratings are determined by a Rating Committee for both Corporate and Structured Finance. In each case, the Rating Committee includes experienced DBRS staff. DBRS's Rating Committee process ensures that each rating reflects all known relevant information and that, as appropriate, a global perspective is brought to the analysis. DBRS employs highly skilled Analysts who have the appropriate knowledge and experience in their area of expertise to recommend rating opinions to Rating Committee.	<p>The rating analysis and rating decision shall be based on a thorough analysis of all information known to Fitch and believed by Fitch to be relevant to such analysis and rating decision, according to Fitch's established criteria and methodologies.</p> <p>All rating actions shall be determined exclusively by rating committees convened to determine such rating actions. Committees must be composed of a quorum of voting members, with the minimum number of voting members dependent on the type of recommended rating action, in accordance with Fitch's established policies and procedures. Each rating committee shall be composed of people who, individually or collectively, have appropriate knowledge and experience in developing a rating opinion for the type of rating being considered.</p>	Credit Ratings will be determined by rating committees and not by any individual Analyst. Credit Ratings will reflect consideration of all information known, and believed to be relevant, by the applicable Moody's Analyst and rating committee, in a manner generally consistent with Moody's published methodologies. In formulating Credit Ratings, Moody's will employ Analysts who, individually or collectively, have appropriate knowledge and experience in developing a rating opinion for the type of credit being analyzed.	Credit ratings shall be assigned by a vote of a rating committee comprised of Analysts and not by any individual Analyst. Ratings shall reflect all information known and believed to be relevant, to the rating committee consistent with Ratings Services' established criteria and methodology; Rating Services shall use people who, individually or collectively, have appropriate knowledge and experience in developing a rating opinion for the type of credit being applied.
II					

1.5	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA should maintain internal records to support its credit opinions for a reasonable period of time or in accordance with applicable law.	DBRS maintains records to support its ratings for an indefinite period of time, but in no case less than seven years.	All files and records shall be maintained in accordance with Fitch's File Maintenance and Recordkeeping Policy, which is available on Fitch's free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	Moody's will maintain internal records to support its Credit Ratings in accordance with Moody's internal record retention policies and applicable law.	Ratings Services shall maintain internal records to support its credit opinions for a reasonable period of time or in accordance with applicable law.
II					S&P's code does not indicate what a "reasonable period of time" is.



1.6	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA and its analysts should take steps to avoid issuing any credit analyses or reports that contain misrepresentations or are otherwise misleading as to the general creditworthiness of any issuer or obligation.	DBRS takes steps to avoid knowingly issuing any ratings or reports that contain misrepresentations or that are otherwise misleading as to the general creditworthiness of an Issuer or obligation. Such steps include having Issuer management review rating reports and press releases for factual errors prior to public dissemination. Generally, DBRS's ratings include consideration for information supplied by the Issuer or its agents and experts such as accountants, counsel, advisors, and other experts that DBRS considers to be reliable. Where DBRS is unable to have substantive discussions with an Issuer's management, DBRS will base its rating on publicly available information only. However, in no case does DBRS audit or verify the completeness of the information it is supplied or obtains.	<p>Fitch expects that each issuer which has agreed to participate in the rating process, or its agents, will promptly supply to Fitch all information relevant to evaluating the ratings on such issuer or the relevant securities, including, without limitation, all material changes in any information previously provided, potential material events and the issuer's overall financial condition, which may require communication of non-public information to Fitch. Fitch expects all such information to be timely, accurate and complete in all respects. ok with Fitch's established policies and procedures on surveillance, Fitch shall review ratings regularly, based solely upon information it receives from issuers and other public information sources.</p> <p>Fitch reserves the right to withdraw any rating at any time for any reason, including withdrawal, without notice, if a rating committee concludes that Fitch lacks sufficient information to maintain the rating or that any information provided to Fitch is unreliable.</p> <p>To the extent reasonably feasible and appropriate, prior to issuing or revising a rating, Fitch shall provide the issuer advance notification of all rating actions and a copy of the commentary to be published with respect to such action, including the critical information and principal considerations upon which the rating decision has been based. Fitch provides such notification and related commentary solely to allow the issuer to check for factual accuracy or the presence of non-public information. Fitch shall duly evaluate any comments made by the issuer.</p>	Moody's and its Analysts will take steps to avoid issuing any credit analyses, ratings or reports that contain misrepresentations or are otherwise misleading as to the general creditworthiness of an Issuer or obligation.	Ratings Services and its Analysts shall take steps to avoid issuing any credit analyses, ratings or reports that contain misrepresentations or are otherwise misleading as to the general creditworthiness of an issuer or issue.
II			Fitch has explained that it regards its ratings as opinions rather than facts. It considers that terms such as "misleading" and "misrepresentation" are more applicable to facts than opinions and therefore that they could give a misleading impression about what Fitch does and how it does it. Nonetheless, Fitch outlines within its code the steps that it takes to ensure that the information used in determining ratings is factually correct, and that the ratings themselves are appropriate, as outlined above.		



1.7	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA should ensure that it has and devotes sufficient resources to carry out high-quality credit assessments of all obligations and issuers it rates. When deciding whether to rate or continue rating an obligation or issuer, it should assess whether it is able to devote sufficient personnel with sufficient skills sets to make a proper rating assessment, and whether its personnel likely will have access to sufficient information needed in order to make such an assessment.	DBRS maintains a sufficient pool of analytical resources with the appropriate skills and experience to provide timely and accurate ratings of all industry sectors and to allow for succession planning. In addition to ongoing internal training, DBRS Analysts attend various external industry and accounting seminars and conferences. DBRS also ensures Analysts are kept current with the latest accounting, governance and auditing developments through participation in various Canadian, US, and international forums.	When deciding whether to issue or maintain any rating for any security or issuer, Fitch shall assess whether there are sufficient personnel with sufficient skill to take a proper rating action and whether Fitch will likely have access to sufficient information to take such a rating action. Fitch reserves the right to withdraw any rating at any time for any reason, including withdrawal, without notice, if a rating committee concludes that Fitch lacks sufficient information to maintain the rating or that any information provided to Fitch is unreliable.	Moody's will invest resources sufficient to carry out high-quality credit assessments of obligations and Issuers. When deciding whether to rate or continue to rate an obligation or Issuer, Moody's will assess whether it is able to devote sufficient personnel with appropriate skills sets to make a proper rating assessment, and whether its personnel likely will have access to sufficient information needed in order to make such an assessment.	Ratings Services shall endeavour to devote sufficient resources to perform credible credit assessments for all issuers and issues it rates. When deciding whether to rate or continue to rate an issuer or issue, Ratings Services shall assess whether it is able to devote sufficient Analysts with sufficient skills sets to make a credible rating assessment, and whether its Analysts likely will have access to sufficient information needed in order to make such an assessment.
II		DBRS' code does not specify that DBRS should assess whether its personnel will have access to 'sufficient information' when deciding to rate or continue rating an obligation or issuer. DBRS has explained that it assesses whether its personnel have access to sufficient information when deciding to rate or continue rating an obligation and considers this to be the role of the Rating Committee.			

1.8	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA should structure its rating teams to promote continuity and avoid bias in the rating process.	Each major DBRS industry grouping is headed by a member of DBRS's management group who oversees a team consisting of senior and junior Analysts. Within each group, major ratings are covered by a lead and secondary Analyst to ensure continuity and timely coverage.	Fitch shall structure its rating teams to promote continuity and avoid bias in the rating process.	Moody's will organize its rating committees to promote continuity and avoid bias in the rating process.	Ratings Services shall endeavour to structure its rating teams of Analysts in a manner that promotes continuity and the high quality and integrity of the rating process.
II					



1.9	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	Except for ratings that clearly indicate they do not entail ongoing surveillance, once a rating is published the CRA should monitor on an ongoing basis and update the rating by: (a) regularly reviewing the issuer's creditworthiness; (b) initiating a review of the status of the 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 (c) updating on a timely basis the rating, as appropriate, based on the results of such a review.	DBRS's lead Analysts are responsible for ensuring that published ratings remain current and are monitored on a continuous basis as new information becomes available. Where necessary, DBRS responds to major events by releasing timely press releases, and/or taking rating actions. While financial results and any other events affecting Issuers rated by DBRS are tracked on an ongoing basis, these Issuers are formally reviewed with a full update report at least once every year depending on DBRS's published rating methodologies.	Except for point-in-time ratings that Fitch clearly identifies as such, Fitch shall provide ongoing surveillance for all public ratings. In accordance with Fitch's established policies and procedures on surveillance, Fitch shall review ratings regularly, based solely upon information it receives from issuers and other public information sources. Fitch shall also initiate a ratings review if it becomes aware of any information that it believes might reasonably be expected to result in a rating action, consistent with the relevant criteria and methodologies. Just as in the case of a rating action, Fitch shall have no obligation to verify or audit any information provided to it from any source or to conduct any investigation or review, or to take any other action, to obtain any information that the issuer has not otherwise provided to Fitch.	Except for Credit Ratings that clearly indicate they do not entail ongoing surveillance, once a rating is published, Moody's will monitor on an ongoing basis and update the rating by: (a) regularly reviewing the issuer's creditworthiness; (b) initiating a review of the status of the 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 (c) updating on a timely basis the rating, as appropriate, based on the results of such a review.	In accordance with Ratings Services' established policies and procedures for surveillance, unless the issuer requests a rating without surveillance, once a rating is assigned Ratings Services shall monitor on an ongoing basis and update the rating by: (a) regularly reviewing the issuer's creditworthiness; (b) initiating a review of the status of the rating upon becoming aware of any information that might reasonably be expected to result in a Rating Action (including withdrawal of a rating), consistent with the applicable rating criteria and methodology; and (c) updating on a timely basis the rating, as appropriate, based on the results of such review.
II					



1.10	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	Where a CRA makes its ratings available to the public, the CRA should publicly announce if it discontinues rating an issuer or obligation. Where a CRA's ratings are provided only to its subscribers, the CRA should announce to its subscribers if it discontinues rating an issuer or obligation. In both cases, continuing publications by the CRA of the discontinued rating should indicate the date the rating was last updated and the fact that the rating is no longer being updated.	DBRS's ratings are distributed publicly at no cost through its website, www.dbrs.com. Ratings are also publicly distributed through Bloomberg, Reuters, First Call, ABSNet, and other electronic and print service providers. In addition to the publicly released ratings information, DBRS also makes full rating reports, industry studies, commentaries, and securitization services reports available to paying subscribers. The preceding does not apply to private ratings or ratings for certain private placement transactions. Each rating report and industry study provides, in detail, the rationale for rating decisions and actions. DBRS publicly announces when it has discontinued a rating on an Issuer, security or obligation by way of a press release which also indicates the date the rating was last updated.	Fitch reserves the right to withdraw any rating at any time for any reason, including withdrawal, without notice, if a rating committee concludes that Fitch lacks sufficient information to maintain the rating or that any information provided to Fitch is unreliable. In the event a rating is withdrawn, Fitch shall publish an appropriate commentary that includes the current rating(s) and states that the rating(s) has/have been withdrawn and that Fitch will no longer provide the rating(s) or analytical coverage of the issuer.	In accordance with Moody's published Rating Withdrawal Policy, Moody's will announce via press release if it discontinues a public Credit Rating on an Issuer or obligation.	Where Ratings Services makes its ratings available to the public, Ratings Services shall publicly announce if it withdraws a rating from an issuer or issue. Where Ratings Services' ratings are provided only to its subscribers, Ratings Services shall announce to its subscribers if it withdraws a rating from an issuer or issue. In both cases, any publications by Ratings Services of the withdrawn rating shall indicate that the rating was withdrawn and also indicate the rating of the issuer or issue immediately preceding the withdrawal.
II				<p>Moody's has explained that it will not continue to publish new rating documents if it stops updating the rating. Except for ratings that clearly indicate they do not entail ongoing surveillance, Moody's will monitor and update as appropriate all published ratings on an ongoing basis. If it discontinues monitoring and updating a rating, it will withdraw it. Most rating withdrawals are for routine reasons, e.g. debt maturities, calls or redemptions. Once a rating has been withdrawn, Moody's will not publish new research or other ratings related material on that rating. However, it will continue to incorporate the prior rating history of withdrawn ratings in historical analyses such as default studies and in other similar activities.</p> <p>Moody's has explained that at the time they withdraw a rating, the issuer or issue is given a "WR" designation on moody's.com. For withdrawals that are for other than routine reasons (e.g. maturity or redemption of the debt issue), they will also publish a press release on the withdrawal. After a rating is withdrawn, the full rating history continues to be available on moodys.com. In addition, for those withdrawals made public via press release, the release contains a hyperlink to the rating history.</p>	

1.11	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA and its employees should comply with all applicable laws and regulations governing its activities in each jurisdiction in which it operates.	DBRS shall comply with all applicable laws and regulations in all jurisdictions in which it operates. DBRS has established internal policies and procedures for complying with applicable regulatory requirements and communicating with regulatory and professional organizations.	Fitch and all its employees shall comply with all applicable laws and regulations governing Fitch's activities in each jurisdiction in which Fitch operates.	Moody's and its Employees will comply with all applicable laws and regulations governing their activities in each jurisdiction in which Moody's operates.	Ratings Services and its employees shall comply with all applicable laws and regulations governing Ratings Services' activities in each jurisdiction in which it operates.
II					

1.12	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA and its employees should deal fairly and honestly with issuers, investors, other market participants, and the public.	DBRS requires all DBRS Staff members to deal fairly and honestly with the Issuers it rates, investors, other market participants and the public. Among other things, DBRS requires all staff to comply with the DBRS Code of Ethics, which outlines general standards of conduct and specific requirements addressing the quality and integrity of the ratings process, the protection of Confidential Information and the avoidance or control of conflicts of interest. As part of the hiring process, new staff members are required to review the DBRS Code of Ethics and confirm that they will adhere to the same. DBRS Staff must also attest to their compliance with the DBRS Code of Ethics on annual basis.	Fitch and all its employees shall deal fairly and honestly with issuers, investors, other market participants and the public.	Moody's and its Employees will deal fairly and honestly with issuers, investors, other market participants, and the public.	Ratings Services and its employees shall deal fairly and honestly with issuers, investors, other market participants, and the public.
II					

1.13	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA's analysts should be held to high standards of integrity, and the CRA should not employ individuals with demonstrably compromised integrity.	DBRS holds its Analysts to high standards of integrity and seeks to employ only those individuals who meet these high standards. Regardless of CFA status, all DBRS Analysts are expected to be familiar with the CFA Institute Standards of Practice Handbook, which means, amongst other things, that Analysts shall: (a) act with integrity, competence, dignity, and in an ethical manner when dealing with the public, clients, prospects, employers and employees; (b) practice and encourage others to practice in a professional and ethical manner that reflects positively on financial analysts and their profession; (c) strive to maintain and improve their competence and the competence of others in the financial analyst profession; and (d) use reasonable care and exercise independent professional judgment. Moreover, as part of the hiring process and on an annual basis thereafter, Analysts must inform DBRS of any previous or current disciplinary actions against them.	Analysts shall be held to high standards of integrity, and Fitch shall not employ individuals where there is evidence that they have compromised integrity.	Moody's will hold its Employees to high standards of integrity. Moody's will not knowingly employ any individuals with demonstrably compromised integrity.	Analysts shall be held to high standards of integrity, and Ratings Services shall not employ individuals where there is evidence that they have compromised integrity.
II					



1.14	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA and its employees should not, either implicitly or explicitly, give any assurance or guarantee of a particular rating prior to a rating assessment. This does not preclude a CRA from developing prospective assessments used in structured finance and similar transactions.	DBRS does not implicitly or explicitly, provide any assurance or guarantee of a particular rating prior to a rating assessment. From time to time, DBRS may develop prospective or provisional rating assessments for new Issuers, Structured Finance and other transactions but these ratings are not final. DBRS will identify the basis for the prospective or provisional rating as well as the fact that the final rating may be different if changed conditions or newly discovered facts warrant.	Neither Fitch nor its employees shall, either implicitly or explicitly, give any assurance or guarantee of a particular rating prior to the final rating decision being taken in accordance with Fitch's established policies and procedures. Nothing herein shall preclude Fitch from continuing to provide rating assessments and credit assessments - that is, an assessment of creditworthiness that does not constitute a rating in that the full rating process is not applied, and the analysis is based on hypothetical scenarios and/or limited information.	Moody's and its Analysts will not, either implicitly or explicitly, give any assurance or guarantee of a particular Credit Rating prior to a rating committee. This does not preclude Moody's from developing provisional assessments used in structured finance and similar transactions.	Ratings Services and its Analysts shall not, either implicitly or explicitly, give any assurance or guarantee of a particular rating prior to the determination of the rating by the applicable rating committee. This does not preclude Ratings Services from developing prospective assessments used in structured finance and similar transactions.
II					

1.15	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA should institute policies and procedures that clearly specify a person responsible for the CRA's and the CRA's employees' compliance with the provisions of the CRA's code of conduct and with applicable laws and regulations. This person's reporting lines and compensation should be independent of the CRA's rating operations.	DBRS's Chief Compliance Officer ("CCO") is responsible for overseeing, implementing, and enforcing various regulatory compliance procedures, including the DBRS Code of Ethics. In addition, to strengthen DBRS's overall governance framework, the Managing Director ("MD"), Policy provides additional depth and expertise in regulatory compliance issues and relationships and assists in the development of policies, procedures and Analyst training to maintain high professional standards and to address business and operational risk issues. Together with DBRS's Management, the CCO, and the MD, Policy oversee compliance with this Code and the related policies, procedures and internal controls. Neither the CCO's nor the MD, Policy's compensation depends on DBRS's rating operations.	Fitch's Chief Compliance Officer and staff shall oversee compliance with this Code, the policies referred to herein and all applicable laws and regulations. The Chief Compliance Officer, and any member of the compliance staff, shall not vote on any rating committees and shall not report to any party responsible for the operational management of the rating function. Their compensation shall be based solely on the quality of the relevant individual and overall company performance.	The Office of Compliance will be responsible for assessing adherence to the various procedural provisions of this Code. The reporting line of the Office of Compliance will be independent of Moody's rating operations and the compensation of individuals in this function will be determined by individuals without Credit Rating operation responsibilities at Moody's.	The Executive Vice President in charge of Ratings Services shall have overall responsibility for the design and implementation of, and compliance with, this Code and the related policies and procedures and also compliance with any laws applicable to Ratings Services.
II				<p>Moody's code states that the compensation of the individuals responsible for assessing adherence with the code should be determined by individuals without credit rating operation responsibilities whereas the IOSCO code states that the compensation should be independent from the rating operations.</p> <p>Moody's has explained that the Office of Compliance personnel report to management who are independent of the rating operations. Compensation for Office of Compliance personnel is determined by such management, subject to Moody's overall compensation policies. The compensation consists of a basic salary and, for more senior staff, a bonus and a grant of equity in Moody's corporation, the parent company. Compliance personnel bonuses are paid out of a company-wide bonus plan that is funded based on Moody's overall</p>	S&P code states that the Executive Vice President <i>in charge of ratings Services</i> shall have overall responsibility for the compliance with the code. This seems to contradict the IOSCO code since the latter states that the reporting line and the compensation of the person in charge of the code should be independent of the CRAs rating operations. In addition, as outlined below, the Analytics Policy Board and the executive MDs – which are not independent of those who vote on ratings and conduct analysis - have been tasked with enforcement of the Code in relation to analytical matters. S&P has explained that responsibility for compliance with the Code of Conduct lies with the Executive Vice President in charge of Rating Services globally. S&P's has in place a separate compliance function to service its different businesses, namely the Global Regulatory Affairs Department, which is independent of those who vote on ratings and conduct analysis. The Analytics Policy Board and the executive MDs – which are not independent of those who vote on ratings and conduct analysis - have been tasked with enforcement of the Code of Conduct in relation to analytical matters while the Global Regulatory Affairs Dept has been tasked with enforcement in relation to all



				financial performance. The actual amount of an individual's bonus is determined based on the aggregate funding level of the plan and that person's performance in his or her compliance role.	other matters. Both advise the Executive VP on the enforcement of the Code. The Executive VP reports to the President, is not involved in day-to-day rating activities and does not sit on rating committees. Her compensation is determined by S&P's executive leadership and approved by McGraw-Hill Companies management.
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1.16	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	<p>Upon becoming aware that another employee or entity under common control with the CRA is or has engaged in conduct that is illegal, unethical or contrary to the CRA's code of conduct, a CRA employee should report such information immediately to the individual in charge of compliance or an officer of the CRA, as appropriate, so proper action may be taken. A CRA's employees are not necessarily expected to be experts in the law. Nonetheless, its employees are expected to report the activities that a reasonable person would question. Any CRA officer who receives such a report from a CRA employee is obligated to take appropriate action, as determined by the laws and regulations of the jurisdiction and the rules and guidelines set forth by the CRA. CRA management should prohibit retaliation by other CRA staff or by the CRA itself against any employees who, in good faith, make such reports.</p>	<p>DBRS Staff members are expected to promptly report any conduct (by themselves or other DBRS Staff) that they believe, in their reasonable assessment, is illegal, unethical, or contrary to this Code. DBRS allows matters to be reported anonymously, where appropriate. DBRS will protect those Staff who, in good faith, report violations or other improper conduct from retaliation by DBRS Management or its other Staff. DBRS shall take appropriate action against anyone under its control who is found to be involved in such improper conduct.</p>	<p>Any Fitch employee who becomes aware that another Fitch employee, or another subsidiary of the Fitch Group, is or has engaged in conduct that is illegal, unethical or contrary to this Code shall report such information immediately to the Chief Compliance Officer, or his or her designee. The Chief Compliance Officer, or his or her designee, shall determine the merits of the situation, and, if warranted, take appropriate action, as determined by Fitch's policies and procedures and applicable laws and regulations of the relevant jurisdiction. Any employee who, in good faith, makes such a report shall not be retaliated against by Fitch or any other employees of Fitch. The Chief Compliance Officer shall establish and maintain procedures for employees to report any illegal, unethical or inappropriate conduct including, to the extent practical, through various telephonic and electronic means, on both an anonymous and a disclosed basis.</p>	<p>While Employees are not expected to be experts in the law, they are expected to report activities of which they are aware that a reasonable person would question as a potential violation of the law or this Code. Any Moody's Manager or officer who receives such a report from an Employee is obligated to report it promptly to the Legal Department or the Office of Compliance, which will take appropriate action, as determined by the laws and regulations of the jurisdiction and the rules and guidelines set forth by Moody's. Employees may also report any such matters on a confidential or anonymous basis by calling Moody's anonymous hotline.</p> <p>Moody's management will prohibit retaliation by and Moody's Employee or by Moody's itself against any Employee who, in good faith, reports on a possible violation of the law or this Code.</p>	<p>An employee who becomes aware of any conduct by another employee or entity under common control with Ratings Services in violation of this Code, the related parties and procedures, any law applicable to Ratings Services or that is unethical has a responsibility to promptly report such conduct to (i) in the case of analytical matters, the employee's direct manager, a member of the Analytics Policy Board, or an executive managing director or the general counsel of Ratings Services and (ii) in the case of all other matters, the Global Regulatory Affairs Department. Any employee's manager, member of the Analytics Policy Board, executive managing director or the general counsel of Ratings Services or member of the Global Regulatory Affairs Department who receives such a report from an employee shall take appropriate action, as determined by the laws and regulations of the applicable jurisdiction and the applicable rules and guidelines set forth by Ratings Services. Ratings Services prohibits any form of retaliation against an employee who in good faith reports such conduct or who in good faith assists in the investigation of such conduct. An employee that retaliates against another employee for either of these reasons shall be subject to disciplinary action up to and including termination.</p>
II				<p>Moody's code does not provide that an employee should report directly to the individual in charge of compliance (in this instance the Office of Compliance) any conduct that is illegal etc.</p> <p>Moody's has explained that it has a Code of Business Conduct ("MCO Code") that is applicable to all Employees, and which has established several channels for reporting conduct that may be illegal, unethical or contrary to the MCO Code. The Moody's Code references the MCO Code and is intended to continue to</p>	<p>S&P's code does not provide that an employee should report directly to the individual in charge of compliance (in this instance the Executive Vice President in charge of Rating Services) any conduct that is illegal etc.</p> <p>S&P has explained that the Code of Conduct provides that employees have a responsibility to report conduct violating the Code to the Analytics Policy Board and the Global Regulatory Affairs Dept, as appropriate. To that extent, there is a clear reporting line from employees wishing to report misconduct to the Executive VP through the offices of those charged with enforcement of the Code of Conduct. In general, employees are encouraged</p>



				<p>allow established channels of reporting within Moody's. Depending on the issue being reported and legal considerations, Employees may report concerns to a direct Manager or other senior Manager, the Legal, Human Resources, Internal Audit or Compliance departments, and/or a confidential Employee hotline. Any Manager or officer who receives such a report is obligated to report it to either the Legal Dept or the Office of Compliance, who will then take appropriate action. In this way, Moody's does not limit Employees' methods of reporting their concerns while meeting the objectives of the IOSCO Code.</p>	<p>to report misconduct to their direct line managers and it may be that as a practical matter some matters can be dealt with at that level, rather than referring every case of misconduct straight to the Executive VP. However no employee is discouraged from referring such cases to their senior managers or the Executive VP, should they choose to do so. They may also choose to report cases to legal counsel and Human Resources representatives. McGraw-Hill has also set up an Employee Hotline to enable employees to report, in confidence, conduct in violation of its Code of Business Ethics and all related policies, procedures and laws applicable to Ratings Services or McGraw-Hill.</p>
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2. CRA independence and avoidance of conflicts of interest

2.1	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA should not forbear or refrain from taking a rating action based on the potential effect (economic, political, or otherwise) of the action on the CRA, an issuer, an investor, or other market participant.	DBRS will not forbear or refrain from taking a rating action based on the potential effect (economic, political or otherwise) of the action on DBRS, an Issuer, an investor, or other market participant.	Fitch shall not forbear or refrain from taking any rating action based on the potential effect (economic, political, or otherwise) of the rating action on Fitch, issuers, investors or other market participants.	Moody's will not forbear or refrain from taking a Credit Rating action based on the potential effect (economic, political, or otherwise) of the action on Moody's, an Issuer, an investor, or other market participant.	Ratings Services shall not forbear or refrain from taking a Rating action, if appropriate, based on the potential effect (economic, political, or otherwise) of the Rating Action on Ratings Services, an issuer, an investor, or other market participant.
II					CESR asked S&P about the rationale for adding the expression 'if appropriate' to provision 2.1. of the S&P Code as it seemed to be a restriction in comparison to the original provision. S&P has explained that the words 'if appropriate' were inserted into the Code to reinforce the message that Ratings Services would only be taking a particular rating action if it were appropriate in all the circumstances where, for example, the rating action had been based on a thorough analysis of all information known to Ratings Services and believed to be relevant to the analysis. The additional wording was intended to avoid any interpretation that the language in the IOSCO Code means Ratings Services would be obligated to take a Rating Action "based on the potential effect...".



