

RESPONSE TO FEEDBACK RECEIVED – CONSULTATION ON PROPOSED REGULATION OF CREDIT RATING AGENCIES

In a consultation paper issued on 23 March 2011 (the “Consultation Paper”), MAS invited comments and feedback on the proposal to implement regulatory oversight of credit rating agencies (“CRAs”) to conform with international standards and practices.

The consultation closed on 22 April 2011. We received comments from nine respondents including those listed in Appendix A. We would like to thank them for their feedback.

This paper sets out MAS’ responses to the key comments and feedback that we received.

1 CONSULTATION PAPER SECTION 3: PROPOSAL TO REGULATE CREDIT RATING AGENCIES THROUGH THE EXISTING CAPITAL MARKETS SERVICES LICENSING REGIME

1.1 New regulated activity of “providing credit rating services”

MAS proposed to regulate CRAs under the existing Capital Markets Services (“CMS”) licensing regime of the Securities and Futures Act (“SFA”) by adding “providing credit rating services” as a new regulated activity.

Feedback

The majority of the respondents welcomed the proposal to regulate CRAs operating in Singapore and supported regulating CRAs under the existing CMS licensing regime of the SFA.

While agreeing that regulatory oversight of credit rating activities is important, some respondents commented that such regulatory oversight should be implemented on a globally consistent basis.

MAS’ response

MAS believes that global consistency in CRA regulation should be achieved through the implementation of standards set by the International Organization of Securities Commissions (“IOSCO”). Where the standards allow variations in implementation, each jurisdiction should be able to impose detailed rules appropriate for its particular circumstances.

In formulating Singapore’s regulatory framework for CRAs, MAS seeks to ensure that it will be consistent with the Objectives and Principles of Securities Regulation issued by the IOSCO, particularly Principle 22 on CRA regulation. The proposed Code of Conduct for Credit Rating Agencies is

based on the IOSCO *Code of Conduct Fundamentals for Credit Rating Agencies (Revised May 2008)* (the "IOSCO CRA Code").

MAS also seeks to ensure that the regulatory regime can be implemented in a manner that is consistent with our existing supervisory framework. We therefore proposed to regulate CRAs under the existing CMS licensing regime.

We are mindful that CRAs, particularly those who operate in multiple jurisdictions, would prefer regulatory consistency among jurisdictions even at the level of detailed rules so that it would be easier for them to comply with the requirements of the various jurisdictions in which they operate. In this regard, we believe that our proposed rules are already largely similar to those of other major jurisdictions such that these CRAs should not find significant practical difficulties in complying with them as well as the rules in those jurisdictions.

As such, MAS will proceed to implement the regulatory regime for CRAs as proposed in the Consultation Paper, with the modifications outlined below in this response paper.

1.2 Proposed scope of "providing credit rating services"

The proposed definition of the new regulated activity of "providing credit rating services" essentially covers the "preparing, whether wholly or partly within Singapore, credit ratings in relation to activities in the securities and futures industry" for "disseminating to the public or a section of the public" or "distributing by subscription".

Paragraphs (i) and (ii) of the draft definition exclude from the scope of the regulated activity the preparation of "private credit ratings pursuant to an individual order" and which is "not intended for public disclosure or distribution by subscription" and "credit scores, credit scoring systems or similar assessments related to obligations arising from consumer, commercial or industrial relationships".

Feedback

The phrase "the public or a section of the public"

Several respondents commented that the phrase "the public or a section of the public" may give rise to uncertainty as to when an activity will amount to "providing credit rating services". This is because the meaning of the phrase may be unclear. One respondent suggested that the phrase was unnecessary and could be deleted from the definition.

Extraterritorial scope of the new regulated activity

Respondents sought clarifications on whether the new regulated activity covers the preparation of credit ratings outside Singapore. Some felt that guidance is needed on the application of the extra-territoriality provision under section 339 of the SFA to the new regulated activity, while others felt that the preparation of credit ratings, even if wholly carried out outside Singapore, should be regulated under Singapore law if the credit ratings are intended for dissemination in Singapore.

Activities to be excluded

Several respondents commented that the exclusions in paragraphs (i) and (ii) of the draft definition are not sufficiently clear. These respondents requested for greater clarity in the descriptions of the activities which are meant to be excluded.

MAS' response

The use of the concept of "the public"

After careful consideration, MAS agrees that the use of the phrase "to the public or a section of the public" is unnecessary. The phrase will be deleted.

The revised definition of "providing credit rating services" and the definitions of other terms and amendments thereto can be found in Appendix B to this paper. These definitions will be added to Part II of the Second Schedule of the SFA.

Extraterritorial scope of the new regulated activity

MAS would like to clarify that, in the specific context of credit rating services, it is not the intention to regulate persons who engage in the preparation of credit ratings wholly outside Singapore. We would require licensing if the preparation is carried out at least partly in Singapore. This is in line with IOSCO Principle 22, which allows for reliance on the regulation of foreign CRAs by their home regulators.

To be consistent with the above policy intent, we propose to introduce a provision in the Securities and Futures (Licensing and Conduct of Business) Regulations to specify that section 339(2) of the SFA shall not apply to the carrying on of a business in providing credit rating services outside Singapore if the credit ratings prepared in the course of the business are prepared wholly outside Singapore.

To reduce the risk of credit ratings of unregulated credit rating agencies from being misused, we are considering implementing disclosure requirements on financial advisers and issuers to disclose to investors the

regulatory status and jurisdiction of the CRAs whom they are relying on to market their financial products.

Activities to be excluded