2.2	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA and its analysts should use care and professional judgement to maintain both the substance and appearance of independence and objectivity.	DBRS Analysts are required to use care and professional judgment to maintain both the reality and appearance of independence and objectivity. DBRS Analysts are required to conduct themselves at all times in accordance with the highest professional standards and in a manner that will reflect favourably on DBRS.	<p>All employees shall comply with the provisions of the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on Fitch's free public website, www.fitchratings.com, on the homepage, under the link "Code of Conduct"</p> <p>All employees must use special care to avoid even the appearance of a conflict. An appearance of a conflict arises when a reasonable investor or issuer could believe that other interests, responsibilities or duties of the employee give rise to bias even if the employee believes that he or she can make an unbiased decision.</p>	Moody's and its Analysts will use care and professional judgement to maintain both the substance and appearance of independence and objectivity.	Ratings Services and its Analysts shall use care and analytic judgement to maintain both the substance and appearance of independence and objectivity.
II					

2.3	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The determination of a credit rating should be influenced only by factors relevant to the credit assessment.	The determination of a rating is influenced only by factors relevant to the credit assessment. The DBRS Code of Ethics, the Rating Committee process, and the CCO help to ensure the independence of and avoidance of conflicts of interest in the ratings process.	<p>The rating analysis and rating decision shall be based on a thorough analysis of all information known to Fitch and believed by Fitch to be relevant to such analysis and rating decision. Analysts should request from issuers only information and data deemed relevant to the rating analysis.</p> <p>The rating analysis and any rating action shall be based upon Fitch's established criteria and methodologies, applied consistently, and shall be influenced only by factors relevant to such rating analysis and rating action.</p>	The determination of a Credit Rating will be influenced only by factors relevant to the credit assessment.	The determination of a rating by a rating committee shall be based only on factors known to the rating committee that are believed by it to be relevant to the credit analysis.
II					

2.4	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The credit rating a CRA assigns to an issuer or security should not be affected by the existence of or potential for a business relationship between the CRA (or its affiliates) and the issuer (or its affiliates) or any other party, or the non-existence of such a relationship.	Ratings that DBRS assigns to an Issuer, security or obligation are not affected by the existence of or potential for a business relationship between DBRS and these Issuers (or their affiliates) or any other party, or the non-existence of such a relationship.	The existence of, or potential for, any business relationship between Fitch (or Fitch's affiliates) and the issuer (or its affiliates) or any other party, or the non-existence of such a relationship, shall not affect any rating that Fitch assigns to any issuer or any security.	The Credit Rating Moody's assigns to an Issuer, debt or debt-like obligation will not be affected by the existence of, or potential for, a business relationship between Moody's (or its affiliates) and the Issuer (or its affiliates) or any other party, or the non-existence of such a relationship.	Ratings assigned by Ratings Services to an issuer or issue shall not be affected by the existence, or potential for, a business relationship between Ratings Services (or any Non-Ratings Business) and the issuer (or its affiliates) or any other party, or the non-existence of such a relationship.
II					

2.5	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA, should separate, operationally and legally, its credit rating business and CRA analysts from any other businesses of the CRA, including consulting businesses, that may present a conflict of interest. The CRA should ensure that ancillary business operations which do not necessarily present conflicts of interest with the CRA's rating business have in place procedures and mechanisms designed to minimize the likelihood that conflicts of interest will arise.	DBRS's only business is related to ratings. DBRS does not engage in ancillary businesses, including consulting or advisory services that may present a conflict of interest. DBRS has in place appropriate policies and procedures to manage its ratings business on a global basis.	Fitch shall separate, both operationally and legally, its rating business and analysts from any of its other businesses that may present a conflict of interest. Fitch shall maintain and publish a formal Firewall Policy governing firewalls and operations between Fitch and its non-rating affiliates to mitigate potential conflicts of interest. This policy is available on Fitch's free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	Moody's will separate its Credit Rating business and Analysts from other businesses that may reasonably present a conflict of interest, as described in Moody's Policy with Respect to Non-Rating Services. Rating committee members may neither sell nor provide such services to rated Issuers. Moody's will ensure that any existing or future ancillary business operations that do not necessarily present conflicts of interest with the Moody's Credit Rating business have in place procedures and mechanisms, to minimize the likelihood that conflicts of interest will arise.	Rating Services shall ensure that ancillary business operations which do not necessarily present conflicts of interest with Ratings Services' rating business have in place procedures and mechanisms designed to minimize the likelihood that conflicts of interest will arise. Ratings Services shall establish a firewall policy governing firewalls and operations between Ratings Services and Non-Ratings Business to effectively manage conflicts of interest.
II		In its code, DBRS has not included a provision related to a "separation". Furthermore, DBRS does not envisage in its code the likelihood that conflicts of interest could arise. DBRS explains in its Report on compliance to the DBRS code of conduct published in May 2006 that " <i>When Issuers consider specific strategic or financial transactions such as mergers, acquisitions, divestitures, new debt structures, a change in parent company, or other significant events that could impact their credit rating, understanding the potential impact of the specific transaction or event on the credit rating may be critical to an Issuer's decision to move ahead with the specific transaction or event. DBRS views the discussion of the potential impact on ratings in these situations as implicit in the ratings process</i> ". DBRS explains in its response to CESR that it does not have a separate impact assessment service and " <i>believes that there is a valuable consistency in having all considerations with an issuer performed by the same analyst team.</i> "	In its response to CESR, Fitch explains that "All non-rating businesses of the Fitch Group are based in separate companies, with the one small exception of Valuspread, which until recently, was a division of Fitch Ratings Ltd and is now a division of Derivative Fitch Ltd.. However, all staff employed in connection with Valuspread are required to operate as though it were a NRA for the purposes of the Firewall Policy." As presented on the Fitch website, Valuspread "provides banks and other financial institutions with accurate and timely daily data on credit default swap spreads direct from leading global market makers".	Moody's has included a footnote in its code of conduct explaining that " <i>Moody's considers its Rating Assessment Service to be an integral element of the rating process that provides issuers with the likely rating impact of contemplated corporate actions and as such, contributes to rating predictability and reduces market volatility. As such, Moody's does not consider it a non-credit rating service</i> ". In its response to CESR, Moody's " <i>believes that it is appropriate for the same analytical team to conduct the rating assessment service, as continuity and understanding of the issuer's existing rating and credit specifics is desirable in order to produce an informed credit opinion.</i> " Nevertheless, Moody's adds that " <i>In cases where the Rating Assessment Service concerns two rated issuers that are covered by the same analytical team (the 'primary analytical team'), our practice is to assign a new team to the Rating Assessment Service unless the other issuer specifically consents to the involvement of the primary analytical team.</i> "	In its code, Standard & Poor's has not included a provision related to a "separation". In its response to CESR, Standard & Poor's explains that it has " <i>effected operational, though not legal, separation of Ratings Services from its non-ratings businesses</i> ". On the question of legal separation, the background is that Ratings Services operates in multiple global locations and that the parent company McGraw-Hill provides shared services to all of its segments. As far as operational separation is concerned, this agency mentions that it has had in place firewalls among many business units to safeguard the independence of each unit. In particular, " <i>Each of Ratings Services, Equity Research and Index Services must exercise their editorial and analytic opinions independent from other businesses</i> ".

2.5				<p>Moody’s explains in its response to CESR that rating analysts can also carry out other activities: <i>“Analysts write the credit research publications and generally also develop the data and analytic products that Moody’s sells. They are by-products of our rating activities and increase the level of transparency around our ratings. In some cases, the Analyst who has developed the research and analytic products may be the most qualified to explain certain aspects of those products to customers. However, we recognize that potential conflicts may arise and we have put in place policies and procedures to manage them”</i>. In its Policy entitled Moody’s Investors Service Disclosures, the agency specifies in the part related to Ancillary businesses that <i>“Pursuant to MIS’s <u>Policy with Respect to Non-Rating Services</u>, MIS separates its credit rating and research business and analytical personnel from other businesses that may reasonably present a conflict of interest.”</i></p> <p>In its response to CESR, Moody’s explains that the individual subsidiaries that should be operationally and legally separated from Moody’s are already separated at the parent company level. Furthermore, Moody’s explains that <i>“The Moody’s Code provides for the establishment of appropriate procedures and mechanisms to separate our credit rating business and Analysts from other business activities where such activities may reasonably present a conflict of interest. Such procedures and mechanisms do not preclude both “operational and legal” separation. Rather, they allow for the appropriate means of separation given the nature of the business activity. They allow for a business activity to be separated into a stand alone legal entity, in which case both legal and operational separations would be applied, or, where the business may not be substantial enough to be separated into a stand alone legal entity, for the activity to be the subject of operational separation.”</i> And Moody’s adds that its ancillary businesses which <i>“mainly consist of general credit training courses or research products that compile and explain market implied credit risk measures”</i> are activities which <i>“are not established as separate legal entities although both are subject to operational separation procedures to avoid potential conflicts”</i>.</p>	
II					



2.6	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA should adopt written internal procedures and mechanisms to (1) identify and (2) eliminate, or manage and disclose, as appropriate, any actual or potential conflicts of interest that may influence the opinions and analyses the CRA makes or the judgement and analyses of the individuals the CRA employs who have an influence on ratings decisions. The CRA's code of conduct should also state that the CRA will disclose such conflict avoidance and management measures.	DBRS has adopted strict written internal procedures and mechanisms to: (1) identify, and (2) eliminate, or manage and disclose, conflicts of interest that could influence DBRS's opinions and analyses. The DBRS Code of Ethics contains specific requirements designed to prevent actual and perceived conflicts of interest and the misuse of Confidential Information and discloses conflict avoidance and management measures. DBRS's Code of Ethics also outlines enforcement procedures regarding non-compliance.	All employees shall comply with the provisions of the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on Fitch's free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	Moody's will adopt written internal procedures and mechanisms to 2.6.1 identify and 2.6.2 eliminate, or manage and disclose, as appropriate, actual or potential conflicts of interest that may influence the opinions and analyses Moody's makes or the judgement and analyses of Moody's Employees who have an influence on Credit Rating decisions.	Ratings Services shall adopt written internal procedures and mechanisms to (1) identify and (2) eliminate, or manage and disclose, as appropriate, any actual or potential conflicts of interest that may influence the opinions and analyses Ratings Services makes or the judgement or analyses of Analysts. Ratings Services shall disclose such conflict avoidance and management measures without charge to the public on Standard & Poor's public website, www.standardandpoors.com .
II		The DBRS Code refers to the DBRS Code of Ethics with respect to this provision. CESR asked DBRS why the Code of Ethics is not publicly available although it contains relevant information with respect to this provision of the IOSCO CRA Code. In its response, DBRS explains that the DBRS's Code of Ethics consists of detailed procedures and requirements for staff that are updated on a regular basis. Furthermore, DBRS refers to a notice on its website where saying that the Code of Ethics is available to the public on request.	The Fitch Code of Conduct just provides a reference to "Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy", which adequately provides information about the content of IOSCO Code provision 2.6	In its response to CESR, Moody's explains that the reason for not including the disclosure of conflict avoidance and management measures in provision 2.6 is that the internal policies (provision 2.6) are separated from the external disclosure (see provision 2.7). While Moody's has not specifically included the IOSCO wording on disclosure in provision 2.7, Moody's has made necessary disclosures on moodys.com , in Moody's disclosure page.	

2.7	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA's disclosures of actual and potential conflicts of interest should be complete, timely, clear, concise, specific and prominent.	DBRS's disclosures of actual and potential conflicts of interest will be complete, timely, clear, concise, specific and prominent.	Should there be an actual or potential conflict, Fitch shall disclose it in a manner that is timely, clear, concise, specific and prominent.	Moody's disclosures of known actual and potential conflicts of interest will be complete, timely, clear, concise, specific and prominent. Such disclosures will be made through moodys.com.	Ratings Services' disclosures of actual and potential conflicts of interest should be complete, timely, clear, concise, specific and prominent.
II					



2.8	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA should disclose the general nature of its compensation arrangements with rated entities. Where a CRA receives from a rated entity compensation unrelated to its ratings services, such as compensation for consulting services, the CRA should disclose the proportion such non-rating fees constitute against the fees from the entity for ratings services.	DBRS discloses the general nature of its compensation arrangements with rated entities on www.dbrs.com. DBRS reserves the right to periodically revise its fee schedule without prior notice and may charge a different fee than that which is set forth on the fee schedule. DBRS does not engage in consulting or advisory services. DBRS Analysts are forbidden to engage in coercive sales practices and are forbidden to allow ratings decisions to be influenced by the amount of fees paid to DBRS by the Issuer.	Fitch shall disclose in all its published research that Fitch is paid fees by the issuers it rates, as well as its range of fees. If Fitch were to receive from a rated issuer any compensation unrelated to Fitch's ratings and routine subscription and license fees for its published research and data, Fitch shall disclose the proportion that such non-rating fees constitute as against the fees it received from such issuer for ratings and routine subscriptions and licenses.	Moody's will disclose the general nature of its compensation arrangements with rated entities, including whether it receives compensation unrelated to its Credit Ratings and related research.	Ratings Services shall disclose the general nature of its compensation arrangements with rated entities. Where Ratings Services receives from a rated entity compensation unrelated to its ratings services, such as compensation for consulting services, Ratings Services shall disclose the proportion that such non-rating fees constitute against the fees Ratings Services receives from the entity for ratings services.
II		Given that the application of one time fees to date has occurred infrequently and that every situation is unique, DBRS has been considering all of these situations on their own individual merits. These one time fees are charged to ensure that DBRS is appropriately compensated for those rare instances of major extra work that fall outside of base expectations. The proportion of such fees would be insignificant.		<p>Moody's does not state the proportion that non-rating fees constitute against the fees from the entity for rating services proportion for each rated entity.</p> <p>CESR asked Moody's to explain its approach to the disclosure of non-rating fees. In response, Moody's quoted from "Moody's Investors Services Disclosures" found on moodys.com where it is stated that non-rating services accounted for less than 1 % of Moody's revenue in 2005.</p> <p>CESR also wanted to know whether Moody's considered that fees received from the rating assessment service and from the provisional assessment service are included within the fees received from the rating service. Moody's has explained that it considers the Rating Assessment Service to be a rating service and therefore classifies the fees that they receive as rating fees. Furthermore, the provisional assessments in structured finance are part of the rating process and no separate fees are charged.</p>	

2.9	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA and its employees should not engage in any securities or derivatives trading presenting conflicts of interest with the CRA's rating activities.	The DBRS Code of Ethics contains procedures to ensure that DBRS Staff do not engage in any securities or derivatives trading presenting conflicts of interest with DBRS's rating activities.	All employees shall comply with the provisions of the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on Fitch's free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	In accordance with Moody's internal securities trading policies, Moody's and its Employees will not engage in any Securities or Derivatives trading that present conflicts of interest with Moody's rating activities.	Ratings Services and its employees shall not engage in any Securities trading presenting conflicts of interest with Ratings Services' rating activities.
II			The Fitch Code of Conduct just provides a reference to "Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy", which adequately provides information about the content of IOSCO Code provision 2.9.		

2.10	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	In instances where rated entities (e.g., governments) have, or are simultaneously pursuing, oversight functions related to the CRA, the CRA should use different employees to conduct its ratings actions than those employees involved in its oversight issues.	DBRS Staff involved in oversight functions such as Compliance, Policy, and Finance are not involved in rating evaluations.	If a rated issuer (for example, a government or central bank) has or is simultaneously pursuing oversight functions related to Fitch, Fitch shall use different employees to conduct rating actions with respect to such issuer than those employees involved in the oversight issues.	In instances where rated entities (e.g., governments) have, or are simultaneously pursuing, oversight functions related to Moody's, Moody's will use different Employees to conduct its Credit Rating evaluations for such rated entities than those Employees involved in its oversight issues.	In instances where rated entities (e.g., governments) have, or are simultaneously pursuing, oversight functions related to Ratings Services, Ratings Services shall use different employees to conduct its Ratings Actions than those employees involved in its oversight issues.
II					

2.11	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	Reporting lines for CRA employees and their compensation arrangements should be structured to eliminate or effectively manage actual and potential conflicts of interest. The CRA's code of conduct should also state that a CRA analyst will not be compensated or evaluated on the basis of the amount of revenue that the CRA derives from issuers that the analyst rates or with which the analyst regularly interacts.	Reporting lines for DBRS Staff and their compensation arrangements are structured to eliminate or manage actual and potential conflicts of interest. DBRS Analysts are not compensated or evaluated on the basis of any particular rating or the amount of revenue generated from Issuers within that Analyst's area.	Fitch shall structure all reporting lines for Fitch employees to eliminate or effectively manage actual and potential conflicts of interest. An analyst shall not be compensated or evaluated on the basis of the amount of revenue that Fitch derives from issuers or securities that the analyst rates or with which the analyst regularly interacts.	Reporting lines for Moody's Employees and their compensation arrangements will be organized to eliminate or effectively manage actual and potential conflicts of interest. Analysts will not be compensated or evaluated on the basis of the amount of revenue that Moody's derives from Issuers that the Analyst rates or with which the Analyst regularly interacts.	Reporting lines for Analysts and their compensation arrangements shall be structured to eliminate or effectively manage actual and potential conflicts of interest. An analyst shall not be compensated or evaluated on the basis of the amount of revenue that Ratings Services derives from Issuers that the Analyst rates or with which the Analyst regularly interacts.
II					



2.12	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA should not have employees who are directly involved in the rating process initiate, or participate in, discussions regarding fees or payments with any entity they rate.	With limited exceptions, DBRS does not have Analysts initiate or participate in discussions regarding fees or payments with any entity they rate. One exception is that Corporate Analysts may quote factual fee-related information to current or proposed Issuers. All other discussions about fees for Corporate ratings are referred to the DBRS Business Development Group. Another exception relates to Structured Finance, where Analysts may discuss fees with clients; however, only DBRS Staff with management responsibilities may act as the decision-maker in fee discussions. Nevertheless, the Structured Finance standard rate sheets outline the fee range for the vast majority of Structured Finance ratings.	All discussions with issuers and intermediaries concerning rating fees and fee arrangements shall be restricted to members of the global marketing team or to senior personnel in the analytical groups with the title of Managing Director or higher. This policy applies to all groups worldwide. Although it is generally not possible to prevent issuers and their representatives from raising issues concerning fees with analysts, in such a case, analysts shall refer the issuer to a member of the global marketing team or their Managing Director.	Moody's will not have Analysts without Management responsibilities who are directly involved in the rating process for an Issuer initiate, or participate in, discussions regarding fees or payments with such Issuer.	Ratings Services shall not have Analysts who are directly involved in the rating process initiate, or participate in, discussions regarding fees or payments with any entity they rate.
II		In its response to CESR, DBRS explains that <i>"Corporate group analysts may discuss fees with issuers only to the extent of quoting factual fee ranges or typical fees for the size and type of issuers."</i> In the case of the Structured Finance business, <i>"By their nature, some deals have extensive and critical work in areas such as legal opinions or counterparty assessments that may not be readily transparent in the final rating assessment and can vary dramatically on a deal by deal basis. On this basis, a Structured Finance analyst may have a preliminary fee discussion with an issuer noting that the standard rate sheets outline general fee ranges. But only those analysts with senior management responsibilities having the requisite product and transaction expertise and experience can negotiate and approve the final fee with involvement of the Structured Finance Group Managing Director, as necessary"</i> .	In its code, Fitch indicates that there is an area in which it differs somewhat from the IOSCO Code: <i>"Specifically, business requirements sometimes dictate that certain members of senior management, or certain employees with specialist language skills, must assist in fee discussions, while at the same time possibly participating in rating discussions... those participating in rating discussions are sufficiently senior to manage any conflicts of interest that may arise."</i> In its response to CESR, Fitch explains that it has <i>"a large number of offices in non-English speaking countries. Some of these offices are very small and it is not always economically viable to employ dedicated marketing staff, especially at the outset"</i> .	In its response to CESR, Moody's explains that <i>"from time to time an issuer may want to discuss concerns or questions about its fees with a Moody's representative who also understands the specific credit analysis and the nature of the analytical work involved. Also, in our smaller offices where there may not be an on-site manager for a particular rating area, the local manager may hold such discussions. Accordingly Moody's Code allows Managers to discuss fees with issuers or their agents when necessary"</i> . In addition, Moody's explains that <i>"Managers may be best positioned to determine the appropriate fee structure to apply as they have the expertise to understand the nature of the security being rated and the type and amount of work required to complete a rating. This is particularly the case with the more complex and innovative areas of structured finance"</i> .	In its code, Standard & Poor's has included the IOSCO provision. Nevertheless, the wording included in its Analytic Firewall Policy (<i>"Ratings employees involved in rating fee negotiations for an issue or issuer may not vote in a credit ratings committee for that issue or issuer"</i>) is confusing as it could be interpreted as meaning that rating employees involved in fee rating negotiations for an issue can not vote in the rating committee but they can be involved in other moments of the rating process. In its response to CESR, Standard & Poor's explains that within Ratings Services, the commercial contact carries out the fee negotiations: <i>"A person cannot be both the commercial contact and the ratings analyst for an issuer. Ratings analysts may advise the commercial contact of the amount of work that a particular transaction would involve but they do not participate in the negotiations of the fee"</i> .

2.13	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	<p>No CRA employee should participate in or otherwise influence the determination of the CRA's rating of any particular entity or obligation if the employee: (a) owns securities or derivatives of the rated entity, other than holdings in diversified collective investment schemes; (b) owns securities or derivatives of any entity related to a rated entity, the ownership of which may cause or may be perceived as causing a conflict of interest, other than holdings in diversified collective investment schemes; (c) has had a recent employment or other significant business relationship with the rated entity that may cause or may be perceived as causing a conflict of interest; (d) has an immediate relation (i.e. a spouse, partner, parent, child or sibling) who currently works for the rated entity; or (e) has, or had, any other relationship with the rated entity or any related entity thereof that may cause or may be perceived as causing a conflict of interest.</p>	<p>DBRS has adopted policies and procedures designed to ensure that the ratings it issues are free from all compromising influences. Among other things, DBRS forbids its staff and Immediate Family to invest in the securities or derivatives of any Issuer that DBRS rates or benchmarks ("Restricted Securities"), other than holdings in diversified collective investment schemes. Restricted Securities that are owned at the time a person becomes a DBRS employee or securities that become Restricted Securities after the employee or his or her family buys them are considered "Grandfathered Securities" which must be reported to the DBRS CCO. Grandfathered Securities can be sold only upon the CCO's prior approval. In order to further ensure the independence and objectivity of the rating process, Analysts must inform the relevant Rating Committee of any of the following situations: (a) the Analyst owns Grandfathered Securities in the Issuer being reviewed; (b) the Analyst had a recent employment or other significant business relationship with the rated Issuer; (c) the Analyst has an immediate relation (spouse, partner, parent, child, or sibling) who currently works for the rated Issuer; (d) the Analyst has a present or past relationship with the rated Issuer or any Issuer related thereto, or with an employee of the rated Issuer. If any of the above situations causes or is perceived to cause a conflict of interest, the Analyst is not permitted to participate as a voting member in the Rating Committee to determine an Issuer's rating.</p>	<p>All employees shall comply with the provisions of the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on Fitch's free public website, www.fitchrating.com, on the homepage, under the link "Code of Conduct".</p>	<p>In accordance with Moody's Core Principles for the Conduct of Rating Committees, no Moody's Employee will participate in or otherwise influence the determination of the Credit Rating of any particular entity or obligation if the Employee: 2.13.1 owns Securities or Derivatives of the rated entity; 2.13.2 owns Securities or Derivatives of any entity related to a rated entity, the ownership of which may cause or may be perceived as causing a conflict of interest; 2.13.3 has had a recent employment or other significant business relationship with the rated entity that may cause or may be perceived as causing a conflict of interest; 2.13.4 has an immediate relation (i.e. a spouse, partner, parent, child, or sibling) who currently works for the rated entity; 2.13.5 has, or had, any other relationship with the rated entity or any related entity thereof that may cause or may be perceived as causing a conflict of interest.</p>	<p>No Analyst shall participate in or otherwise influence the determination of a rating in a rating committee for any particular issuer or issue if: (a) The Analyst or a member of the Analyst's Immediate Family owns Securities of the rated entity; (b) The Analyst or a member of the Analyst's Immediate Family owns Securities of any entity related to a rated entity, the ownership of which may cause or may be perceived as causing a conflict of interest; (c) within the six months immediately preceding the date of the meeting of the rating committee, the Analyst has had a recent employment or other significant business relationship with the rated entity that may cause or may be perceived as causing a conflict of interest; (d) The Analyst has an Immediate Family Member that currently works for the rated entity; or (e) The Analyst has, or had, within the six months immediately preceding the date of the meeting of the rating committee, any other relationship with the rated entity or any related entity thereof that may cause or may be perceived as causing a conflict of interest.</p>
II		<p>DBRS has created an exception for 'grandfathered' securities, whereby employees are permitted to own DBRS –rated securities that they owned prior to beginning employment with DBRS.</p> <p>In its response to CESR DBRS explains that: "Notwithstanding our allowance for ownership of 'Grandfathered Securities', DBRS has the following requirements in place that mitigate an analyst's influence over the determination of the credit rating of any issuer: i) analysts must disclose to Rating Committee their ownership of Grandfathered Securities and any other issue that could pose a conflict of interest; ii) an independent assessment of any actual or potential conflicts is conducted and where there is deemed to be an actual or perceived conflict of interest, analysts are not permitted to participate as voting members of Rating Committee; iii) all other members of that Rating Committee are made aware of the analyst's conflict of interest regarding the Grandfathered Securities; and iv) disposition of any Grandfathered Securities is tightly controlled by our Compliance department with respect to inside information/conflicts of interest and imminent rating decisions. Based on these mitigants, DBRS believes it achieves the objectives of section 2.13 of the IOSCO Code".</p>	<p>The Fitch Code of Conduct just provides a reference to "Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy", which adequately provides information about the content of IOSCO Code provision 2.13.</p>		44

2.14	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	The CRA's analysts and anyone involved in the rating process (or their spouse, partner or minor children) should not buy or sell or engage in any transaction in any security or derivative based on a security issued, guaranteed, or otherwise supported by any entity within such analyst's area of primary analytical responsibility, other than holdings in diversified collective investment schemes.	Except as otherwise provided in Section 2.13, above, with respect to Grandfathered Securities, and except for holdings in diversified collective investment schemes, DBRS Analysts and their Immediate Families are prohibited from buying, selling, or engaging in any transaction in Restricted Securities.	All employees shall comply with the provisions of the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on Fitch's free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	In accordance with Moody's internal securities trading policies, Moody's Employees who are involved in the rating process (or their spouse, partner or minor children) are prohibited from buying, selling or engaging in any transaction in any Security or Derivative of any Security issued, guaranteed, or otherwise supported by any entity within such Employee's area of primary analytical responsibility.	Analysts and anyone involved in the rating process (or any member of their Immediate Family) shall not buy or sell or engage in any transaction in any Security based on a security issued, guaranteed, or otherwise supported by any entity within such Analyst's area of primary analytical responsibility, except as permitted under Ratings Services' internal securities trading policy.
II			The Fitch Code of Conduct just provides a reference to "Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy", which adequately provides information about the content of IOSCO Code provision 2.14.		



2.15	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	CRA employees should be prohibited from soliciting money, gifts or favors from anyone with whom the CRA does business and should be prohibited from accepting gifts offered in the form of cash or any gifts exceeding a minimal monetary value.	DBRS Analysts are prohibited from soliciting money, gifts, or favors from anyone with whom DBRS does business. Analysts are not permitted to accept gifts exceeding a minimal monetary value and are not permitted to accept gifts in the form of cash. Unless deemed to exceed a minimal monetary value, Analysts would not be prohibited from attending entertainment related events with an Issuer as part of the ongoing rating relationship.	All employees shall comply with the provisions of the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on Fitch's free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	Moody's Employees are prohibited from soliciting money, gifts or favors from anyone with whom Moody's does business and are prohibited from accepting gifts or favors from such persons or entities other than those expressly sanctioned by the MCO Code of Business Conduct.	Employees are prohibited from soliciting money, gifts or favors from anyone with whom Ratings Services does business and are prohibited from accepting gifts offered in the form of cash or any gifts exceeding a minimal monetary value.
II			The Fitch Code of Conduct just provides a reference to "Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy", which adequately provides information about the content of IOSCO Code provision 2.15.		



2.16	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	Any CRA analyst who becomes involved in any personal relationship that creates the potential for any real or apparent conflict of interest (including, for example, any personal relationship with an employee of a rated entity or agent of such entity within his or her area of analytic responsibility), should be required to disclose such relationship to the appropriate manager or officer of the CRA, as determined by the CRA's compliance policies.	DBRS Analysts are required, subject to applicable laws, to disclose to the Rating Committee any personal relationships that create the potential for any real or apparent conflict of interest (including, for example, any personal relationship with an employee of a rated Issuer or agent of such Issuer within his or her area of analytic responsibility), as required by the DBRS Code of Ethics.	All employees shall comply with the provisions of the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on Fitch's free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	Any Moody's Analyst or Manager who becomes involved in any personal relationship that creates the potential for any real or apparent conflict of interest (including, for example, any personal relationship with an employee of a rated entity or agent of such entity within his or her area of analytic responsibility), will be required, subject to applicable law, to disclose such relationship to either their immediate supervisor, their department head, or a member of the Human Resources or Legal Department. Based on the assessment of this information, Moody's will take appropriate steps to mitigate this real or apparent conflict.	Subject to applicable law, any Analyst who becomes involved in any personal relationship that creates the potential for any real or apparent conflict of interest, shall disclose such relationship to the appropriate manager or officer of Ratings Services.
II			The Fitch Code of Conduct just provides a reference to "Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy", which adequately provides information about the content of IOSCO Code provision 2.16.		

3. CRA responsibilities to the investing public and issuers.

3.1	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	The CRA should distribute in a timely manner its ratings decisions regarding the entities and securities it rates.	DBRS distributes all ratings decisions regarding the entities and securities it rates in a timely fashion with allowance for proper review, analysis and administration.	<p>Fitch shall publish all public ratings, and related rating actions and opinions, including any withdrawal of a rating, free of charge on a non-selective basis on its free public website, www.fitchratings.com.</p> <p>Simultaneously with the publication of any initial public rating or subsequent rating action, Fitch shall distribute an appropriate announcement of such rating or rating action, together with related commentary, through such wire services and other media outlets as Fitch may determine are appropriate to disseminate such ratings and rating actions. Fitch shall make every reasonable effort to ensure that the time between a rating committee determining a final rating action and the publication of that rating action and related commentary should be as short as reasonably possible.</p>	In accordance with Moody's Core Principles for the Conduct of Rating Committees, Moody's will distribute as soon as practicable its Credit Rating opinions regarding the Issuers, debt and debt-like obligations it rates.	Ratings Services shall distribute in a timely manner its Ratings Actions regarding the issuers and issues it rates.
II					



3.2	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	The CRA should publicly disclose its policies for distributing ratings, reports and updates.	Except for private ratings and ratings for certain private placement transactions, DBRS ratings are distributed publicly at no cost through its website www.dbrs.com . Ratings are also publicly distributed through Bloomberg, Reuters, First Call, ABSNet, and other electronic and print services. DBRS provides comprehensive rating rationales to support every rating opinion and action. These rationales, along with press releases, announcements and invitations to industry forums are also publicly released through www.dbrs.com , Bloomberg, Reuters, First Call, ABSNet, and other electronic and print services. In addition to the publicly released ratings information, DBRS also makes full rating reports, industry studies, commentaries and securitization services reports available to paying subscribers. Each rating report and industry study provides the criteria for rating decisions and an analysis including the strengths, challenges and key characteristics of each Issuer.	<p>Fitch shall publish all public ratings, and related rating actions and opinions, including any withdrawal of a rating, free of charge on a non-selective basis on its free public website, www.fitchratings.com.</p> <p>Simultaneously with the publication of any initial public rating or subsequent rating action, Fitch shall distribute an appropriate announcement of such rating or rating action, together with related commentary, through such wire services and other media outlets as Fitch may determine are appropriate to disseminate such ratings and rating actions.</p> <p>Fitch shall maintain its website so that a user can determine when a rating was last updated.</p> <p>Fitch shall make every reasonable effort to ensure that the time between a rating committee determining a final rating action and the publication of that rating action and related commentary should be as short as reasonably possible.</p> <p>When Fitch publishes a rating, or takes any other rating action with respect to a published rating, Fitch shall provide an explanation in the related commentary and reports of the elements that the rating committee found key to such rating or rating action.</p>	Moody's will publicly disclose and keep current its policies for distributing Credit Ratings, reports and updates.	Ratings Services shall publicly disclose its policies for distributing ratings, reports and updates.
II		DBRS directly discloses its distribution policy in its code.		Moody's incorporates principle 3.2 verbatim and the distribution policy is available on Moody's website.	S&P policy concerning disclosure of ratings, reports and updates is described in detail in the report of the IOSCO code implementation published for the first time in February 2006 and freely accessible on the S&P website (section "policies").

3.3	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	The CRA should indicate with each of its ratings when the rating was last updated.	For each of its ratings, DBRS indicates when the rating was last updated. In its press releases, DBRS also references the last report date.	Fitch shall maintain its website so that a user can determine when a rating was last updated.	In each of its Credit Rating press releases, Moody's will reference the last associated rating action.	Ratings Services shall indicate with each of its ratings when the rating was last changed.
II					



3.4	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	Except for "private ratings" provided only to the Issuer, the CRA should disclose to the public, on a non-selective basis and free of charge, any rating regarding publicly issued securities, or public issuers themselves, as well as any subsequent decisions to discontinue such a rating, if the rating actions is based in whole or in part on material non-public information.	Except for "private ratings" and certain private placement transactions provided only to the Issuer, DBRS discloses to the public, on a non-selective basis and at no cost, any rating regarding publicly issued securities, or public Issuers themselves, as well as any subsequent decisions to discontinue such a rating. DBRS clearly notes ratings based only on public information.	Fitch shall publish all public ratings, and related rating actions and opinions, including any withdrawal of a rating, free of charge on a non-selective basis on its free public website, www.fitchratings.com . Fitch reserves the right to withdraw any rating at any time for any reason, including withdrawal, without notice, if a rating committee concludes that Fitch lacks sufficient information to maintain the rating or that any information provided to Fitch is unreliable. In the event a rating is withdrawn, Fitch shall publish an appropriate commentary that includes the current rating(s) and states that the rating(s) has/have been withdrawn and that Fitch will no longer provide the rating(s) or analytical coverage of the issuer.	Moody's will make Credit Rating actions on public debt securities or public debt Issuers available to the public without cost. Such Credit Rating actions will be posted on Moody's public website and through simultaneous transmission to the news media as well as via electronic or print subscription services. The public will be able to obtain a current public Credit Rating for any Issuer, debt or debt-like obligation without cost. Ratings actions and a brief explanation of the rationale for the rating actions will remain on Moody's public website for a minimum of 3 business days.	Ratings Services shall make Rating Actions available to the public without charge. Rating Actions shall be disseminated via real time posts on Standard & Poor's public website, www.standardandpoors.com , and through a wire feed to the news media as well as via electronic or print subscription services. The public shall be able to obtain a current public rating for any issuer or issue without charge. Rating Actions and the short explanation of the basis for the Rating Action, if any, shall remain on Standard & Poor's public website for a minimum of twenty-four hours. Upon the request of an issuer, and in Ratings Services' sole discretion, Ratings Services may agree to keep a rating confidential, and evidence this agreement in the engagement letter with the issuer. If a rating is already public, a subsequent Rating Action shall also be public.
II		Press releases available to the general public remain on the website indefinitely. At present, DBRS website contains press releases going back to 1995.	Rating Action Commentaries, which provide the rating and a summary of the rationale, are available to the general public are available on the public website for a minimum of 7 days.	Short rating reports are available on the website for a minimum of 3 business days.	Short rating reports are available on the website for a minimum of 24 hours.



3.5	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	The CRA should publish sufficient information about its procedures, methodologies and assumptions (including financial statement adjustments that deviate materially from those contained in the issuer's published financial statements) so that outside parties can understand how a rating was arrived at by the CRA. This information will include (but not be limited to) the meaning of each rating category and the definition of default or recovery, and the time horizon the CRA used when making a rating decision.	DBRS publishes sufficient information about its rating philosophies, procedures, methodologies and assumptions that materially deviate from those contained in the Issuer's published financial statements so that market participants can understand how DBRS arrives at its ratings. This information includes but is not limited to: the meaning of each rating category, the definition of default, and the time horizon DBRS uses when making a rating decision. On the latter point, all DBRS ratings are monitored on an ongoing basis to ensure that ratings remain appropriate as new information becomes available. When major new events occur, DBRS typically comments through a press release and as a general goal, targets an update on each credit at least once per year, often supplemented by additional research on the industry.	All rating criteria and methodologies shall be available on Fitch's free public website, www.fitchratings.com . Fitch's criteria, methodologies and ratings definition shall identify the specific factors that it considers during the rating and surveillance processes.	(3.6) Moody's will publish sufficient information about its procedures, methodologies and any assumptions that deviate materially from information contained in the Issuer's published financial statements so that financial market professionals can understand how a Credit Rating assessment was made.	Ratings Services shall publish sufficient information about its procedures, methodologies and assumptions (including financial statement adjustments that deviate materially from those contained in the issuer's published financial statements) so that outside parties can understand how a rating was arrived at by Ratings Services. This information will include (but not be limited to) the meaning of each rating category and the definition of default or recovery, and the time horizon Ratings Services used when making a rating decision.
II		Please see Section IV for comments on the transparency of the methodology.	Please see Section IV for comments on the transparency of the methodology.	Please see Section IV for comments on the transparency of the methodology.	Please see Section IV for comments on the transparency of the methodology.

3.6	IOSCO CODE	DBRS CODE	FITCH'CODE	MOODY'S CODE	S & P CODE
I	When issuing or revising a rating, the CRA should explain in its press releases and reports the key elements underlying the rating opinion.	When issuing or revising a rating, DBRS provides the rationale underlying the rating opinion in its press releases and reports.	<p>Simultaneously with the publication of any initial public rating or subsequent rating action, Fitch shall distribute an appropriate announcement of such rating or rating action, together with related commentary, through such wire services and other media outlets as Fitch may determine are appropriate to disseminate such ratings and rating actions. Fitch shall maintain its website so that a user can determine when a rating was last updated.</p> <p>When Fitch publishes a rating, or takes any other rating action with respect to a published rating, Fitch shall provide an explanation in the related commentary and reports of the elements that the rating committee found key to such rating or rating action.</p>	When issuing or revising a Credit Rating, Moody's will explain in its press releases and reports the key elements underlying the Credit Rating.	When publishing a rating, Ratings Services shall explain in its press releases and reports, if any, the key elements underlying the rating, subject to any restrictions imposed by applicable confidentiality agreements and any applicable laws regarding the release of Confidential Information.
II					



3.7	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	Where feasible and appropriate, prior to issuing or revising a rating, the CRA should inform the issuer of the critical information and principal considerations upon which a rating will be based and afford the issuer an opportunity to clarify any likely factual misrepresentation or other matters that the CRA would wish to be made aware of in order to produce an accurate rating. The CRA will duly evaluate the response. Where in particular circumstances the CRA has not informed the issuer prior to issuing or revising a rating, the CRA should inform the issuer as soon as practicable thereafter and generally should explain the reason for the delay.	In accordance with DBRS's rating policies and procedures, prior to issuing or revising a rating, DBRS informs the Issuer of the critical information and principal considerations upon which the intended rating action is based and provides the Issuer an opportunity to clarify any possible factual misperceptions or other matters that DBRS would wish to be made aware of in order to produce appropriate ratings and research. DBRS Analysts duly evaluate these clarifications and all relevant information. Where in particular circumstances, DBRS has been unable to inform the Issuer prior to issuing or revising a rating, DBRS will inform the Issuer as soon as practicable thereafter and, generally, will explain the reason for the delay. If the Issuer takes exception to the rating, DBRS is prepared to consider an appeal only where the Issuer provides material new information that was not previously disclosed to DBRS, or if there is a significant change in the terms of the security being rated.	To the extent reasonably feasible and appropriate, prior to issuing or revising a rating, Fitch shall provide the issuer advance notification of all rating actions and a copy of the commentary to be published with respect to such action, including the critical information and principal considerations upon which the rating decision has been based. Fitch provides such notification and related commentary solely to allow the issuer to check for factual accuracy or the presence of non-public information. Fitch shall duly evaluate any comments made by the issuer, however, the issuer may not propose any drafting or editorial changes to the commentary provided, other than to correct factual errors or remove references to non-public information. In certain circumstances, Fitch in its sole discretion may decide not to provide such advance notification if timely dissemination of the rating committee decision would be compromised. In such cases, Fitch shall inform the issuer as soon as practical thereafter and shall generally explain the reason for not notifying the issuer.	In accordance with Moody's Core Principles for the Conduct of Rating Committees, where feasible and appropriate, prior to issuing or revising a Credit Rating, Moody's will inform the Issuer of the critical information and principal considerations upon which the Credit Rating will be based and afford the Issuer an opportunity to submit additional factual information not previously available to the Issuer, or clarify any likely factual misperceptions in order to produce a well-informed Credit Rating. Moody's will duly evaluate the Issuer's response. Where in particular circumstances the CRA has not informed the Issuer prior to issuing or revising a Credit Rating, Moody's will inform the Issuer as soon as practicable thereafter and generally will explain the reason for the delay.	Where feasible and appropriate, prior to issuing or revising a rating, Ratings Services shall inform the issuer of the critical information and principal considerations upon which a rating will be based and if appropriate afford the issuer an opportunity to clarify any likely factual misperceptions or other matters that Ratings Services would wish to be made aware of in order to produce a credible rating. Ratings Services shall duly evaluate the response. Where in particular circumstances Ratings Services has not informed the issuer prior to issuing or revising a rating, Ratings Services should inform the issuer as soon as practicable thereafter.
II		DBRS is the only CRA that does not mention the limit “Where feasible and appropriate”, although the possibility that the information not be submitted to the issuers exists, in which case DBRS commits itself to explain the reason for the delay to the issuer.			



3.8	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	In order to promote transparency and to enable the market to best judge the performance of the ratings, the CRA, where possible, should publish sufficient information about the historical default rates of CRA rating categories and whether the default rates of these categories have changed over time, so that interested parties can understand the historical performance of each category and if and how rating categories have changed, and be able to draw quality comparisons among ratings given by different CRAs. If the nature of the rating or other circumstances make a historical default rate inappropriate, statistically invalid, or otherwise likely to mislead the users of the rating, the CRA should explain this.	In order to promote transparency and to enable the market to best judge the performance of the ratings, DBRS, where possible, will publish sufficient information about the historical default rates of DBRS rating categories and whether the default rates of these categories have changed over time, so that interested parties can understand the historical performance of rating categories. In April 2005, DBRS published a Corporate Default study on the historical default performance of DBRS-rated corporate bond Issuers from 1977 to 2004.	Fitch shall conduct periodic studies on the performance of Fitch-rated securities and issuers, including current and historical default rates by rating category and rating transition analyses. Fitch shall make all transition and default studies available on Fitch's free public website, www.fitchratings.com .	In order to promote transparency and to enable the market to best judge the aggregate performance of Credit Ratings on debt instruments, where possible, Moody's will publish sufficient information about its historical default rates by rating category, the transitions between rating categories, and periodic performance metrics so that financial market professionals can understand the historical performance of rating categories.	Ratings Services shall conduct periodic default and transition studies on its ratings. Ratings Services' default and transition studies shall contain information as to the bases of its default analyses, key assumptions and methodologies, all of which shall be designed to demonstrate to the marketplace the performance of its credit ratings and track record. Default and transition studies shall be conducted annually and may be conducted on a more frequent basis if appropriate for a particular market. The default and transition studies shall be available without charge to the public on Standard & Poor's public website, www.standardandpoors.com .
II					



3.9	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	For each rating, the CRA should disclose whether the issuer participated in the rating process. Each rating not initiated at the request of the issuer should be identified as such. The CRA should also disclose its policies and procedures regarding unsolicited ratings.	DBRS generally is able to obtain the cooperation of an Issuer's management in the ratings process. However, where DBRS is unable to have substantive discussions with an Issuer's management and is not privy to Confidential Information, DBRS may, in its discretion, provide a rating opinion based on public information only. DBRS occasionally issues ratings based on public information only as part of its strategy to provide analysis on all meaningful borrowers in the global markets. DBRS believes that coverage of all major companies in an industry, whether they fully participate in the ratings process or not, benefits the investing public by improving the quality of the ratings report. Peer coverage within an industry also enhances an Analyst's ability to rate other companies, by enabling an understanding of the major differences and subtle nuances among various companies in the industry. Where an Issuer whom DBRS desires to rate declines to cooperate with DBRS, DBRS will notify the issuer of DBRS's intention to initiate coverage, and will make it clear that it is initiating this ratings coverage on a no-fee basis. DBRS Analysts are forbidden to engage in any coercive or punitive conduct with respect to such ratings. All reports and press releases regarding ratings based on public information only, as well as reports and press releases for ratings issued without the full participation of issuers contain the standard DBRS disclosure: "Note: This rating is based on public information."	Issuers and their agents have requested the substantial majority of Fitch's ratings. However, in the absence of a rating engagement, Fitch does rate securities and issuers from time to time if Fitch believes there is a substantial market interest in the securities or the issuer or where Fitch believes that its opinion may differ from those prevailing in the marketplace. In any case where Fitch rates securities or an issuer on a Fitch-initiated basis, the fact that the rating is a Fitch-initiated rating shall be disclosed in accordance with Fitch's established policies and procedures.	In order to promote transparency, and in accordance with Moody's Policy on Designation of Ratings in Which the Issuer Has Not Participated, Moody's will publicly designate and disclose Non-Participating Credit Ratings.(3.12) Moody's has not assigned Unsolicited Credit Ratings in the recent past. However, as a publisher of opinions about credit, Moody's reserves the right in the future to issue Unsolicited Credit Ratings if Moody's believes (i) there is a meaningful credit market or investor interest served by the publication of such a rating; and (ii) it has sufficient information to support adequate analysis and, if applicable, ongoing surveillance. When a Credit Rating is an Unsolicited Credit Rating, Moody's will not seek or accept remuneration for its analytical services from the Issuer for at least one year after the publication on such rating.	Unsolicited ratings are ratings assigned by Ratings Services without the full participation of issuers in the rating process. Ratings Services reserves the right, in its sole discretion, to issue ratings without the full participation of issuers in the rating process if Ratings Services believes (i) there is a meaningful credit market or investor interest served by the publication of such a rating, and (ii) it has sufficient information to support adequate analysis and, if applicable, ongoing surveillance. Ratings Services shall indicate if a rating is an unsolicited rating. In some cases, issuers may provide limited information to Ratings Services and Ratings Services would still consider those ratings to be unsolicited ratings. Ratings Services shall disclose its policies and procedures regarding unsolicited ratings without charge to the public on Standard & Poor's public website www.standardandpoors.com .



II		<p>DBRS issues unsolicited ratings in the form of ratings “based on public information”. DBRS does not state explicitly who initiated the rating but consider that a rating based on public information infers that the issuer is obviously not the initiator of the rating. Ratings based on public information are indicated by note disclosure and not by an appendage. All press releases and rating reports clearly provide this note disclosure. DBRS does not keep PI ratings in one site on dbrs.com. DBRS clearly states that unsolicited ratings involve no fee payment.</p>	<p>Fitch maintains a database containing details of both initiation status and issuer participations but does not make it available to the public as one document for a variety of reasons, including the commercial sensitivity of the information and its lack of relevance to Fitch’s analytical judgments. However the initiation status is disclosed on the first Rating Action Commentary and a link is made available on the public website to ensure that this remains available indefinitely wherever possible. For any subsequent public ratings of an entity, the information can be obtained free of charge by calling Fitch Rating Desk. Since participation can vary over time, Fitch discloses cases of non-participation on every relevant Rating Action Commentary. In addition, participation can be obtained free of charge by calling Fitch’s Ratings Desk.</p> <p>Regarding methodologies to assign unsolicited ratings, Fitch does not explicitly mention that these are available on the website within its Code but it issued a special report “Rating initiation and participation disclosure” stating that agency-initiated ratings must meet the same standards for information and analysis as other (solicited) ratings.</p>	<p>Moody’s does not maintain a database of unsolicited ratings. However, if a rating is initiated by Moody’s, this would appear in the initial rating report. Besides, a list of non-participating issuers is available on Moody’s website. Moody’s clearly states that unsolicited ratings involve no fee payment.</p>	<p>S&P identify unsolicited ratings through a disclaimer if the rating was initiated by S&P and also publish “PI” ratings, ie ratings based on public information. Although S&P does not currently identify unsolicited ratings in its database, it is working on ways to appropriately identify such ratings in the various delivery platforms used, in the context of the forthcoming Basel II reform. Regarding methodologies to assign unsolicited ratings, S&P is the sole agency to explicitly mention that these are available on the website.</p>
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3.10	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY CODE	S & P CODE
I	Because users of credit ratings rely on an existing awareness of CRA methodologies, practices, procedures and processes, the CRA should fully and publicly disclose any material modification to its methodologies and significant practices, procedures and processes. Where feasible and appropriate, disclosure of such material modifications should be made prior to their going into effect. The CRA should carefully consider the various uses of credit ratings before modifying its methodologies, practices, procedures and processes.	DBRS publishes its rating philosophies, methodologies and related significant practices on its public website, www.dbrs.com. Material modification, new methodologies, and significant changes in DBRS's practices, including rating definitions, are publicly disclosed via press release and posting on www.dbrs.com. Where feasible and appropriate, this disclosure is made before the change takes effect. DBRS carefully considers the various uses of its ratings before modifying its methodologies, practices, procedures, and processes.	Fitch shall publicly disclose all material modifications to its criteria, methodologies and significant practices, procedures and processes. Where feasible and appropriate, Fitch shall undertake to disclose planned material modifications prior to the effective dates of such modifications. Fitch shall consider the various uses of ratings before modifying its criteria, methodologies, practices, procedures and processes.	Moody's will publicly disclose via press release and posting on moodys.com any material modifications to its rating methodologies and related significant practices, procedures, and processes. Where feasible and appropriate, disclosure of such material modifications will be made subject to a "request for comment" from market participants prior to their implementation. Moody's will carefully consider the various uses of Credit Ratings before modifying its rating methodologies, practices, procedures and processes.	Ratings Services shall make material modifications to its methodologies and significant practices, procedures, and processes available without charge to the public on Standard & Poor's public website www.standardandpoors.com. Where feasible and appropriate, disclosure of such material modifications shall be made prior to their going into effect. Ratings Services shall carefully consider the various uses of ratings before modifying its methodologies, practices, procedures and processes.
II					



3.11	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	<p>The CRA should adopt procedures and mechanisms to protect the confidential nature of information shared with them by issuers under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially. Unless otherwise permitted by the confidentiality agreement and consistent with applicable laws or regulations, the CRA and its employees should not disclose confidential in press release, through research conferences, to future employers, or in conversations with investors, other issuers, other persons, or otherwise.</p>	<p>DBRS recognizes the importance of handling and using with great care Confidential Information provided by Issuers, their agents, or other third parties. To this end, DBRS Staff members may share Confidential Information about Issuers DBRS rates only with other DBRS Staff members on a need to know basis and disclosure to any outside party of Confidential Information about the Issuers DBRS rates is not tolerated. DBRS will not release Confidential Information unless DBRS is required by law to divulge such information or the Issuer consents to DBRS's release of this information.</p>	<p>All employees shall maintain the confidentiality of all non-public information in accordance with the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on its free public website, www.fitchratings.com, on the homepage, under the link "Code of Conduct".</p>	<p>Moody's and its Employees will: 1. Preserve the confidentiality of Confidential Information communicated to them by an Issuer or its agent; and 2. Unless they have received permission from the Issuer, refrain from disclosing Confidential Information in press releases, through research conferences, conversations with investors, other Issuers, or any other persons. 3. Notwithstanding the foregoing, Moody's shall not be restricted from: (a) publishing any Credit Rating or other opinion regarding a particular security or transaction which incorporates Confidential Information without specifically disclosing it; (b) using third party contractors or agents bound by appropriate confidentiality obligations to assist in any aspect of the rating process or related business activities; or (c) disclosing information as required by any applicable law, rule, or regulation or at the request of any governmental agency or authority.</p>	<p>Ratings Services and its employees shall protect the confidentiality of Confidential Information communicated to them by an issuer or its agents. Unless otherwise permitted by an agreement with the issuer, Ratings Services and its employees shall refrain from disclosing Confidential Information in press releases, through research conferences, conversations with investors, other issuers, or any other persons. Notwithstanding the foregoing, Ratings Services shall not be restricted from: (a) publishing any Rating Action or other opinion regarding a particular issuer or issue which incorporates Confidential Information without specifically disclosing it; or (b) using third party contractors or agents bound by appropriate confidentiality obligations to assist in any aspect of the rating process or related business activities.</p>
II					

3.12	IOSCO CODE	DBRS CODE	FITCH'S CODE	MOODY CODE	S & P CODE
I	The CRA should use confidential information only for purposes related to its rating activities or otherwise in accordance with any confidentiality agreements with the issuer.	DBRS uses Confidential Information only for purposes related to its rating activities or otherwise in accordance with its confidentiality agreements with Issuers.	All employees shall maintain the confidentiality of all non-public information in accordance with the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on its free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	Moody's will use Confidential Information only for purposes related to its rating activities.	Ratings Services shall use Confidential Information only for purposes related to its rating activities or otherwise in accordance with any confidentiality agreements with the issuer.
II					

3.13	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	CRA employees should take all reasonable measures to protect all property and records belonging to or in possession of the CRA from fraud, theft or misuse.	DBRS has implemented policies and procedures reasonably designed to protect its property and records from fraud, theft, or misuse.	All employees shall maintain the confidentiality of all non-public information in accordance with the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on its free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	Moody's Employees will take all reasonable measures to protect all property and records belonging to or in possession of Moody's from fraud, theft or misuse.	Employees shall take all reasonable measures to protect all property and records belonging to or in possession of Ratings Services from fraud, theft or misuse.
II					

3.14	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	CRA employees should be prohibited from engaging in transactions in securities when they possess confidential information concerning the issuer of such security.	DBRS prohibits its Staff from engaging in transactions in securities where they possess Confidential Information about the Issuer of such securities.	All employees shall maintain the confidentiality of all non-public information in accordance with the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on its free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	In accordance with Moody's internal securities trading policies, Moody's Employees will be prohibited from engaging in transactions in Securities and Derivatives when they possess Confidential Information concerning the Issuer of such Securities.	Employees shall not engage in transactions in Securities when they possess Confidential Information concerning the issuer of such Security.
II					

3.15	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	In preservation of confidential information, CRA employees should familiarize themselves with the internal securities trading policies maintained by their employer, and periodically certify their compliance as required by such policies.	DBRS Staff members are governed by the DBRS Code of Ethics and other policies which cover, among other areas, the misuse of Confidential Information and personal trading restrictions. DBRS Staff members are required to review and comply with DBRS's Code of Ethics and to sign a Statement of Understanding when they join DBRS, and thereafter on an annual basis, confirming their review and compliance with the DBRS Code of Ethics.	All employees shall maintain the confidentiality of all non-public information in accordance with the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on its free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	Moody's Employees will familiarize themselves with Moody's internal securities trading policies, and periodically certify their compliance as required by such policies.	Employees shall familiarize themselves with the internal securities trading policies maintained by Ratings Services, and are required to periodically certify their compliance as required by such policies.
II				Moody's has formulated an internal securities trading policy. Although it is not a public document, Moody's states that the substance of the policy is described in Moody's Code, Moody's Report and the MCO Code which are published on Moody's website.	

3.16	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	CRA employees should not selectively disclose any non-public information about rating opinions or possible future rating actions of the CRA, except to the issuer or its designated agents.	DBRS Staff members are forbidden to selectively disclose any confidential non-public information about rating opinions or possible future rating actions of DBRS, except to the Issuer or its designated agents.	<p>All employees shall comply with the provisions of the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on Fitch's free public website, www.fitchratings.com, on the homepage, under the link "Code of Conduct".</p> <p>During the regular course of business, Fitch expects that its analysts will have discussions with market participants about its rating opinions and rating actions. These conversations, however, shall not go beyond the scope of Fitch's published analysis, express any opinion that is not consistent with Fitch's published view or disclose any non-public information or privileged information relating to Fitch's internal deliberations. Analysts are prohibited from disclosing any rating or rating action or anticipated rating action to any person, other than the issuer and its agents or members of the media, prior to the publication of the rating or rating action and its related commentary.</p>	Moody's Employees will not disclose any non-public information about rating opinions or possible future rating actions of Moody's except to the Issuer or its designated agents.	Employees shall not disclose any non-public information about Rating Actions or possible future Rating Actions, except to related issuers and their designated agents.
II				Moody's states in relation to section 3.14 of its Code: "As a publisher of credit research related to its Credit Ratings, Moody's will seek to provide clear, accurate, transparent and high quality research about rated Issuers, debt or debt-like obligations. Research sales shall be separated from the research and rating process in ways that help protect the latter activities from improper conflicts of interest. As provided elsewhere in this section, non-public information about Moody's future rating actions may not be selectively disclosed to research subscribers or others". Moody's explained that it added Section 3.14 to its Code because, in addition to its publicly available Credit Ratings, it provides subscription-based credit research products as a part of its Credit Rating activities. Its credit research publications are largely developed by its Analysts as an extension of the Credit Rating analysis process, and they provide more information about a particular Issuer, industry or asset class. However, Moody's believes that Employees responsible for the sale of those products should be separate from its Analysts in order to promote Analyst independence and prevent potential conflicts of interest that might otherwise arise.	

3.17	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	CRA employees should not share confidential information entrusted to the CRA with employees of any affiliated entities that are not CRAs. CRA employees should not share confidential information within the CRA except on an "as needed" basis.	DBRS Staff members are not permitted to share Confidential Information entrusted to them with other DBRS Staff members of affiliated or related entities except to the extent these DBRS Staff members are involved in the rating of the particular Issuer and the sharing of such information is critical to the rating analysis.	<p>All employees shall maintain the confidentiality of all non-public information in accordance with the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on its free public website, www.fitchratings.com, on the homepage, under the link "Code of Conduct".</p> <p>Fitch shall maintain and publish a formal Firewall Policy governing firewalls and operations between Fitch and its non-rating affiliates to mitigate potential conflicts of interests. This policy is available on Fitch's free public website, www.fitchratings.com, on the homepage, under the link "Code of Conduct"</p>	Moody's Employees will not share Confidential Information entrusted to Moody's with employees of any affiliated except to the extent such employees are acting as agents of Moody's with respect to the rating process, and are bound by appropriate confidentiality obligations. Moody's Employees will not share Confidential Information within Moody's except on a "reason-to-know" basis.	Employees shall not share Confidential Information entrusted to Ratings Services with employees of any Non-Ratings Business without the prior written consent of the issuer. Except for legitimate business reasons arising in connection with the delivery of ratings or related products, employees shall not share Confidential Information with other employees of Ratings Services.
II				In Moody's view the phrase "the reason to know" basis has the same meaning as IOSCO's "as needed" basis.	S&P indicates that the phrase "Except for legitimate business reasons" is intended to cover primarily the need of other ratings analysts to incorporate the information into their credit opinions. In addition, Rating Services may use confidential information in studies and for the creation of models.

3.18	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S & P CODE
I	CRA employees should not use or share confidential information for the purpose of trading securities, or for any other purpose except the conduct of the CRA's business.	As required by DBRS's Code of Ethics, DBRS Staff may not use or share Confidential Information for the purpose of trading securities, or for any other purpose except in the conduct of DBRS's ratings business.	All employees shall maintain the confidentiality of all non-public information in accordance with the Fitch Ratings Worldwide Confidentiality, Conflicts of Interest and Securities Trading Policy, which is available on its free public website, www.fitchratings.com , on the homepage, under the link "Code of Conduct".	Moody's Employees will not use or share Confidential Information for the purpose of trading securities, or for any other purpose except as described in Provision 3.16 of this Code. 3.22.1 Except as required under any applicable law, rule, negotiation, or at the proper request of any governmental agency or authority, Moody's internal deliberations and the identities of persons who participated in a rating committee will be kept confidential and will not be disclosed to persons outside of Moody's.	Ratings Services' employees shall not use or share Confidential Information for the purpose of trading Securities, or for any other purpose except the conduct of Ratings Services' business.
II					

4. Disclosure of the code of conduct and communication with market participants

4.1	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	<p>The CRA should disclose to the public its code of conduct and describe how the provisions of its code fully implement the provisions of the IOSCO Principles Regarding the Activities of Credit Rating Agencies and the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies. If a CRA's code of conduct deviates from the IOSCO Provisions, the CRA should explain where and why these deviations exist, and how any deviations nonetheless achieve the objectives contained in the IOSCO provisions. The CRA should also describe generally how it intends to enforce its code of conduct and should disclose on a timely basis any changes to its code of conduct or how it is implemented and enforced.</p>	<p>This Code reflects DBRS's adherence to the International Organization of Securities Commission Code of Conduct Fundamentals for Credit Rating Agencies ("IOSCO Code"). Together with DBRS's Management, the CCO and the MD, Policy are responsible for implementing and enforcing this Code and the related policies, procedures, and internal controls. The MD, Policy shall be responsible for disclosing, on a timely basis, any changes to this Code or how it is implemented and enforced. As noted above, this Code has been drafted in accordance with and is substantially similar to the IOSCO Code. However, in certain limited respects, (namely, Sections 2.12, 2.13 and 2.14) DBRS has modified the provisions of the IOSCO Code to adapt those provisions to DBRS's particular business model. In each case, DBRS believes that the modified provisions achieve the objectives contained in the IOSCO Code and the principles that underlie it. This Code of Conduct, and any modifications made to it going forward, will be made publicly available at www.dbrs.com.</p>	<p>Throughout its history, Fitch has established and implemented policies, procedures and internal controls to ensure the objectivity and integrity of its ratings. Fitch's Code of Conduct, set forth below (the "Code"), summarizes Fitch's existing policies and procedures designed to ensure the highest standards for Fitch's ratings. Fitch will promptly disclose any changes to this Code, or to how this Code is implemented and enforced.</p> <p>Fitch's Chief Compliance Officer and staff shall oversee compliance with this Code, the policies referred to herein and all applicable laws and regulations.</p> <p>The Chief Compliance Officer shall oversee the design, implementation and performance of a periodic review process through which compliance with this Code and the policies and procedures of Fitch shall be thoroughly assessed. Fitch fully supports the International Organization of Securities Commissions ("IOSCO") Statement of Principles Regarding the Activities of Credit Rating Agencies - that is, reduction of asymmetry of information in the marketplace, independence of rating agencies/freedom from conflict of interest, transparency with respect to the activities of rating agencies and maintenance of the confidentiality of non-public information. Fitch's policies and practices have been assembled in this Code in response to increased market interest in codes of conduct for rating agencies, as well as the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies (the "IOSCO Code"). To that end and as an assistance to the public, set forth below is a cross reference guide, matching sections of the Fitch Code to the equivalent sections of the IOSCO Code. It should be noted that there is one area in which the Fitch Code differs somewhat from the IOSCO Code.</p>	<p>Moody's Management will be responsible for the implementation of the enforcement of the Moody's code. The Office of Compliance will annually review and assess the efficacy of such implementation and enforcement. The provisions of this Code are derived from the IOSCO Principles and the IOSCO Code. However, Moody's made certain modifications to more closely correspond with Moody's business mode and practices. Such modifications will be specifically identified and explained in a report that Moody's will publish annually outlining compliance with the Moody's Code and explaining any deviations that may exist between the Moody's Code and the IOSCO Code. With respect to the subjective standards that are incorporated in the Code, Moody's will use its good faith efforts in implementing such standards. This Code, and any modifications made to it going forward, will be made public and readily accessible via moody.com</p>	<p>Rating Services has adopted this Code in order to further align its policies and procedures with Code of Conduct Fundamentals for Credit Rating Agencies (the "IOSCO Code"). In order to disclose this Code to the public, this Code is available without charge to the public on Standard & Poor's public website, www.standardandpoors.com. The Executive Vice President in charge of Ratings Services has determined that the Analytics Policy Board and the executive managing directors of Ratings Services shall be represented for enforcing this Code and the related policies and procedures to the extent provisions herein and therein relate to analytical matters and the Global Regulatory Affairs Department shall be responsible for enforcing all other provisions of this Code and the related policies and procedures. There are two areas in which the provisions of the Code differ from the provisions of IOSCO Code.</p>
II					67

4.2	IOSCO CODE	DBRS CODE	FITCH CODE	MOODY'S CODE	S&P CODE
I	<p>The CRA should establish a function within its organization charged with communicating with market participants and the public about any questions, concerns or complaints that the CRA may receive. The objective of this function should be to help ensure that the CRA's officers and management are informed of those issues that the CRA's officers and management would want to be made aware of when setting the organization's policies.</p>	<p>DBRS's Client Services group, among other things, is responsible for handling any questions, concerns or complaints that DBRS may receive. In addition, DBRS's Corporate Communications group assists in communicating with market participants and helping to ensure that DBRS Management have adequate market intelligence. These groups, among others, provide significant information to DBRS Management that informs policy development and decision making.</p>	<p>All market participants and the public are welcome to have a voice regarding Fitch and its policies, including raising any questions, concerns or complaints they may have. Comments should be directed to the two Regional Credit Officers within the global Credit Policy Group, according to the location of the respondent. The Regional Credit Officers report directly to the Chief Credit Officer and, among their other responsibilities, are responsible for tracking comments from third parties and responding to inquiries. The Regional Credit Officers will notify Fitch's senior management of substantive third-party comments, which will be considered as Fitch formulates or revises its policies and procedures, or both. Contact information for the Regional Credit Officers is available on our free public website, www.fitchratings.com, on the homepage, under the link "Code of Conduct".</p>	<p>Moody's Communications Department is charged with communicating with market participants and the public about any questions, concerns or complaints that Moody's may receive about Moody's adherence with the Code. The objective of this function is to help ensure that Moody's officers and its Management have adequate market intelligence when setting Moody's policies.</p>	<p>The Senior Policy Officer of Ratings Services and regional designees shall be responsible for communicating with market participants and the public about any questions, concerns or complaints that Ratings Services may receive. The Senior Policy Officer and regional designees shall help to ensure that Ratings Services' officers and management are informed of those issues that Ratings Services' officers and management would want to be made aware of when setting Ratings Services' policies.</p>
II					

III. DAY TO DAY APPLICATION OF THE CRAS' CODES IN PRACTICE

1. Summary of the responses to the survey¹

General comments

26. As mentioned before, on 6 July 2006 CESR published on its website a questionnaire addressed to all market participants with the purpose of gathering information on the day-to-day application of the CRAs codes in practice. Around 17 interested parties answered the questionnaire. Those responses that are public can be viewed at the CESR website.
27. The responses to the questionnaire highlight again the extremely important role of the CRAs to financial markets. Even if they act in the public interest as independent monitors of the issuers' credit (ACT) and although other professions comparable in their importance (e.g., auditors or actuaries) are subject to regulation (GDV), the overall message from respondents is that CESR's advice and the Commission's communication not to impose additional legislation regarding CRAs for the time being is the right one.
28. Market participants welcome CESR's policy of monitoring the way the CRAs have implemented the IOSCO Code. This approach has raised the CRAs' awareness of the importance of having a code of conduct in place and also of complying with it in practice. In general, issuers and users of ratings consider that as a result the operations of the CRAs are more transparent today.
29. Nevertheless, as highlighted in the summary below, respondents considered that there are still areas where there is need for improvement. The areas that market participants address more strongly are largely the same areas as CESR has found CRAs codes to deviate from the IOSCO Code which are those related with the disclosure of methodologies, unsolicited ratings and conflicts of interests.
30. In addition, several respondents strongly complain about the oligopoly of the dominant CRAs and its effect on the very high prices of the ratings and ratings data information services that issuers and investors have to pay. Some market participants would like the European competition authorities to monitor this situation. CESR already addressed the competitive dimension of the CRAs market in its Advice (par. 246 to 252 CESR/05-139 b) and concluded that the impact of regulatory requirements on competition is not clear and therefore it could not conclude that any regulatory requirements would either increase or decrease the entry barriers to the rating industry. Thus CESR did not recommend the use of regulatory requirements as a measure to reduce or remove entry barriers to the market for credit ratings.

1. Do you know of cases where the methodologies used by CRAs were not consistently applied or where changes of methodologies were not clearly explained and disclosed?

Disclosure of methodologies is one of the key areas of the IOSCO Code (provisions 3.5 and 3.10) where market participants have seen a clear improvement since its adoption (GDV,

¹ Annex E includes a list of the entities that answered the questionnaire.

BMA, ACT). In particular, they consider that the CRAs are very consultative of the market place in relation to proposed new methodologies or changes to existing ones. They also noted though that the CRAs frequently consult on what they have already decided to do instead of looking for better alternatives. The timing of consultations is also criticised as being normally too short.

Despite of the improvements, some market participants still complain about lack of sufficient disclosure and dialogue with issuers. They have provided some examples of these alleged shortcomings:

- In case of quantitative methodologies, the adjustments made to the financial statements of the rated company in order to calculate ratios (BDI).
- Change of the methodology to assess the pension liabilities in the German market (BVI, EFFAS) without consultation. Although this case happened in 2003, the EFFAS disagrees with the methodology the CRA is still using.
- Lack of consultation and shortcomings of the methodology applied to the German insurance companies (EFFAS, GDV). A formal complaint was submitted in this regard by GDV to the concerned CRA which subsequently announced a corrective action.
- Lack of consultation of a change in 2006 of the methodology to calculate financial debt in relation to operating leases (AFTE).
- Publication without consultation of criteria for swaps included in the cover pools of German Pfandbrief issuers (DZ Bank).

2. Do you know of ratings based on inaccurate information or issued without the credit rating agency having taken into account all relevant information?

Most respondents consider that in general ratings are based on accurate information and take into account all relevant information. However, some respondents claim that in any case it appears impossible to take into account all relevant information (AFG) and that this might be particularly true in respect of unsolicited ratings (KBC Group, BDI, GDV).

3.1 Do you consider that the CRAs devote sufficient resources to assign high quality credit ratings?

Overall, respondents considered that the CRAs devote sufficient resources to assign quality credit ratings. However, there are complaints about lack of availability of the analysts (BVI, AFTE, BMA).

EFFAS points out that the key factors to achieve a high standard of credit rating are human resources and the skills of the staff employed. The professional background and qualification of the CRAs' employees is not published and there is not a framework of statutory rules requiring a specific professional standard of training. So it concludes that it is difficult to assess whether the resources employed by the CRAs are sufficient.

Similarly, Rating Evidence stresses that only a very few analysts undergo training to absorb the CRAs' rating philosophies and approaches at one of the universities offering rating education. Thus usually the analysts receive only on-the-job and in-house training. This respondent concurs that the confidence in the ratings would increase if rating analysts' education would be more structured like in other professions.

3.2 Do you consider that the CRAs devote sufficient resources to assign high quality credit ratings of structured finance instruments and to monitor them on an on going basis?

The survey shows that the CRAs in general do a good job in the initial rating process of structured finance deals prior to and at issuance. Notwithstanding, there is also the perception that the CRAs allocate insufficient resources to the monitoring of rated deals (BVI, KBC, AFG).

The same caveat from EFFAS to question 3.1 applies to this one. In addition, some respondents considered that they are not in a position to give comments.

4. Do you consider that the period of time during which the rating decisions, the rating reports and the updates are publicly available is sufficient?

Respondents did not seem to consider this issue as a matter of concern. According to BVI, press releases and ratings listings usually are available for sufficient time. However, in depth research reports on single issuers are limited to paying subscribers.

Rating Evidence considers that all research should be made public continuously, even when changes in the methodologies have occurred.

Finally, AFG would welcome an updated in-depth rating report on a yearly basis since this is not the case today for all the issuers.

5. It is always clear to you which are the critical elements underlying the rating decision (including its updates)?

This is an issue where it seems that the situation has improved as a result of the IOSCO Code, although many respondents still think that the CRAs' disclosure is still not optimal (BMA, BVI, EFFAS, AFTE, KBC, Rating Evidence, AFG).

However, as AFG notes, for ratings with participation of the issuer, the CRAs obtain inside information which has not been yet disclosed to the public. Thus it will be always difficult for the users of ratings to have a clear understanding of all the critical elements underlying the rating decision.

6. Do you think that the ongoing surveillance of CRAs on ratings, which can result in a rating decision, is effective and timing?

Respondents think that the CRAs should publish more timely and more comprehensive rating updates, as well as periodic (at least annual) updates on all the issuers that the agencies rate (BMA, AFG).

Some of the answers point out that CRAs have been criticised for their slow response to relevant events, but they also acknowledge that the rating action might exacerbate the financial troubles of the issuer. In any case, BVI considers that the period during which a credit is on a rating watch list should be limited, for example to three months.

7. Have you ever experienced (or heard about) situations where the CRA or its employees have given any assurance or guarantee of a particular rating prior to a rating assessment.

Market participants unanimously answered no to this question.

- 8.1 Do you consider that the CRAs disclose clearly in the rating decision whether**
- a. the rating was not initiated at the issuer's request?**
 - b. the issuer has not participated in the rating process?**

8.2 Is the abovementioned disclosure valuable to you?

Many respondents in general refer to “unsolicited ratings” when commenting on question 8. Hence they tend to equate unsolicited ratings with ratings without participation of the issuer, even if provision 3.9 of the IOSCO Code does make such a distinction. As BVI points out, this is on the basis that the issuer could co-operate with the CRA even if it didn't request the rating in the first place. Therefore disclosure about participation is even more important than disclosure about the initiation of the rating.

In general, market participants consider that non-participating ratings can clearly play a useful role in the financial markets as they help investors in their investment decisions and also allow new agencies to build up a track record and, therefore, might encourage competition.

However, they also think that these types of ratings should be clearly distinguished from those where the issuer has fully participated. This distinction is valuable given the significant proportion of issuers that are subjected to non-participating ratings and the fact that the majority of investors rely on such ratings (BMA). Also, a number of respondents note that there seems to be a bias towards a more prudent assessment and hence lower ratings in the case of non-participating ratings due to the generally lower level of information (EFFAS, GDV, KBC, AFG, ACT).

Overall, market participants consider that the IOSCO Code has not solved two key concerns (BMA, ACT, GDV, BDI):

- There is no systematic and clear disclosure and annotation of ratings issued without issuer participation. These types of ratings should be identified for example in the form of a subscript and/or a footnote added to the rating.
- The disclosure is not always available to the public on a continuous basis. Sometimes it is only available by subscription and/or only at the first time the initial rating is published.

Moreover, GDV asks CESR and IOSCO to consider whether the current practice of assembling ratings of different types (purely quantitative ratings and traditional ratings) in one single table should be ruled out by the Code.

9. Have you ever experienced (or heard about) situations where the CRA has denied the issuer the opportunity to clarify any likely factual misperceptions or other matters that the CRA should be aware of prior to issuing or revising the rating?

Recent events in Germany might explain why respondents from this country seem concerned with this issue (BDI, BVI, EFFAS, GDV). GDV fears that past negative experiences could happen again due to the loosely drafted IOSCO provision 3.7 (the rule is restricted to cases “where feasible and appropriate”) and the lack of a specific notification period. Therefore, GDV warns that CRAs could deny the rated entity the opportunity to provide further

information on the grounds that it is not feasible or appropriate or simply set an extremely short notification period.

The rest of respondents did not share these concerns.

10. Are you aware of cases where the rating decision was influenced by pressures from the issuers or other parties?

The respondents consider that the CRAs act independently from external pressures, as they clearly answered no to this question.

11.1 Do you consider that CRAs have put in place adequate separations and firewalls between credit rating analysts and staff involved in providing other businesses (such as rating advisory, consulting, credit assessment, research)?

Some of the market participants observed that they don't have enough information to respond to this question. However, BVI and AFG don't think that the separations and firewalls exist or are effective in all cases.

They noted that these separations and firewalls need to be in place from the lowest to the highest management level of the CRA. Precisely, they don't think these measures are effective at the top management level.

11.2 Have you ever been in contact with credit rating analysts for other services than the one they provide within the context of credit rating?

BVI and AFG coincide in their complaints about the attempts by one CRA to press European institutional investors to sign license agreements for the use of international securities identification numbers issued by that CRA on US securities when trading such securities.

12. As an issuer, have you ever negotiated the fees of the rating service with analysts involved in the rating process?

All responses were negative. It is clear from the survey that the CRAs have separate staff for fee negotiations.

13. Have you experienced any situation where the rating disclosure was not done in a timely manner?

KBC has pointed out that they experienced an accident with a major CRA on the rating assessment service regarding a major merger. A "shadow rating" was released, due to a human error, while the transaction assessed was still confidential, causing high regulatory concerns. Apart from this sort of accidents market participants don't have concerns in this area, although they acknowledge that the CRAs tend to be slower in their credit assessment than the market (BVI, KBC).

14. Have you encountered any problems in relation to the use of confidential information in your day-to-day business with CRAs?

GDV has raised a confidentiality problem in the case of unsolicited ratings. CRAs practice is to provide the issuer with the opportunity to make internal information available prior to the release of an unsolicited rating in order to allow for a more accurate rating assessment.

Whilst this practice is welcomed by issuers, they are concerned by the fact that the CRAs are very often not willing to guarantee that the confidentiality of this internal information will be respected.

GDV considers that some form of automatic confidentiality protection for internal information made available to CRAs might be considered as an additional provision for the IOSCO Code.

Finally, GDV also conveys the concerns from its members in relation to solicited ratings. In this case confidentiality agreements are signed by the CRAs, but the issuers fear that the confidentiality standards might not always be fully adhered to in daily business.

15. Do you know of cases where the credit rating agencies are not applying the provisions of their own codes of conduct?

In general, there is no evidence that the CRAs are not applying in practice their own code of conduct. BVI and AFT noted though that investors are not in a position and do not have the resources to check the compliance of the CRAs with their codes of conduct.

16. Are there any other comments you would like to make?

The main issue raised by respondents which was not addressed by the previous questions is the oligopoly of the rating business. Several interested parties (BVI, KBC, AFG) call the competition authorities to review this situation which results in their view in very high prices for issuers and investors.

2. Treatment of confidential information: insiders list.

31. Directive 2003/6/EC (Market Abuse Directive) prohibits any person (including CRAs and their employees) from using inside information by acquiring or disposing of financial instruments to which that information relates.
32. In addition, if an issuer gives access to inside information to a CRA (and its employees), the CRA would be subject to the confidentiality duty set in Article 6.3 of the Directive and would not be allowed to disclose this inside information to anyone else except in the normal course of employment, profession or duties. In this respect, the third subparagraph of Article 6.3 states that issuers, or persons acting on their behalf or for their account, draw up list of persons working for them who have access to inside information.
33. As the European Commission has clarified in this Communication on Credit Rating Agencies, this provision allows Member States to require credit rating agencies to draw up lists of insiders. These lists must regularly be updated and transmitted to the competent authority whenever the latter requests it.
34. To find out what has been done in practice by the CRAs in relation to insiders lists, CESR asked CRAs whether they had set up insiders lists within their organisations and if so, how they were set up, organised and updated, who had the responsibility for the lists and whether or not the persons included in them were informed of this fact and about the obligations and restrictions applying to them.
35. In addition, CESR asked if, in case insiders list had not been set up, CRAS had internal procedures in place to be able to set up a list of insiders within a short period.
36. The overall conclusions to the above survey were the following:
 - CRAs have not instituted insiders list across Europe on an uniform basis (some have been set up to meet national legislation requirements). This is because of the following reasons:
 - o The Market Abuse Directive has been implemented differently in this specific aspect in the EU members states and it is this national implementation that determines whether or not CRAs are obliged to maintain insiders lists in a certain State.
 - o Those national legislations that oblige CRAs to maintain insiders list regulate this obligation in different terms.
 - Upon request, all CRAs claim that they are capable of setting up a list of insiders within a fairly short notice period. This is possible because they all have internal procedures for the identification of all the people that have been somehow linked with a specific rating action (and therefore, might have had access to inside information). These internal procedures have been set as a practical way of ensuring the compliance with the some of the measures included the IOSCO code and, in some cases, to meet regulatory requirements of some third countries (for example, United States).
37. CESR has issued guidance (CESR/06-562) in relation to which rules are applicable in relation to insiders list in case the financial instruments of the issuer are admitted to trading on more than one Member State.

IV. CONCLUSIVE CONSIDERATIONS BY CESR

38. The CRAs codes comply to a large extent with the IOSCO Code. There are however some areas or provisions where the CRAs codes do not comply. Some of these are of minor importance, because the CRAs reach the outcome that the IOSCO Code aims at, without formally having provisions in their codes that mirror the IOSCO Code. These minor deviations can be found in the analysis provided in section II.
39. There are however some areas where the deviations are of greater importance. Some of them are common to all four CRAs, and some of them are specific to individual CRAs. The two kinds will be commented on in these conclusions.
40. In addition to comparing the CRAs code with the IOSCO Code and analyzing any deviations,, CESR invited market participants to share their experiences on the CRAs' day-to-day application of the IOSCO Code. The market participants' areas of concerns are largely the same as CESR's.

Deviations common to all CRAs

41. There are two areas where the CRAs do not comply with the IOSCO Code, and where CESR sees room for improvement. Since the present framework relies on a comply or explain approach, CESR does not mean to say that the CRAs are in breach of the Code. The purpose is rather to point out where CRAs do not comply, and this non-compliance, even when there are explanations, indicates that some of the problems that the IOSCO Code means to address, are not really managed through the CRAs codes.
42. The first area relates to ancillary services and the requirement for operational and legal separation of credit rating business and CRA analysts from any other businesses of the CRA that may present a conflict of interest as stated in provision 2.5 of the IOSCO Code. The deviation that is common to all CRAs is that they consider activities that are commonly referred to as “rating assessment services” as not being an ancillary service. “Rating assessment services” refer to where CRAs provide issuers with the likely impact on a rating of hypothetical events, for instance a merger between two corporations. CRAs see “rating assessment services” as an integral part of the rating business, and therefore do not want to separate these services operationally or legally from the normal rating business. This is even more so in the area of structured finance ratings, since the structures of the debt obligations are often decided in negotiations between the issuer and the CRA. These negotiations may contain several hypothetical structures, for instance when it comes to how different tranches of debt are set up, or when it comes to levels of credit enhancement.
43. It can be discussed whether “rating assessment services” should be seen as ancillary services or not. CESR recognizes that from a strictly business perspective these services can be seen as forming part of the ordinary rating services. Nevertheless, there is also room for conflicts of interest when it comes to these types of services, especially when the service is actively marketed and proposed by the CRAs to issuers, rather than when it is the result of a specific demand by the issuer to assess a potential transaction. The way the CRAs' own codes are set up today does not show how these conflicts of interests are being addressed.
44. When it comes to other ancillary services, there are different degrees of separation in the CRAs. DBRS does not have any other ancillary business besides the types of services that have been described above. Both Moody's and Fitch have ancillary businesses but these are generally separated both legally and operationally. However, these two both have some smaller businesses that are not separated (Valuspread for Fitch and some training, development of analytic products and research services for Moody's). S&P stands out in this

respect since they only focus on operational separation and thus have all ancillary services in the same legal entity.

45. CESR considers that operational separation is an important aspect when it comes to managing conflicts of interests. Legal separation is however also stressed in the IOSCO Code as it normally brings about a clearer and more definite separation. CESR takes note that the CRAs seem to have a different view on this.

46. The second area relates to unsolicited ratings (provision 3.9 of the Code)². The IOSCO Code does not literally define what unsolicited ratings are. Provision 3.9 deals only with disclosure of:

- whether the issuer participated in the rating process;
- whether the rating was not initiated at the request of the issuer;
- CRA's policies and procedures regarding unsolicited ratings

47. CESR thinks that it is essential that all the information is disclosed by CRAs. All CRAs acknowledge that it is in the investors' interest to know whether ratings are unsolicited because of the non-participation or the non-initiation of the issuer. However, they have different degrees of transparency in this area, notably because they have different interpretations of what an unsolicited rating should be. It is generally possible for an investor to get information on whether a particular rating is unsolicited or not, but it is often quite difficult to find this information, and it may require access to some quite specific information or a particular request by the investor.

48. CESR has difficulties in understanding why the CRAs do not improve the transparency in this respect. From CESR's perspective, it would be reasonable to have "flags" in databases and other information sources where ratings are readily available to investors. These flags should cover both aspects, that is "public information only" and "CRA initiated" ratings. Many market participants have commented on this, and it seems like most of them are more eager to get information on whether issuers participated or not, rather than on who initiated the rating.

Areas of non-compliance by specific CRAs

49. Standard & Poor's code seems to contradict provision 1.15 of the IOSCO Code that states that the reporting line and the compensation of the person responsible for the compliance with the CRAs code should be independent of the CRAs rating operations. S&P's code states that the Executive Vice President in charge of ratings Services shall have overall responsibility for the compliance with the code. S&P has explained that the Analytics Policy Board and the Executive Managing Directors of Rating Services – which are not independent of those who vote on ratings and conduct analysis – have been tasked with enforcement of the code in relation to analytical matters while the Global Regulatory Affairs Department has been tasked with enforcement in relation to all other matters. Both advise the Executive Vice President on the enforcement of S&P's code. Therefore, it seems that the reporting lines of the persons responsible for the compliance with S&P's code are not independent of S&P's rating operations. Another area where S&P's code seems to contradict provision 1.15 of the IOSCO

² In the context of the guidelines for the recognition of External Credit Assessment Institutions, CEBS has published in its Feedback to CP07 and CP07a (paragraphs 31 to 34) its views in relation to unsolicited credit assessments.

Code is the fact that the S&P code does not mention anything concerning the independence of compensation.

50. The IOSCO Code indicates in provision 2.8 that where a CRA receives from a rated entity compensation unrelated to its rating services, the CRA should disclose the proportion such non-rating fees constitute against the fees that the CRA receives from the entity for rating services. *Moody's* does not state this proportion for each rated entity. It only has a general statement that non-rating services account for a small proportion of Moody's income (less than one per cent). CESR would like to stress that even though this is the case on an overall level, it is still possible that non-rating fees are large in comparison to rating fees for a particular entity. It should be possible for Moody's to have the same level of transparency as the other CRAs in this area.
51. *DBRS, Fitch and Moody's* deviate from provision 2.12 of the IOSCO Code in relation to the issue of rating staff's involvement in fee discussions with rated entities. These three CRAs adhere to the general principle stated in the IOSCO Code, but they all state that there are exceptions to the general rule. One explanation is that language problems and other circumstances in small offices outside the main markets may lead to rating staff occasionally having to take part in fee discussions. Another is that when deals are complicated, in particular in structured finance, rating staff may become involved in discussing the amount of work that has to be done as it also has an impact on fees. These CRAs can therefore not be seen as complying with the IOSCO Code in this respect.
52. *DBRS* code deviates from provision 2.13 of the IOSCO Code since it has created an exception for 'grandfathered' securities, whereby employees are permitted to own DBRS –rated securities that they owned prior to beginning employment with DBRS. However, analysts must inform the relevant Rating Committee about the fact that they own 'grandfathered' securities, and if such situation causes or is perceived to cause a conflict of interest, the Analyst is not permitted to participate as a voting member in the Rating Committee. Grandfathered securities can only be sold upon the CCO's prior approval.

Possible improvement of the IOSCO Code

53. When assessing the adherence to the IOSCO Code by CRAs, CESR has taken note of some areas where there is room for improvement of the IOSCO Code.

Provision 1.15: It states that the compensation of the compliance officer should be independent of the CRA's operations. Most of the CRAs link the compensation of their compliance officers to the performance of the company as a whole. Literally, this means that their compensation is dependent on the CRAs' rating activities, and the CRAs could be seen as non-compliant in this respect. It is questionable whether it is really the purpose of the Code that compliance officers should not be able to take part in any compensation programme that is dependent on the rating business activities as a whole. It would be useful to clarify the wording of the IOSCO Code with respect to this.

Provision 2.5: The discussion above on ancillary services shows that it is questionable whether "rating assessment services" should be seen as ancillary services or not. It would be good if the IOSCO Code was clearer on this and if possible provided a definition of ancillary services.

Provision 2.13: It indicates that a CRA employee involved in ratings should not have had any recent employment in a rated entity that may cause or may be perceived as causing a conflict

of interest. This is interpreted by the CRAs as a requirement for a “quarantine” time for people who have quit an issuer to work for a CRA before they may take part in a rating of that particular issuer. S&P for instance has decided that this time should be six months. CESR questions whether this time is sufficiently long, and propose that there should be a more exact formulation of this criterion in the IOSCO Code.

Provision 3.4: It deals satisfactorily with the need for CRAs to disclose to the public any ratings or rating actions on a non-selective and no-cost basis. However, CESR sees scope for improvement in relation to the timeframe to which the need to explain the key elements underlying the rating opinion refers. As provision 3.6 of the IOSCO Code is drafted the availability to the general public of the rating rationale (ie a press release or report with an explanation of the basis for the rating decision) can widely differ between CRAs and therefore it is possible that this information may not be available on a constant basis to the public.

Other comments

54. CESR has not had the possibility to assess thoroughly the CRAs degree of compliance with the IOSCO Code on a day-to-day basis. This would require quite a large supervisory effort and CESR has neither the resources nor formal powers to perform this. The information on this aspect has been gathered directly from CRAs and market participants through the survey. The comments provided by market participants give some indications on whether any problems exist with the day-to-day application, but this does not constitute any comprehensive assessment. The assessment made by CESR should be seen in the light of this limitation.
55. One of the major issues raised by market participants is that competition does not function well in the ratings markets. CESR recognises that this may be the case but does not see that the compliance or non-compliance with the IOSCO Code will have any substantial effects in this respect. The analysis that CESR presented in its previous report on CRAs also concluded that a formal regulation of the rating industry would be unlikely to lead to better competition. The impact of regulation is ambiguous in this respect.
56. Another issue that has been raised among European securities regulators, is the CRAs' ability to draw up, update and provide insiders list under the provision of Article 6.3 of the Market Abuse Directive (i.e. list of those people that have access to inside information) should a national regulator require this. The four CRAs claim that they would be able to provide such lists within a fairly short notice period.
57. Finally, there is one area in particular where, if CRAs can be said to comply with the IOSCO Code formally, it is questionable whether the level of application by the CRAs is sufficient. This relates to the transparency of methodologies. According to CESR the descriptions of the methodologies are in most cases quite general and not very precise or exhaustive. In particular, it is often not easy to completely understand how a CRA has arrived at a particular rating or to find on the websites of the CRAs which methodology applies to which sector.

Conclusive remark

58. CRAs are largely compliant with the IOSCO Code, but there are some areas where they do not comply, as stated above. CESR thinks that there is room for improvement in these areas. CESR will in its review for 2007 look particularly into these issues, to see whether there have



been improvements. Moreover, CESR will also assess in its next report the impact of the new US legislation and the SEC implementing rules on the rating business in the European Union.

ANNEXES TO THE REPORT

ANNEX A

COMMUNICATION FROM THE COMMISSION ON CREDIT RATING AGENCIES



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.12.2005

COMMUNICATION FROM THE COMMISSION

on Credit Rating Agencies

EN

(Text with EEA relevance)

EN

EN

COMMUNICATION FROM THE COMMISSION

on Credit Rating Agencies

1. INTRODUCTION

Credit rating agencies play a vital role in global securities and banking markets. It is essential, therefore, that they consistently provide ratings which are independent, objective and of the highest possible quality.

The Commission made a commitment to analyse the issue of credit rating agencies at the Oviedo Informal ECOFIN Council (April 2002), in the aftermath of the Enron scandal. The European Parliament then adopted (February 2004) a Resolution on credit rating agencies¹, following an own initiative report from its Committee on Economic and Monetary Affairs², calling on the Commission to produce an assessment of the need (if any) for legislative intervention in this field. In March 2004, following the Parmalat scandal, the Commission identified, in cooperation with the European Parliament and the Member States, the main regulatory issues of concern with regard to credit rating agencies. In July 2004, the Commission asked the Committee of European Securities Regulators ("CESR") to provide the Commission with technical analysis and advice to assess the need for introducing European legislation or other solutions. CESR provided its advice to the Commission in March 2005³. Meanwhile, a number of key EU legislative measures with major implications for credit rating agencies have been adopted as part of the Commission's Financial Services Action Plan (FSAP). Moreover, the International Organisation of Securities Commissions ("IOSCO") published in December 2004 its Code of Conduct Fundamentals for credit rating agencies ("IOSCO Code")⁴.

The purpose of this Communication is to report back to the Council and European Parliament on the Commission's regulatory approach towards credit rating agencies, bearing in mind these latest developments. In developing this approach, the Commission has been guided by the advice provided by CESR. It has also sought to adhere to the principles of "Better Regulation" to which the Commission has committed itself as part of the drive to boost growth and employment in the Union and which form a crucial part of its approach to financial services policy set out in its recent White Paper⁵.

¹ European Parliament resolution on Role and methods of rating agencies (2003/2081(INI)), available at: [http://www.europarl.eu.int/registre/seance_pleniere/textes_adoptes/definitif/2004/0210/0080/P5_TA\(2004\)0080_EN.pdf](http://www.europarl.eu.int/registre/seance_pleniere/textes_adoptes/definitif/2004/0210/0080/P5_TA(2004)0080_EN.pdf).

² Report of the Committee on Economic and Monetary Affairs (A5-0040/2004); rapporteur Giorgos Katiforis.

³ CESR's technical advice to the European Commission on possible measures concerning credit rating agencies, CESR/05/139b, March 2005, available at: <http://www.cesr-eu.org>.

⁴ Code of Conduct Fundamentals for Credit Rating Agencies, The Technical Committee of the International Organization of Securities Commissions, December 2004, see Annex on IOSCO Code of Conduct Fundamentals for Credit Rating Agencies.

⁵ White Paper on Financial Services Policy (2005-2010), SEC (2005) 1574

2. CREDIT RATING AGENCIES

2.1 Functioning of credit rating agencies

Credit rating agencies issue opinions on the creditworthiness of a particular issuer or financial instrument. In other words, they assess the likelihood that an issuer will default either on its financial obligations generally (issuer rating) or on a particular debt or fixed income security (instrument rating).

These opinions – or ratings – are based on information relating to revenue stream and balance sheet (with particular focus on the debt) of the rated entity. Past financial performance is also considered. They only give an indication as to the situation at a given time and must therefore be periodically confirmed or revised to take account of recent economic or other developments. The credit ratings effectively categorise issuers into corresponding grades, depending on whether they are considered as more or less default-prone. Credit rating agencies employ comprehensive creditworthiness scales, with the critical border line running between the so-called investment grade (low-risk) and speculative grade (high-risk), reflecting the risks related to the security (i.e. the likelihood of default).

Ratings are usually requested – and paid for - by the issuers themselves. In these cases, they are based on both publicly available data and information which is not accessible to the public but which is voluntarily disclosed by the rated entity (e.g. by means of interviews with senior financial officials of the rated entity). However, credit rating agencies sometimes issue unsolicited ratings (i.e. ratings which have not been requested by an issuer). These are usually prepared without access to non-public information.

Although the provision of ratings is obviously their core activity, many credit rating agencies make use of their expertise in risk assessment to provide other financial services (e.g. investment advice) to issuers (either directly or through related entities).

2.2 Impact on the financial markets

Credit ratings carry considerable weight in financial markets. There are two basic reasons for this. First, although they are based on complex assessments they can be easily and instantly assimilated by investors regardless of their expertise and profile. Secondly, credit rating agencies enjoy a good reputation and are seen by market participants to be providing unbiased data analysis.

The importance of credit rating agencies in recent years can be observed in both business practice and regulatory requirements. On the one hand, the commercial success of most debt instrument issues largely depends on the rating granted. A rating has become a pre-requisite for seeking external financing in the securities markets (especially when issuers do not have an established presence on the debt markets). The credit rating of an issuer determines the interest rates that they will have to offer in order to obtain external financing. Moreover, credit ratings are increasingly used in contractual provisions regarding the termination of credit availability, acceleration of debt repayment or modification of other crediting conditions.

On the other hand, several jurisdictions now insist that certain types of investment products can only be sold if the issuer can demonstrate a certain grade of creditworthiness reflected in a rating issued by a recognised credit rating agency. Credit rating agencies are also increasingly

involved in the assessment of the risks associated with assets held by financial institutions which are subject to capital adequacy requirements.

The role which credit rating agencies play in the markets is generally very positive for both investors and issuers. They provide investors with information which helps them to assess the risks related to a security. And they help to lower the costs of raising capital for issuers (or at least for those issuers who receive a favourable rating).

2.3 Issues of concern

The Resolution of the European Parliament does not call into question the positive role that credit rating agencies can and generally do play. However, it identifies a number of issues of concern which require serious attention in order to ensure that all credit rating agencies exercise their functions responsibly at all times⁶.

Concern centres on the quality of credit ratings provided by credit rating agencies. Credit rating agencies must base their ratings on a diligent analysis of the available information and control continuously the integrity of their information sources. This means that credit ratings must be regularly updated, if necessary. Credit rating agencies must also be more open about the way in which their ratings are arrived at. In addition, it is important that credit rating agencies are independent and entirely objective in their approach. The position of credit rating agencies must not be compromised by the relationships which they have with issuers. There are also concerns relating to the access which credit rating agencies have to inside information of issuers. It is important that credit rating agencies are prevented from using this information for other activities. Finally, the European Parliament expressed concern about the degree of concentration in the ratings industry and its possible anti-competitive effects.

3. RELEVANT REGULATION

The issues relating to credit rating agencies are serious and must be tackled. Both the new EU-level legislative framework and the IOSCO Code seek to do this. The EU legislation applies only to credit rating agencies operating in the EU. The Code, on the other hand, is expected to be applied by credit rating agencies in all jurisdictions where they operate. In terms of content, the Code complements the EU legislation. While the Directives are legally binding, the Code works on a “comply or explain” basis – i.e. credit rating agencies are expected to incorporate all the provisions of the IOSCO Code into their own internal Codes of Conduct. Where they choose not to do this, they must explain how their Code nevertheless gives effect to the provisions of the IOSCO Code.

3.1 EU legislation

The aim of the FSAP was to create open, integrated and efficient financial markets in the EU - where competitive forces maximise investors’ returns - but where investors are not subject to excessive risk. It therefore sought to minimise the regulatory burden on firms while at the same time maintaining an effective level of regulatory control and a high level of investor protection.

⁶ See footnote 1.

There are three FSAP Directives which are relevant to credit rating agencies. The most important is the **Market Abuse Directive** (“MAD”) which – together with its implementing Regulation and Directives⁷ – tackles the issue of insider dealing and market manipulation (market abuse) in order to ensure the integrity of Community financial markets and to enhance investor confidence in those markets. Insider dealing and market manipulation prevent full market transparency, which is important for trading for all economic actors in integrated financial markets. In the field of conflicts of interest, fair presentation of investment recommendations and the access to inside information, the provisions of the Market Abuse Directives constitute a comprehensive legal framework for credit rating agencies while, at the same time, acknowledging their specific role and the differences between credit ratings and investment recommendations.

In order to prevent insider dealing and market manipulation, the Directive 2003/125/EC addresses the fair presentation of investment recommendations and the disclosure of conflicts of interest. For the purposes of the said Directive, credit ratings do not constitute a recommendation but they are regarded as opinions on the creditworthiness of a particular issuer or financial instrument. Nevertheless, it is stipulated that credit rating agencies should consider adopting internal policies and procedures designed to ensure that credit ratings published by them are fairly presented. Moreover, it is stated that a credit rating agency discloses any significant interests or conflicts of interest concerning the financial instruments or the issuers to which their credit ratings relate⁸. Additionally, it follows from the Directive 2003/6/EC that, in case a credit rating agency knew, or ought to have known, that the credit rating was false or misleading, the prohibition to disseminate false or misleading information, constituting market manipulation, may apply to credit ratings⁹. Considering these provisions, it is clear that credit rating agencies need to implement internal procedures and policies to ensure objective, independent and accurate credit ratings which will benefit investor confidence. It is of major importance for the Commission that credit rating agencies will effectively enforce their procedures to ensure high quality of credit ratings.

With respect to the legal treatment of credit rating agencies’ access to inside information, the Directive 2003/6/EC prohibits any person possessing inside information from using that information by acquiring or disposing of financial instruments to which that information relates. Inside information is defined as information of a precise nature which has not been made public, relating, directly or indirectly, to one or more issuers of financial instruments and which, if it were made public, would be likely to have a significant effect on the price of those financial instruments or on the price of related derivative financial instruments¹⁰. As a rule, an issuer must disclose inside information as soon as possible. Consequently, there will be few circumstances in which an issuer can legitimately be in possession of inside information that has not already been disclosed to the market. If an issuer decides to allow a credit rating agency access to inside information, the credit rating agency would owe a duty of confidentiality as required by Article 6(3) of Directive 2003/6/EC.

⁷ Directive 2003/6/EC of 28/01/03 (OJ 2003 L 96/16); Commission Directive 2003/124/EC of 22/12/03 (OJ 2003 L 339/70); Commission Directive 2003/125/EC of 22/12/03 (OJ 2003 L 339/73); Commission Directive 2004/72/EC of 29/04/04 (OJ 2003 L 162/70) and Commission Regulation (EC) No 2273/2003 of 22/12/03 (OJ 2003 L 336/33).

⁸ See Article 1(8) and recital 10 of Directive 2003/125/EC.

⁹ Article 1(2) under c stipulates that “*market manipulation shall mean: dissemination of information through the media, including the Internet, or by any other means, which gives, or is likely to give, false or misleading signals as to financial instruments, including the dissemination of rumours and false or misleading news, where the person knew, or ought to have known, that the information was false or misleading (...)*”

¹⁰ Article 1(1) and 2(1) of Directive 2003/6/EC.

As a result, a credit rating agency or an employee who has access to inside information of any sort is prohibited from any trading using inside information. Moreover, it is not allowed to disclose this inside information to anyone else except in the normal course of employment, profession or duties. In this respect, Article 6(3), third subparagraph of Directive 2003/6/EC states that issuers, or persons acting on their behalf or for their account, draw up list of persons working for them who have access to inside information. This provision allows Member States to require credit rating agencies to draw up lists of insiders. These lists must regularly be updated and transmitted to the competent authority whenever the latter requests it.

In addition to having access to inside information of the issuer, it is possible that a credit rating itself constitutes inside information, in particular when the credit rating agency has access to non-public information of the issuer. This implies that using the unpublished rating for trading or disclosing this information to anyone else, except in the normal course of employment, profession or duties, is prohibited. However, a credit rating agency communicating an imminent rating publication to the issuer on a confidential basis for the purpose of checking the accuracy of the information it is based on would be allowed.

The Commission believes that the provisions of the Market Abuse Directives provide a comprehensive set of rules for the activities of credit rating agencies in the area of market abuse concerns. The specific role of credit rating agencies in the financial markets requires diligent application of these provisions. Consequently, the Commission will monitor actively the implementation and enforcement of these provisions in the Market Abuse Directives in relation to credit rating agencies.

The second item of EU legislation which is relevant to credit rating agencies is the **Capital Requirements Directive** ("CRD") which introduces a new capital requirements framework for banks and investment firms¹¹. The CRD is based on the new international capital requirements framework agreed by the Basel Committee on Banking Supervision ("Basel II") in 2004.

The CRD provides for the use of external credit assessments in the determination of risk weights (and consequential capital requirements) applied to a bank or investment firm's exposures. Only the use of assessments provided by recognised External Credit Assessment Institutions ("ECAIs"), mainly credit rating agencies, will be acceptable to the competent authorities. A recognition mechanism is also outlined in the Directive.

The CRD sets out a number of requirements which ECAIs should meet before the competent authority grant them recognition. For example, their ratings must be objectively and independently assigned and reviewed on an ongoing basis. In addition, their rating procedures should be sufficiently transparent. In addition, the competent authorities should assess whether individual credit assessments are recognised in the market as credible and reliable by the users of such credit assessments and accessible at equivalent terms to all interested parties.

Building on the CRD, the Committee of European Banking Supervisors ("CEBS") is working to promote convergence of the recognition processes of ECAIs across the EU by defining a

¹¹ Re-casting Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions and Council Directive 93/6/EEC of 15 March 1993 on the capital adequacy of investment firms and credit institutions.

common understanding on the criteria necessary to implement the recognition requirements laid down in the CRD¹².

Clearly, the CRD does not constitute a form of regulation of credit rating agencies on how to do business but focuses predominantly on the weighting of capital requirements. Consequently, the recognition process of ECAIs does not address the broader conduct of business issues concerning credit rating agencies in general. Moreover, credit rating agencies may choose not to become ECAIs under the CRD and therefore the CRD may not cover the entire population of credit rating agencies. However, the objectives and effects of the ECAI recognition system cannot be seen separately from the aims of other legislation and supervisory standards applicable to credit rating agencies since the CRD affirms the meaningful function of credit rating agencies. To this end, the Commission will closely monitor developments with regard to the recognition of ECAIs and assess whether credit rating agencies perform their important role adequately under the CRD. Hence, competent authorities should ensure that the effects of recognition are shared with all stakeholders in order to assess whether the ECAI recognition criteria could be used in the future for conduct of business regulation of credit rating agencies, if this appears to be necessary.

The final piece of relevant legislation is the **Markets in Financial Instruments Directive** ("MiFID")¹³. MiFID and its future implementing measures are not applicable to the rating process of credit rating agencies in the case where the rating process itself does not involve the firm undertaking investment services and activities as defined in the MiFID. In other words, the issuing of a credit rating will normally not result in the credit rating agency also providing 'investment advice' within the meaning of Annex I to the MiFID. But credit rating agencies should be aware of the precise limits of this activity in order to continue to operate outside MiFID regulation. However, credit rating agencies that also provide investment services and activities on a professional basis may require authorisation. In such cases, the MiFID provisions regarding conduct of business and organisational requirements will apply to the firm and its undertaking of investment services and activities. Where, for example, a credit rating agency provides investment services (such as investment advice) to clients that fall under the MiFID, the provisions on conflicts of interest will apply to protect the interest of those who receive these services. The provisions on conflicts of interest may require an appropriate degree of separation of investment services from the credit rating process so that ancillary services may not interfere with the quality and objectivity of credit ratings¹⁴.

This comprehensive legal framework is now being put in place by the Member States. All Directives must be correctly implemented. Consequently, the transposition of the Directives is actively monitored by the Commission. It may initiate infringement procedures on the grounds of incorrect or non-transposition of the Directives, where necessary.

Another area of Community law which is potentially important for credit rating agencies is **competition law**. The Commission does not share the European Parliament's concerns about the degree of concentration in the ratings industry. There is no indication of any anti-competitive practices in this industry but any evidence to the contrary will be examined thoroughly. The Commission does not therefore see the need for action in this area at the moment. Moreover, one could conceive that in this particular industry, excessive market

¹² CEBS Consultation paper on the recognition of External Credit Assessment Institutions, 29 June 2005, available at <http://www.c-ebs.org/pdfs/CP07.pdf>

¹³ Directive 2004/39/EC of 21/04/04 (OJ 2004 L 145/1).

¹⁴ See Articles 13(3), 13(10) and 18 of the MiFID.

fragmentation could have adverse consequences (i.e. credit rating agencies may face undue pressure to issue favourable ratings in order to attract clients).

3.2 The IOSCO Code

In September 2003, IOSCO published its Principles Regarding the Activities of Credit Rating Agencies (“IOSCO Principles”)¹⁵, setting high-level objectives for credit rating agencies, securities regulators, issuers and other market participants to improve investor protection and market fairness, efficiency and transparency and to reduce systemic risk. In response to comments on these principles, IOSCO developed the IOSCO Code of Conduct Fundamentals for credit rating agencies (see Annex).

Reflecting the global nature of the market for credit rating agencies, the IOSCO Code is meant to be applied by rating agencies of all sizes and business models and in every jurisdiction. The Commission notes that the IOSCO Code has not been implemented into the national law of Member States. However, credit rating agencies are expected to give full effect to the provisions of the IOSCO Code – as long as these provisions are consistent with the EU Directives. This requires that credit rating agencies incorporate the IOSCO Standards in their procedures. Recent market developments show that several credit rating agencies have set up their own Codes of Conduct along the lines of the IOSCO Code which proves that the latter provides a useful set of standards for self-regulation of the credit rating industry.

It is very important that credit rating agencies not only incorporate the IOSCO Code in their own Code of Conduct but fully comply with the IOSCO Code by enforcing their Code of Conduct in daily practice. Credit rating agencies need to inform regularly in the coming years all stakeholders about their compliance with their Codes of Conduct. To this end, the Commission recommends to analyse the effects of the IOSCO Code on a regular basis.

4. CONCLUSION

Following the request by the European Parliament, the Commission has considered very carefully whether or not fresh legislative proposals are required to regulate the activities of credit rating agencies.

Its conclusion is that at present no new legislative initiatives are needed. One of the central principles of “Better Regulation” is that legislative solutions should be applied only where they are strictly necessary for the achievement of public policy objectives. The Commission believes that the case for new legislation in this area remains unproven.

There are already three new financial services Directives which cover credit rating agencies. The Commission is confident that these Directives – when combined with self regulation by the credit rating agencies themselves on the basis of the newly adopted IOSCO Code – will provide an answer to all the major issues of concern raised by the European Parliament.

In its advice to the Commission, CESR also indicated that the right balance between legislation and self-regulation had been struck and that no further regulatory initiatives were needed for the time being.

¹⁵ IOSCO’s Principles Regarding the Activities of Credit Rating Agencies, available at www.iosco.org/IOSCOPD151

However, the Commission is continuing to monitor developments in this area very carefully. It is clear that the new arrangements will only produce the desired results if credit rating agencies take the task of regulating themselves sufficiently seriously. They must be scrupulous in implementing the provisions of the IOSCO Code. And they must be open and transparent about the way in which they are doing it.

It is encouraging that many credit rating agencies have established their own Codes of Conduct based on the IOSCO Code. But establishing these Codes in itself is not enough; they must also be implemented in practice on a day to day basis. The Commission intends to ask CESR to monitor compliance with the IOSCO Code and to report back to it on an annual basis. It will also consider how best to gauge the opinions of market participants, especially those purchasing complex financial instruments. This might include the setting up of an informal expert group. The ratings industry should be aware that the Commission may have to take legislative action if it becomes clear that compliance with EU rules or the Code is unsatisfactory and damaging EU capital markets.

The Commission will also consider introducing legislative proposals if new circumstances arise - including serious problems of market failure.

Finally, the Commission intends to monitor the global development of the rating business. If there are significant changes in the way credit rating agencies are regulated in other parts of the world, it may be necessary for the Commission to re-evaluate its approach.

ANNEX

Annex on IOSCO Code of Conduct Fundamentals for Credit Rating Agencies

At the heart of the IOSCO Code is a disclosure mechanism to monitor compliance: credit rating agencies have to disclose how they implement the various provisions of the IOSCO Code. This approach offers a degree of flexibility to credit rating agencies, which vary considerably in size, business model, and development of the markets in which they operate. It is also designed to allow investors, issuers, regulators and other market participants to assess in each case whether a given credit rating agency has implemented the IOSCO Code to their satisfaction, and react accordingly.

The first part of the IOSCO Code states how credit rating agencies have to protect the quality and integrity of the rating process and independence while dealing fairly with issuers, investors and other market participants. This implies that regular updating of credit ratings is required in case of economic or other developments. The Code also states that credit rating agencies must have sufficient human resources to maintain the quality of the ratings they issue (i.e. they must have enough staff with the relevant experience and expertise)¹. This is particularly important given the ever increasing complexity of securities markets and financial instruments.

In the next part of the IOSCO Code it is described in general terms how credit ratings can remain unaffected by business relationships between a credit rating agency and an issuer. Ancillary business should be separated, operationally and legally, from the rating process. This also addresses any concerns related to capital or other interest links between the credit rating agency and the issuer in question. The IOSCO Code requires that internal procedures and policies to manage conflicts of interests should be developed by credit rating agencies. These particular measures deal with the identification, elimination, and management and disclosure of any actual or potential conflicts of interest that may influence the credit rating agency or the rating. In addition, it is crucial that credit rating agencies disclose in their rating reports, any specific situation of conflicts of interest, which can impair the credit rating to address, for example, the actual or potential threat to market confidence due to ancillary services².

In addition to conflicts of interest, the IOSCO Code describes how credit rating agencies can improve the transparency of the rating process and the timeliness of ratings disclosure. Credit rating agencies have to publish sufficient information about their procedures, methodologies and assumptions, so that outside parties can understand how a rating was arrived at by a given credit rating agency. Credit rating agencies are required to disclose within each rating i) whether the rating was initiated by the issuer or by the credit rating agency itself and ii) whether the issuer participated in the rating assessment process (i.e. provided non-public confidential information)³.

Finally, credit rating agencies have to describe how provisions of their own Code of Conduct are incorporated and where a Code of Conduct deviates from the IOSCO Code. The credit

¹ Clauses 1.7 and 1.9 of the IOSCO Code.

² Clauses 2.4 - 2.7 of the IOSCO Code.

³ Clauses 3.1. - 3.10 of the IOSCO Code.

rating agency should explain where and why these deviations exist, and how any deviations nonetheless achieve the objectives contained in the IOSCO Code⁴.

The IOSCO Code of Conduct Fundamentals for Credit Rating Agencies of December 2004 is available at: <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD180.pdf>.

⁴ Clause 4.1 of the IOSCO Code.

ANNEX B
LETTER FROM THE EUROPEAN COMMISSION TO CESR FORMALLY
REQUESTING TO REPORT ON CRAS COMPLIANCE WITH THE IOSCO
CODE AND CESR'S RESPONSE



EUROPEAN COMMISSION

Internal Market and Services DG

Director General

Brussels, 17.05.06 2199
MARKT/FF/D(2006) 6428

Subject: Annual report on Credit Rating Agencies

Dear Mr Docters van Leeuwen,

The Commission concludes in its Communication on Credit Rating Agencies (OJ C 59/2, 11.3.2006) that various financial services directives, combined with self regulation by the credit rating agencies themselves on the basis of the IOSCO Code of Conduct Fundamentals for CRAs (IOSCO Code), will provide an answer to the major issues of concern in relation to credit rating agencies. Clearly, this approach requires continuous monitoring of developments in this area by the Commission. In addition, we would like CESR to monitor compliance with the IOSCO Code and report back to the Commission on an annual basis. At the same time, the Commission will gauge the opinions of market participants in the framework of its newly established European Securities Markets Expert Group (ESME).

Considering the monitoring role of CESR, the Commission welcomes CESR's preparatory work on establishing a dialogue with credit rating agencies to review how the IOSCO Code is being implemented and considers it is right time to formally request a report of CESR on credit rating agencies' compliance with the IOSCO Code by the end of this year.

First of all, credit rating agencies should incorporate all the provisions of the IOSCO Code into their own internal Codes of Conduct. Where they choose not to do so, they must explain how their Code nevertheless gives effect to the provisions of the IOSCO Code. Recent market developments show that several CRAs have set up their own Codes of Conduct along the lines of the IOSCO Code. However, it is imperative that credit rating agencies not only incorporate the IOSCO Code in their own Code of Conduct but fully comply with the IOSCO Code by enforcing their Code of Conduct in daily practice. Therefore, it is important that CESR's annual report provides a thorough assessment of the level of day to day application of the IOSCO Code in practice, including consultation of all stakeholders.

Mr Arthur Docters van Leeuwen
Chairman
CESR
11-13 Avenue de Friedland
75008 Paris - France

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11.
http://europa.eu.int/comm/internal_market/

Furthermore, the Commission would like CESR to specifically address in its report the following issues of concern. This list of issues of concern does of course not prevent CESR from reporting on other specific issues in the context of compliance with the IOSCO Code:

- (1) Transparency of ratings disclosure as regards the level of participation of the issuer in the ratings process;
- (2) Timeliness of ratings disclosure as regards prior notification of issuer of an imminent rating;
- (3) The procedures for fee arrangements, specifically the involvement of analysts in the fee negotiations with the issuer;
- (4) Separation of credit rating agencies' business activities and handling of conflicts of interest;
- (5) Quality of the ratings process as regards structured finance instruments, i.e. are sufficient resources devoted to make proper rating assessments of these complex instruments and to monitor on an ongoing basis the developments in the area of structured finance;
- (6) Treatment of confidential information within the various departments of credit rating agencies;
- (7) Disclosure of income structures;
- (8) Position of compliance officer.

I would like to highlight that the earlier advice of CESR in March 2005 on possible measures concerning credit rating agencies was very much appreciated and has guided the Commission in setting up the policy in its Communication on credit rating agencies. I am confident that the report of CESR on the compliance of credit rating agencies with the IOSCO Code will provide an equally useful basis for the Commission to evaluate credit rating agencies' compliance with the IOSCO Code and, if necessary, to re-evaluate the Commission's approach on credit rating agencies. I would be most grateful if you could indicate when CESR's first annual report will become available.

I am copying this letter to Ingrid Bonde.

Yours sincerely,

A handwritten signature in black ink, appearing to read "A. Schaub", is written over a horizontal line. Below the line, the name "Alexander Schaub" is printed in a black, sans-serif font.

Contact:

Felix Flinterman, felix.flinterman@cec.eu.int, T. +32 2 29 96957



THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS

The Chairman

Ref.: CESR/06-328

Mr Charlie McCreevy
Commissioner
European Commission
Rue de la Loi 200
B-1049 Brussels
BELGIUM

Paris, 3rd July 2006

Re: Credit Rating Agencies

Dear Commissioner,

Thank you for the letter from your services dated 17th February 2006 formally requesting from CESR a report on credit rating agencies' (CRAs) compliance with the IOSCO Code by the end of this year. This request fits well into CESR's intention to assess CRAs compliance with the IOSCO Code by reviewing the codes of conduct published by the CRAs.

Notwithstanding, the Commission requests CESR, not only to carry out a comparison of CRAs' codes with the IOSCO Code, but also to assess the level of day-to-day application of the IOSCO Code in practice. As explained in our advice to the Commission in March 2005, CESR's main view, so far, is to rely on self-regulation as regards the implementation of the provisions of the IOSCO code by CRAs and, in addition, CESR is not in a position to conduct such an assessment in absence of legislation and lack of necessary supervisory powers.

However, CESR intends to publish an open survey addressed to all market participants. The information gathered from market participants through the survey, along with that supplied by the CRAs on the practical measures put in place to comply with the IOSCO Code, will enable CESR to provide indications on its level of day-to-day application in practice.

This practical solution is in line with the European Commission decision not to regulate the operations of the CRAs in the EU and sits comfortably with CESR's current priorities for supervisory convergence.

Should you have any further information please do not hesitate to contact either me or Ingrid Bonde, Chair of the Task Force on Credit Rating Agencies.

I look forward to reporting to you in October 2006.

Yours sincerely,

Arthur DOCTERS VAN LEEUWEN

ANNEX C

US CREDIT RATING AGENCY REFORM ACT OF 2006 (S.3850).

S. 3850

One Hundred Ninth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the third day of January, two thousand and six*

An Act

To improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Credit Rating Agency Reform Act of 2006”.

SEC. 2. FINDINGS.

Upon the basis of facts disclosed by the record and report of the Securities and Exchange Commission made pursuant to section 702 of the Sarbanes-Oxley Act of 2002 (116 Stat. 797), hearings before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives during the 108th and 109th Congresses, comment letters to the concept releases and proposed rules of the Commission, and facts otherwise disclosed and ascertained, Congress finds that credit rating agencies are of national importance, in that, among other things—

(1) their ratings, publications, writings, analyses, and reports are furnished and distributed, and their contracts, subscription agreements, and other arrangements with clients are negotiated and performed, by the use of the mails and other means and instrumentalities of interstate commerce;

(2) their ratings, publications, writings, analyses, and reports customarily relate to the purchase and sale of securities traded on securities exchanges and in interstate over-the-counter markets, securities issued by companies engaged in business in interstate commerce, and securities issued by national banks and member banks of the Federal Reserve System;

(3) the foregoing transactions occur in such volume as substantially to affect interstate commerce, the securities markets, the national banking system, and the national economy;

(4) the oversight of such credit rating agencies serves the compelling interest of investor protection;

(5) the 2 largest credit rating agencies serve the vast majority of the market, and additional competition is in the public interest; and

(6) the Commission has indicated that it needs statutory authority to oversee the credit rating industry.



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SEC. 3. DEFINITIONS.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraphs:

“(60) CREDIT RATING.—The term ‘credit rating’ means an assessment of the creditworthiness of an obligor as an entity or with respect to specific securities or money market instruments.

“(61) CREDIT RATING AGENCY.—The term ‘credit rating agency’ means any person—

“(A) engaged in the business of issuing credit ratings on the Internet or through another readily accessible means, for free or for a reasonable fee, but does not include a commercial credit reporting company;

“(B) employing either a quantitative or qualitative model, or both, to determine credit ratings; and

“(C) receiving fees from either issuers, investors, or other market participants, or a combination thereof.

“(62) NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term ‘nationally recognized statistical rating organization’ means a credit rating agency that—

“(A) has been in business as a credit rating agency for at least the 3 consecutive years immediately preceding the date of its application for registration under section 15E;

“(B) issues credit ratings certified by qualified institutional buyers, in accordance with section 15E(a)(1)(B)(ix), with respect to—

“(i) financial institutions, brokers, or dealers;

“(ii) insurance companies;

“(iii) corporate issuers;

“(iv) issuers of asset-backed securities (as that term is defined in section 1101(c) of part 229 of title 17, Code of Federal Regulations, as in effect on the date of enactment of this paragraph);

“(v) issuers of government securities, municipal securities, or securities issued by a foreign government; or

“(vi) a combination of one or more categories of obligors described in any of clauses (i) through (v); and

“(C) is registered under section 15E.

“(63) PERSON ASSOCIATED WITH A NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term ‘person associated with’ a nationally recognized statistical rating organization means any partner, officer, director, or branch manager of a nationally recognized statistical rating organization (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a nationally recognized statistical rating organization, or any employee of a nationally recognized statistical rating organization.

“(64) QUALIFIED INSTITUTIONAL BUYER.—The term ‘qualified institutional buyer’ has the meaning given such term in section 230.144A(a) of title 17, Code of Federal Regulations, or any successor thereto.”.

(b) APPLICABLE DEFINITIONS.—As used in this Act—



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(1) the term “Commission” means the Securities and Exchange Commission; and

(2) the term “nationally recognized statistical rating organization” has the same meaning as in section 3(a)(62) of the Securities Exchange Act of 1934, as added by this Act.

SEC. 4. REGISTRATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

(a) AMENDMENT.—The Securities Exchange Act of 1934 is amended by inserting after section 15D (15 U.S.C. 78o–6) the following new section:

“SEC. 15E. REGISTRATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

“(a) REGISTRATION PROCEDURES.—

“(1) APPLICATION FOR REGISTRATION.—

“(A) IN GENERAL.—A credit rating agency that elects to be treated as a nationally recognized statistical rating organization for purposes of this title (in this section referred to as the ‘applicant’), shall furnish to the Commission an application for registration, in such form as the Commission shall require, by rule or regulation issued in accordance with subsection (n), and containing the information described in subparagraph (B).

“(B) REQUIRED INFORMATION.—An application for registration under this section shall contain information regarding—

“(i) credit ratings performance measurement statistics over short-term, mid-term, and long-term periods (as applicable) of the applicant;

“(ii) the procedures and methodologies that the applicant uses in determining credit ratings;

“(iii) policies or procedures adopted and implemented by the applicant to prevent the misuse, in violation of this title (or the rules and regulations hereunder), of material, nonpublic information;

“(iv) the organizational structure of the applicant;

“(v) whether or not the applicant has in effect a code of ethics, and if not, the reasons therefor;

“(vi) any conflict of interest relating to the issuance of credit ratings by the applicant;

“(vii) the categories described in any of clauses (i) through (v) of section 3(a)(62)(B) with respect to which the applicant intends to apply for registration under this section;

“(viii) on a confidential basis, a list of the 20 largest issuers and subscribers that use the credit rating services of the applicant, by amount of net revenues received therefrom in the fiscal year immediately preceding the date of submission of the application;

“(ix) on a confidential basis, as to each applicable category of obligor described in any of clauses (i) through (v) of section 3(a)(62)(B), written certifications described in subparagraph (C), except as provided in subparagraph (D); and

“(x) any other information and documents concerning the applicant and any person associated with

such applicant as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

“(C) WRITTEN CERTIFICATIONS.—Written certifications required by subparagraph (B)(ix)—

“(i) shall be provided from not fewer than 10 qualified institutional buyers, none of which is affiliated with the applicant;

“(ii) may address more than one category of obligors described in any of clauses (i) through (v) of section 3(a)(62)(B);

“(iii) shall include not fewer than 2 certifications for each such category of obligor; and

“(iv) shall state that the qualified institutional buyer—

“(I) meets the definition of a qualified institutional buyer under section 3(a)(64); and

“(II) has used the credit ratings of the applicant for at least the 3 years immediately preceding the date of the certification in the subject category or categories of obligors.

“(D) EXEMPTION FROM CERTIFICATION REQUIREMENT.—

A written certification under subparagraph (B)(ix) is not required with respect to any credit rating agency which has received, or been the subject of, a no-action letter from the staff of the Commission prior to August 2, 2006, stating that such staff would not recommend enforcement action against any broker or dealer that considers credit ratings issued by such credit rating agency to be ratings from a nationally recognized statistical rating organization.

“(E) LIMITATION ON LIABILITY OF QUALIFIED INSTITUTIONAL BUYERS.—No qualified institutional buyer shall be liable in any private right of action for any opinion or statement expressed in a certification made pursuant to subparagraph (B)(ix).

“(2) REVIEW OF APPLICATION.—

“(A) INITIAL DETERMINATION.—Not later than 90 days after the date on which the application for registration is furnished to the Commission under paragraph (1) (or within such longer period as to which the applicant consents) the Commission shall—

“(i) by order, grant such registration for ratings in the subject category or categories of obligors, as described in clauses (i) through (v) of section 3(a)(62)(B); or

“(ii) institute proceedings to determine whether registration should be denied.

“(B) CONDUCT OF PROCEEDINGS.—

“(i) CONTENT.—Proceedings referred to in subparagraph (A)(ii) shall—

“(I) include notice of the grounds for denial under consideration and an opportunity for hearing; and

“(II) be concluded not later than 120 days after the date on which the application for registration is furnished to the Commission under paragraph (1).

“(ii) DETERMINATION.—At the conclusion of such proceedings, the Commission, by order, shall grant or deny such application for registration.

“(iii) EXTENSION AUTHORIZED.—The Commission may extend the time for conclusion of such proceedings for not longer than 90 days, if it finds good cause for such extension and publishes its reasons for so finding, or for such longer period as to which the applicant consents.

“(C) GROUNDS FOR DECISION.—The Commission shall grant registration under this subsection—

“(i) if the Commission finds that the requirements of this section are satisfied; and

“(ii) unless the Commission finds (in which case the Commission shall deny such registration) that—

“(I) the applicant does not have adequate financial and managerial resources to consistently produce credit ratings with integrity and to materially comply with the procedures and methodologies disclosed under paragraph (1)(B) and with subsections (g), (h), (i), and (j); or

“(II) if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (d).

“(3) PUBLIC AVAILABILITY OF INFORMATION.—Subject to section 24, the Commission shall, by rule, require a nationally recognized statistical rating organization, upon the granting of registration under this section, to make the information and documents submitted to the Commission in its completed application for registration, or in any amendment submitted under paragraph (1) or (2) of subsection (b), publicly available on its website, or through another comparable, readily accessible means, except as provided in clauses (viii) and (ix) of paragraph (1)(B).

“(b) UPDATE OF REGISTRATION.—

“(1) UPDATE.—Each nationally recognized statistical rating organization shall promptly amend its application for registration under this section if any information or document provided therein becomes materially inaccurate, except that a nationally recognized statistical rating organization is not required to amend—

“(A) the information required to be furnished under subsection (a)(1)(B)(i) by furnishing information under this paragraph, but shall amend such information in the annual submission of the organization under paragraph (2) of this subsection; or

“(B) the certifications required to be provided under subsection (a)(1)(B)(ix) by furnishing information under this paragraph.

“(2) CERTIFICATION.—Not later than 90 days after the end of each calendar year, each nationally recognized statistical rating organization shall furnish to the Commission an amendment to its registration, in such form as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors—

“(A) certifying that the information and documents in the application for registration of such nationally recognized statistical rating organization (other than the certifications required under subsection (a)(1)(B)(ix)) continue to be accurate; and

“(B) listing any material change that occurred to such information or documents during the previous calendar year.

“(c) ACCOUNTABILITY FOR RATINGS PROCEDURES.—

“(1) AUTHORITY.—The Commission shall have exclusive authority to enforce the provisions of this section in accordance with this title with respect to any nationally recognized statistical rating organization, if such nationally recognized statistical rating organization issues credit ratings in material contravention of those procedures relating to such nationally recognized statistical rating organization, including procedures relating to the prevention of misuse of nonpublic information and conflicts of interest, that such nationally recognized statistical rating organization—

“(A) includes in its application for registration under subsection (a)(1)(B)(ii); or

“(B) makes and disseminates in reports pursuant to section 17(a) or the rules and regulations thereunder.

“(2) LIMITATION.—The rules and regulations that the Commission may prescribe pursuant to this title, as they apply to nationally recognized statistical rating organizations, shall be narrowly tailored to meet the requirements of this title applicable to nationally recognized statistical rating organizations. Notwithstanding any other provision of law, neither the Commission nor any State (or political subdivision thereof) may regulate the substance of credit ratings or the procedures and methodologies by which any nationally recognized statistical rating organization determines credit ratings.

“(d) CENSURE, DENIAL, OR SUSPENSION OF REGISTRATION; NOTICE AND HEARING.—The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of any nationally recognized statistical rating organization if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is necessary for the protection of investors and in the public interest and that such nationally recognized statistical rating organization, or any person associated with such an organization, whether prior to or subsequent to becoming so associated—

“(1) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (H), or (G) of section 15(b)(4), has been convicted of any offense specified in section 15(b)(4)(B), or is enjoined from any action, conduct, or practice specified in subparagraph (C) of section 15(b)(4), during the 10-year period preceding the date of commencement of the proceedings under this subsection, or at any time thereafter;

“(2) has been convicted during the 10-year period preceding the date on which an application for registration is furnished to the Commission under this section, or at any time thereafter, of—

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“(A) any crime that is punishable by imprisonment for 1 or more years, and that is not described in section 15(b)(4)(B); or

“(B) a substantially equivalent crime by a foreign court of competent jurisdiction;

“(3) is subject to any order of the Commission barring or suspending the right of the person to be associated with a nationally recognized statistical rating organization;

“(4) fails to furnish the certifications required under subsection (b)(2); or

“(5) fails to maintain adequate financial and managerial resources to consistently produce credit ratings with integrity.

“(e) TERMINATION OF REGISTRATION.—

“(1) VOLUNTARY WITHDRAWAL.—A nationally recognized statistical rating organization may, upon such terms and conditions as the Commission may establish as necessary in the public interest or for the protection of investors, withdraw from registration by furnishing a written notice of withdrawal to the Commission.

“(2) COMMISSION AUTHORITY.—In addition to any other authority of the Commission under this title, if the Commission finds that a nationally recognized statistical rating organization is no longer in existence or has ceased to do business as a credit rating agency, the Commission, by order, shall cancel the registration under this section of such nationally recognized statistical rating organization.

“(f) REPRESENTATIONS.—

“(1) BAN ON REPRESENTATIONS OF SPONSORSHIP BY UNITED STATES OR AGENCY THEREOF.—It shall be unlawful for any nationally recognized statistical rating organization to represent or imply in any manner whatsoever that such nationally recognized statistical rating organization has been designated, sponsored, recommended, or approved, or that the abilities or qualifications thereof have in any respect been passed upon, by the United States or any agency, officer, or employee thereof.

“(2) BAN ON REPRESENTATION AS NRSRO OF UNREGISTERED CREDIT RATING AGENCIES.—It shall be unlawful for any credit rating agency that is not registered under this section as a nationally recognized statistical rating organization to state that such credit rating agency is a nationally recognized statistical rating organization registered under this title.

“(3) STATEMENT OF REGISTRATION UNDER SECURITIES EXCHANGE ACT OF 1934 PROVISIONS.—No provision of paragraph (1) shall be construed to prohibit a statement that a nationally recognized statistical rating organization is a nationally recognized statistical rating organization under this title, if such statement is true in fact and if the effect of such registration is not misrepresented.

“(g) PREVENTION OF MISUSE OF NONPUBLIC INFORMATION.—

“(1) ORGANIZATION POLICIES AND PROCEDURES.—Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of such nationally recognized statistical rating organization, to prevent the misuse in violation of this title, or the rules or regulations hereunder, of material, nonpublic information by such nationally recognized statistical rating

organization or any person associated with such nationally recognized statistical rating organization.

“(2) COMMISSION AUTHORITY.—The Commission shall issue final rules in accordance with subsection (n) to require specific policies or procedures that are reasonably designed to prevent misuse in violation of this title (or the rules or regulations hereunder) of material, nonpublic information.

“(h) MANAGEMENT OF CONFLICTS OF INTEREST.—

“(1) ORGANIZATION POLICIES AND PROCEDURES.—Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of such nationally recognized statistical rating organization and affiliated persons and affiliated companies thereof, to address and manage any conflicts of interest that can arise from such business.

“(2) COMMISSION AUTHORITY.—The Commission shall issue final rules in accordance with subsection (n) to prohibit, or require the management and disclosure of, any conflicts of interest relating to the issuance of credit ratings by a nationally recognized statistical rating organization, including, without limitation, conflicts of interest relating to—

“(A) the manner in which a nationally recognized statistical rating organization is compensated by the obligor, or any affiliate of the obligor, for issuing credit ratings or providing related services;

“(B) the provision of consulting, advisory, or other services by a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, to the obligor, or any affiliate of the obligor;

“(C) business relationships, ownership interests, or any other financial or personal interests between a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, and the obligor, or any affiliate of the obligor;

“(D) any affiliation of a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, with any person that underwrites the securities or money market instruments that are the subject of a credit rating; and

“(E) any other potential conflict of interest, as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

“(i) PROHIBITED CONDUCT.—

“(1) PROHIBITED ACTS AND PRACTICES.—The Commission shall issue final rules in accordance with subsection (n) to prohibit any act or practice relating to the issuance of credit ratings by a nationally recognized statistical rating organization that the Commission determines to be unfair, coercive, or abusive, including any act or practice relating to—

“(A) conditioning or threatening to condition the issuance of a credit rating on the purchase by the obligor or an affiliate thereof of other services or products, including pre-credit rating assessment products, of the nationally recognized statistical rating organization or any

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person associated with such nationally recognized statistical rating organization;

“(B) lowering or threatening to lower a credit rating on, or refusing to rate, securities or money market instruments issued by an asset pool or as part of any asset-backed or mortgage-backed securities transaction, unless a portion of the assets within such pool or part of such transaction, as applicable, also is rated by the nationally recognized statistical rating organization; or

“(C) modifying or threatening to modify a credit rating or otherwise departing from its adopted systematic procedures and methodologies in determining credit ratings, based on whether the obligor, or an affiliate of the obligor, purchases or will purchase the credit rating or any other service or product of the nationally recognized statistical rating organization or any person associated with such organization.

“(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1), or in any rules or regulations adopted thereunder, may be construed to modify, impair, or supersede the operation of any of the antitrust laws (as defined in the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act, to the extent that such section 5 applies to unfair methods of competition).

“(j) DESIGNATION OF COMPLIANCE OFFICER.—Each nationally recognized statistical rating organization shall designate an individual responsible for administering the policies and procedures that are required to be established pursuant to subsections (g) and (h), and for ensuring compliance with the securities laws and the rules and regulations thereunder, including those promulgated by the Commission pursuant to this section.

“(k) STATEMENTS OF FINANCIAL CONDITION.—Each nationally recognized statistical rating organization shall, on a confidential basis, furnish to the Commission, at intervals determined by the Commission, such financial statements, certified (if required by the rules or regulations of the Commission) by an independent public accountant, and information concerning its financial condition, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

“(l) SOLE METHOD OF REGISTRATION.—

“(1) IN GENERAL.—On and after the effective date of this section, a credit rating agency may only be registered as a nationally recognized statistical rating organization for any purpose in accordance with this section.

“(2) PROHIBITION ON RELIANCE ON NO-ACTION RELIEF.—On and after the effective date of this section—

“(A) an entity that, before that date, received advice, approval, or a no-action letter from the Commission or staff thereof to be treated as a nationally recognized statistical rating organization pursuant to the Commission rule at section 240.15c3-1 of title 17, Code of Federal Regulations, may represent itself or act as a nationally recognized statistical rating organization only—

“(i) during Commission consideration of the application, if such entity has furnished an application for registration under this section; and

“(ii) on and after the date of approval of its application for registration under this section; and

“(B) the advice, approval, or no-action letter described in subparagraph (A) shall be void.

“(3) NOTICE TO OTHER AGENCIES.—Not later than 30 days after the date of enactment of this section, the Commission shall give notice of the actions undertaken pursuant to this section to each Federal agency which employs in its rules and regulations the term ‘nationally recognized statistical rating organization’ (as that term is used under Commission rule 15c3-1 (17 C.F.R. 240.15c3-1), as in effect on the date of enactment of this section).

“(m) RULES OF CONSTRUCTION.—

“(1) NO WAIVER OF RIGHTS, PRIVILEGES, OR DEFENSES.—Registration under and compliance with this section does not constitute a waiver of, or otherwise diminish, any right, privilege, or defense that a nationally recognized statistical rating organization may otherwise have under any provision of State or Federal law, including any rule, regulation, or order thereunder.

“(2) NO PRIVATE RIGHT OF ACTION.—Nothing in this section may be construed as creating any private right of action, and no report furnished by a nationally recognized statistical rating organization in accordance with this section or section 17 shall create a private right of action under section 18 or any other provision of law.

“(n) REGULATIONS.—

“(1) NEW PROVISIONS.—Such rules and regulations as are required by this section or are otherwise necessary to carry out this section, including the application form required under subsection (a)—

“(A) shall be issued by the Commission in final form, not later than 270 days after the date of enactment of this section; and

“(B) shall become effective not later than 270 days after the date of enactment of this section.

“(2) REVIEW OF EXISTING REGULATIONS.—Not later than 270 days after the date of enactment of this section, the Commission shall—

“(A) review its existing rules and regulations which employ the term ‘nationally recognized statistical rating organization’ or ‘NRSRO’; and

“(B) amend or revise such rules and regulations in accordance with the purposes of this section, as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

“(o) NRSROS SUBJECT TO COMMISSION AUTHORITY.—

“(1) IN GENERAL.—No provision of the laws of any State or political subdivision thereof requiring the registration, licensing, or qualification as a credit rating agency or a nationally recognized statistical rating organization shall apply to any nationally recognized statistical rating organization or person employed by or working under the control of a nationally recognized statistical rating organization.

“(2) LIMITATION.—Nothing in this subsection prohibits the securities commission (or any agency or office performing like functions) of any State from investigating and bringing an

enforcement action with respect to fraud or deceit against any nationally recognized statistical rating organization or person associated with a nationally recognized statistical rating organization.

“(p) APPLICABILITY.—This section, other than subsection (n), which shall apply on the date of enactment of this section, shall apply on the earlier of—

“(1) the date on which regulations are issued in final form under subsection (n)(1); or

“(2) 270 days after the date of enactment of this section.”.

(b) CONFORMING AMENDMENTS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended—

(A) in section 15(b)(4) (15 U.S.C. 78o(b)(4))—

(i) in subparagraph (B)(ii), by inserting “nationally recognized statistical rating organization,” after “transfer agent,”; and

(ii) in subparagraph (C), by inserting “nationally recognized statistical rating organization,” after “transfer agent,”; and

(B) in section 21B(a) (15 U.S.C. 78u–2(a)), by inserting “15E,” after “15C.”.

(2) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a et seq.) is amended—

(A) in section 2(a) (15 U.S.C. 80a–2(a)), by adding at the end the following new paragraph:

“(53) The term ‘credit rating agency’ has the same meaning as in section 3 of the Securities Exchange Act of 1934.”; and

(B) in section 9(a) (15 U.S.C. 80a–9(a))—

(i) in paragraph (1), by inserting “credit rating agency,” after “transfer agent,”; and

(ii) in paragraph (2), by inserting “credit rating agency,” after “transfer agent.”.

(3) INVESTMENT ADVISERS ACT OF 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.) is amended—

(A) in section 202(a) (15 U.S.C. 80b–2(a)), by adding at the end the following new paragraph:

“(28) The term ‘credit rating agency’ has the same meaning as in section 3 of the Securities Exchange Act of 1934.”;

(B) in section 202(a)(11) (15 U.S.C. 80b–2(a)(11)), by striking “or (F)” and inserting the following: “(F) any nationally recognized statistical rating organization, as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934, unless such organization engages in issuing recommendations as to purchasing, selling, or holding securities or in managing assets, consisting in whole or in part of securities, on behalf of others; or (G)”;

and

(C) in section 203(e) (15 U.S.C. 80b–3(e))—

(i) in paragraph (2)(B), by inserting “credit rating agency,” after “transfer agent,”; and

(ii) in paragraph (4), by inserting “credit rating agency,” after “transfer agent.”.

(4) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 1319 of the Housing and Community Development Act of 1992 (12 U.S.C. 4519) is amended by striking “effectively” and all that follows through “broker-dealers” and inserting



“that is a nationally recognized statistical rating organization, as such term is defined in section 3(a) of the Securities Exchange Act of 1934”.

(5) HIGHER EDUCATION ACT OF 1965.—Section 439(r)(15)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)(15)(A)) is amended by striking “means any entity recognized as such by the Securities and Exchange Commission” and inserting “means any nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934”.

(6) TITLE 23.—Section 181(11) of title 23, United States Code, is amended by striking “identified by the Securities and Exchange Commission as a nationally recognized statistical rating organization” and inserting “registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934”.

SEC. 5. ANNUAL AND OTHER REPORTS.

Section 17(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)(1)) is amended—

(1) by inserting “nationally recognized statistical rating organization,” after “registered transfer agent,”; and

(2) by adding at the end the following: “Any report that a nationally recognized statistical rating organization is required by Commission rules under this paragraph to make and disseminate to the Commission shall be deemed furnished to the Commission.”.

SEC. 6. COMMISSION ANNUAL REPORT.

The Commission shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that, with respect to the year to which the report relates—

(1) identifies applicants for registration under section 15E of the Securities Exchange Act of 1934, as added by this Act;

(2) specifies the number of and actions taken on such applications; and

(3) specifies the views of the Commission on the state of competition, transparency, and conflicts of interest among nationally recognized statistical rating organizations.

SEC. 7. GAO STUDY AND REPORT REGARDING NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—

(1) to determine the impact of this Act and the amendments made by this Act on—

(A) the quality of credit ratings issued by nationally recognized statistical ratings organizations;

(B) the financial markets;

(C) competition among credit rating agencies;

(D) the incidence of inappropriate conflicts of interest and sales practices by nationally recognized statistical rating organizations;

(E) the process for registering as a nationally recognized statistical rating organization; and



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(F) such other matters relevant to the implementation of this Act and the amendments made by this Act, as the Comptroller General deems necessary to bring to the attention of the Congress;

(2) to identify problems, if any, that have resulted from the implementation of this Act and the amendments made by this Act; and

(3) to recommend solutions, including any legislative or regulatory solutions, to any problems identified under paragraphs (1) and (2).

(b) REPORT REQUIRED.—Not earlier than 3 years nor later than 4 years after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

ANNEX D

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



**THE TECHNICAL COMMITTEE OF THE
INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS**

DECEMBER 2004

CODE OF CONDUCT FUNDAMENTALS FOR CREDIT RATING AGENCIES

INTRODUCTION

Credit rating agencies (CRAs) can play an important role in modern capital markets. CRAs typically opine on the credit risk of issuers of securities and their financial obligations. Given the vast amount of information available to investors today – some of it valuable, some of it not – CRAs can play a useful role in helping investors and others sift through this information, and analyze the credit risks they face when lending to a particular borrower or when purchasing an issuer's debt and debt-like securities.³

In September 2003, IOSCO's Technical Committee published a Statement of Principles Regarding the Activities of Credit Rating Agencies.⁴ The Principles were designed to be a useful tool for securities regulators, rating agencies and others wishing to articulate the terms and conditions under which CRAs operate and the manner in which opinions of CRAs should be used by market participants. Because CRAs are regulated and operate differently in different jurisdictions, the Principles laid out high-level objectives that rating agencies, regulators, issuers and other market participants should strive toward in order to improve investor protection and the fairness, efficiency and transparency of securities markets and reduce systemic risk. The Principles were designed to apply to all types of CRAs operating in various jurisdictions. However, to take into account the different market, legal and regulatory circumstances in which CRAs operate, and the varying size and business models of CRAs, the manner in which the Principles were to be implemented was left open. The Principles contemplated that a variety of mechanisms could be used, including both market mechanisms and regulation.

Along with the Principles, IOSCO's Technical Committee also published a Report on the Activities of Credit Rating Agencies that outlined the activities of CRAs, the types of regulatory issues that arise relating to these activities, and how the Principles address these issues.⁵ The CRA Report highlighted the growing and sometimes controversial importance placed on CRA assessments and opinions, and found that, in some cases, CRAs activities are not always well understood by investors and issuers alike. Given this lack of understanding, and because CRAs typically are subject to little formal regulation or oversight in most jurisdictions, concerns have been raised regarding the manner in which CRAs protect the integrity of the rating process, ensure that investors and issuers are treated fairly, and safeguard confidential material information provided them by issuers.

Following publication of the CRA Principles, some commenters, including a number of CRAs, suggested that it would be useful if IOSCO were to develop a more specific and detailed code of conduct giving guidance on how the Principles could be implemented in practice. The following Code of Conduct Fundamentals for Credit Rating Agencies is the fruition of this exercise. As with the Principles, with which it should be used, the Code Fundamentals were developed out of discussions among IOSCO members, CRAs, representatives of the Basel

³ CRAs typically provide credit ratings for different types of debts and financial obligations — including, for example, private loans, publicly and privately traded debt securities, preferred shares and other securities that offer a fixed or variable rate of return. For simplicity's sake, the term "debt and debt-like securities" is used herein to refer to debt securities, preferred shares, and other financial obligations of this sort that CRAs rate.

⁴ This document can be downloaded from IOSCO's On-Line Library at www.iosco.org (IOSCOPD151).

⁵ This document can be downloaded from IOSCO's On-Line Library at www.iosco.org (IOSCOPD153).

Committee on Banking Supervision, the International Association of Insurance Supervisors, issuers, and the public at large.⁶

The Code Fundamentals offer a set of robust, practical measures that serve as a guide to and a framework for implementing the Principles' objectives. These measures are the fundamentals which should be included in individual CRA codes of conduct, and the elements contained in the Code Fundamentals should receive the full support of CRA management and be backed by thorough compliance and enforcement mechanisms. However, the measures set forth in the Code Fundamentals are not intended to be all-inclusive: CRAs and regulators should consider whether or not additional measures may be necessary to properly implement the Principles in a specific jurisdiction, and the Technical Committee may revisit the Code Fundamentals in the future should experience dictate that modifications are necessary. Further, the Code Fundamentals are not designed to be rigid or formulaic. They are designed to offer CRAs a degree of flexibility in how these measures are incorporated into the individual codes of conduct of the CRAs themselves, according to each CRA's specific legal and market circumstances.

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

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

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

⁶ A consultation draft of the Code Fundamentals was published for public comment in October 2004. This document (IOSCOPD173) and a list of public comments IOSCO received on the consultation draft (IOSCOPD177) can be downloaded from IOSCO's On-Line Library at www.iosco.org. The online version of the list of public comments includes hyperlinks to the comment letters themselves.

mechanisms and procedures CRAs adopt to ensure that the provisions of the Code Fundamentals are followed will vary according to the market and legal circumstances in which the CRA operates.

Structurally, the Code Fundamentals are broken into three sections and draw upon the organization and substance of the Principles themselves:

- ♦ The Quality and Integrity of the Rating Process;
- ♦ CRA Independence and the Avoidance of Conflicts of Interest; and,
- ♦ CRA Responsibilities to the Investing Public and Issuers.

TERMS

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

For the purposes of the Code Fundamentals, a “credit rating” is an opinion regarding the creditworthiness of an entity, a credit commitment, a debt or debt-like security or an issuer of such obligations, expressed using an established and defined ranking system. As described in the CRA Report, credit ratings are not recommendations to purchase, sell, or hold any security.

THE IOSCO CODE OF CONDUCT FUNDAMENTALS FOR CREDIT RATING AGENCIES

As described in the IOSCO CRA Principles, CRAs should endeavor to issue opinions that help reduce the asymmetry of information that exists between borrowers and debt and debt-like securities issuers, on one side, and lenders and the purchasers of debt and debt-like securities on the other. Rating analyses of low quality or produced through a process of questionable integrity are of little use to market participants. Stale ratings that fail to reflect changes to an issuer’s financial condition or prospects may mislead market participants. Likewise, conflicts of interest or other undue factors – internal and external – that might, or even appear to, impinge upon the independence of a rating decision can seriously undermine a CRA’s credibility. Where conflicts of interest or a lack of independence is common at a CRA and hidden from investors, overall investor confidence in the transparency and integrity of a market can be harmed. CRAs also have responsibilities to the investing public and to issuers themselves, including a responsibility to protect the confidentiality of some types of information issuers share with them.

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

1. QUALITY AND INTEGRITY OF THE RATING PROCESS

A. Quality of the Rating Process

- 1.1 *The CRA should adopt, implement and enforce written procedures to ensure that the opinions it disseminates are based on a thorough analysis of all information known to the CRA that is relevant to its analysis according to the CRA's published rating methodology.*
- 1.2 *The CRA should use rating methodologies that are rigorous, systematic, and, where possible, result in ratings that can be subjected to some form of objective validation based on historical experience.*
- 1.3 *In assessing an issuer's creditworthiness, analysts involved in the preparation or review of any rating action should use methodologies established by the CRA. Analysts should apply a given methodology in a consistent manner, as determined by the CRA.*
- 1.4 *Credit ratings should be assigned by the CRA and not by any individual analyst employed by the CRA; ratings should reflect all information known, and believed to be relevant, to the CRA, consistent with its published methodology; and the CRA should use people who, individually or collectively have appropriate knowledge and experience in developing a rating opinion for the type of credit being applied.*
- 1.5 *The CRA should maintain internal records to support its credit opinions for a reasonable period of time or in accordance with applicable law.*
- 1.6 *The CRA and its analysts should take steps to avoid issuing any credit analyses or reports that contain misrepresentations or are otherwise misleading as to the general creditworthiness of an issuer or obligation.*
- 1.7 *The CRA should ensure that it has and devotes sufficient resources to carry out high-quality credit assessments of all obligations and issuers it rates. When deciding whether to rate or continue rating an obligation or issuer, it should assess whether it is able to devote sufficient personnel with sufficient skill sets to make a proper rating assessment, and whether its personnel likely will have access to sufficient information needed in order make such an assessment.*
- 1.8 *The CRA should structure its rating teams to promote continuity and avoid bias in the rating process.*

B. Monitoring and Updating

- 1.9 *Except for ratings that clearly indicate they do not entail ongoing surveillance, once a rating is published the CRA should monitor on an ongoing basis and update the rating by:*
 - a. *regularly reviewing the issuer's creditworthiness;*
 - b. *initiating a review of the status of the 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,

- c. updating on a timely basis the rating, as appropriate, based on the results of such review.*

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

C. Integrity of the Rating Process

1.11 The CRA and its employees should comply with all applicable laws and regulations governing its activities in each jurisdiction in which it operates.

1.12 The CRA and its employees should deal fairly and honestly with issuers, investors, other market participants, and the public.

1.13 The CRA's analysts should be held to high standards of integrity, and the CRA should not employ individuals with demonstrably compromised integrity.

1.14 The CRA and its employees should not, either implicitly or explicitly, give any assurance or guarantee of a particular rating prior to a rating assessment. This does not preclude a CRA from developing prospective assessments used in structured finance and similar transactions.

1.15 The CRA should institute policies and procedures that clearly specify a person responsible for the CRA's and the CRA's employees' compliance with the provisions of the CRA's code of conduct and with applicable laws and regulations. This person's reporting lines and compensation should be independent of the CRA's rating operations.

1.16 Upon becoming aware that another employee or entity under common control with the CRA is or has engaged in conduct that is illegal, unethical or contrary to the CRA's code of conduct, a CRA employee should report such information immediately to the individual in charge of compliance or an officer of the CRA, as appropriate, so proper action may be taken. A CRA's employees are not necessarily expected to be experts in the law. Nonetheless, its employees are expected to report the activities that a reasonable person would question. Any CRA officer who receives such a report from a CRA employee is obligated to take appropriate action, as determined by the laws and regulations of the jurisdiction and the rules and guidelines set forth by the CRA. CRA management should prohibit retaliation by other CRA staff or by the CRA itself against any employees who, in good faith, make such reports.

2. CRA INDEPENDENCE AND AVOIDANCE OF CONFLICTS OF INTEREST

A. General

- 2.1 The CRA should not forbear or refrain from taking a rating action based on the potential effect (economic, political, or otherwise) of the action on the CRA, an issuer, an investor, or other market participant.*
- 2.2 The CRA and its analysts should use care and professional judgment to maintain both the substance and appearance of independence and objectivity.*
- 2.3 The determination of a credit rating should be influenced only by factors relevant to the credit assessment.*
- 2.4 The credit rating a CRA assigns to an issuer or security should not be affected by the existence of or potential for a business relationship between the CRA (or its affiliates) and the issuer (or its affiliates) or any other party, or the non-existence of such a relationship.*
- 2.5 The CRA should separate, operationally and legally, its credit rating business and CRA analysts from any other businesses of the CRA, including consulting businesses, that may present a conflict of interest. The CRA should ensure that ancillary business operations which do not necessarily present conflicts of interest with the CRA's rating business have in place procedures and mechanisms designed to minimize the likelihood that conflicts of interest will arise.*

B. CRA Procedures and Policies

- 2.6 The CRA should adopt written internal procedures and mechanisms to (1) identify, and (2) eliminate, or manage and disclose, as appropriate, any actual or potential conflicts of interest that may influence the opinions and analyses the CRA makes or the judgment and analyses of the individuals the CRA employs who have an influence on ratings decisions. The CRA's code of conduct should also state that the CRA will disclose such conflict avoidance and management measures.*
- 2.7 The CRA's disclosures of actual and potential conflicts of interest should be complete, timely, clear, concise, specific and prominent.*
- 2.8 The CRA should disclose the general nature of its compensation arrangements with rated entities. Where a CRA receives from a rated entity compensation unrelated to its ratings service, such as compensation for consulting services, the CRA should disclose the proportion such non-rating fees constitute against the fees the CRA receives from the entity for ratings services.*
- 2.9 The CRA and its employees should not engage in any securities or derivatives trading presenting conflicts of interest with the CRA's rating activities.*
- 2.10 In instances where rated entities (e.g., governments) have, or are simultaneously pursuing, oversight functions related to the CRA, the CRA should use different employees to conduct its rating actions than those employees involved in its oversight issues.*

C. CRA Analyst and Employee Independence

- 2.11 Reporting lines for CRA employees and their compensation arrangements should be structured to eliminate or effectively manage actual and potential conflicts of interest. The CRA's code of conduct should also state that a CRA analyst will not be compensated or evaluated on the basis of the amount of revenue that the CRA derives from issuers that the analyst rates or with which the analyst regularly interacts.*
- 2.12 The CRA should not have employees who are directly involved in the rating process initiate, or participate in, discussions regarding fees or payments with any entity they rate.*
- 2.13 No CRA employee should participate in or otherwise influence the determination of the CRA's rating of any particular entity or obligation if the employee:*
- a. Owns securities or derivatives of the rated entity, other than holdings in diversified collective investment schemes;*
 - b. Owns securities or derivatives of any entity related to a rated entity, the ownership of which may cause or may be perceived as causing a conflict of interest, other than holdings in diversified collective investment schemes;*
 - c. Has had a recent employment or other significant business relationship with the rated entity that may cause or may be perceived as causing a conflict of interest;*
 - d. Has an immediate relation (i.e., a spouse, partner, parent, child, or sibling) who currently works for the rated entity; or*
 - e. Has, or had, any other relationship with the rated entity or any related entity thereof that may cause or may be perceived as causing a conflict of interest.*
- 2.14 The CRA's analysts and anyone involved in the rating process (or their spouse, partner or minor children) should not buy or sell or engage in any transaction in any security or derivative based on a security issued, guaranteed, or otherwise supported by any entity within such analyst's area of primary analytical responsibility, other than holdings in diversified collective investment schemes.*
- 2.15 CRA employees should be prohibited from soliciting money, gifts or favors from anyone with whom the CRA does business and should be prohibited from accepting gifts offered in the form of cash or any gifts exceeding a minimal monetary value.*
- 2.16 Any CRA analyst who becomes involved in any personal relationship that creates the potential for any real or apparent conflict of interest (including, for example, any personal relationship with an employee of a rated entity or agent of such entity within his or her area of analytic responsibility), should be required to disclose such relationship to the appropriate manager or officer of the CRA, as determined by the CRA's compliance policies.*

3. CRA RESPONSIBILITIES TO THE INVESTING PUBLIC AND ISSUERS

A. Transparency and Timeliness of Ratings Disclosure

- 3.1 *The CRA should distribute in a timely manner its ratings decisions regarding the entities and securities it rates.*
- 3.2 *The CRA should publicly disclose its policies for distributing ratings, reports and updates.*
- 3.3 *The CRA should indicate with each of its ratings when the rating was last updated.*
- 3.4 *Except for “private ratings” provided only to the issuer, the CRA should disclose to the public, on a non-selective basis and free of charge, any rating regarding publicly issued securities, or public issuers themselves, as well as any subsequent decisions to discontinue such a rating, if the rating action is based in whole or in part on material non-public information.*
- 3.5 *The CRA should publish sufficient information about its procedures, methodologies and assumptions (including financial statement adjustments that deviate materially from those contained in the issuer’s published financial statements) so that outside parties can understand how a rating was arrived at by the CRA. This information will include (but not be limited to) the meaning of each rating category and the definition of default or recovery, and the time horizon the CRA used when making a rating decision.*
- 3.6 *When issuing or revising a rating, the CRA should explain in its press releases and reports the key elements underlying the rating opinion.*
- 3.7 *Where feasible and appropriate, prior to issuing or revising a rating, the CRA should inform the issuer of the critical information and principal considerations upon which a rating will be based and afford the issuer an opportunity to clarify any likely factual misperceptions or other matters that the CRA would wish to be made aware of in order to produce an accurate rating. The CRA will duly evaluate the response. Where in particular circumstances the CRA has not informed the issuer prior to issuing or revising a rating, the CRA should inform the issuer as soon as practical thereafter and, generally, should explain the reason for the delay.*
- 3.8 *In order to promote transparency and to enable the market to best judge the performance of the ratings, the CRA, where possible, should publish sufficient information about the historical default rates of CRA rating categories and whether the default rates of these categories have changed over time, so that interested parties can understand the historical performance of each category and if and how rating categories have changed, and be able to draw quality comparisons among ratings given by different CRAs. If the nature of the rating or other circumstances make a historical default rate inappropriate, statistically invalid, or otherwise likely to mislead the users of the rating, the CRA should explain this.*
- 3.9 *For each rating, the CRA should disclose whether the issuer participated in the rating process. Each rating not initiated at the request of the issuer should be identified as such. The CRA should also disclose its policies and procedures regarding unsolicited ratings.*

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

B. The Treatment of Confidential Information

- 3.11 *The CRA should adopt procedures and mechanisms to protect the confidential nature of information shared with them by issuers under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially. Unless otherwise permitted by the confidentiality agreement and consistent with applicable laws or regulations, the CRA and its employees should not disclose confidential information in press releases, through research conferences, to future employers, or in conversations with investors, other issuers, other persons, or otherwise.*
- 3.12 *The CRA should use confidential information only for purposes related to its rating activities or otherwise in accordance with any confidentiality agreements with the issuer.*
- 3.13 *CRA employees should take all reasonable measures to protect all property and records belonging to or in possession of the CRA from fraud, theft or misuse.*
- 3.14 *CRA employees should be prohibited from engaging in transactions in securities when they possess confidential information concerning the issuer of such security.*
- 3.15 *In preservation of confidential information, CRA employees should familiarize themselves with the internal securities trading policies maintained by their employer, and periodically certify their compliance as required by such policies.*
- 3.16 *CRA employees should not selectively disclose any non-public information about rating opinions or possible future rating actions of the CRA, except to the issuer or its designated agents.*
- 3.17 *CRA employees should not share confidential information entrusted to the CRA with employees of any affiliated entities that are not CRAs. CRA employees should not share confidential information within the CRA except on an “as needed” basis.*
- 3.18 *CRA employees should not use or share confidential information for the purpose of trading securities, or for any other purpose except the conduct of the CRA’s business.*

4. DISCLOSURE OF THE CODE OF CONDUCT AND COMMUNICATION WITH MARKET PARTICIPANTS

- 4.1 *The CRA should disclose to the public its code of conduct and describe how the provisions of its code of conduct fully implement the provisions of the IOSCO Principles Regarding the Activities of Credit Rating Agencies and the IOSCO Code of Conduct Fundamentals for Credit Rating Agencies. If a CRA’s code of conduct*

deviates from the IOSCO provisions, the CRA should explain where and why these deviations exist, and how any deviations nonetheless achieve the objectives contained in the IOSCO provisions. The CRA should also describe generally how it intends to enforce its code of conduct and should disclose on a timely basis any changes to its code of conduct or how it is implemented and enforced.

- 4.2 The CRA should establish a function within its organization charged with communicating with market participants and the public about any questions, concerns or complaints that the CRA may receive. The objective of this function should be to help ensure that the CRA's officers and management are informed of those issues that the CRA's officers and management would want to be made aware of when setting the organization's policies.*

ANNEX E: LIST OF RESPONDENTS TO CESR SURVEY

BBA, ISDA & LIBA: British Bankers' Association (BBA), International Swaps and Derivatives Association, Inc (ISDA) and London Investment Banking Association (LIBA)

DZ Bank

AFG: Association Française de la Gestion Financière

BVI: Bundesverband Investment und Asset Management e.V.

GDV: German Insurance Association

IMMFA Institutional Money Market Funds Association

AIAF: Associazione Italiana degli Analisti Finanziari

BMA: Bond Market Association

DVFA: Deutsche Vereinigung für Finanzanalyse und Asset Management (Society of Investment Professionals in Germany)

EFFAS: European Federation of Financial Analysts Societies

ICAP: ICAP SA Research & Investment Company Management Consultants

Rating Evidence

ACT: Association of Corporate Treasurers

BDI: Federation of German Industries

KBC: KBC Group

AFTE: Association Française des Trésoriers d'Entreprises

ABI : Association of British Insurers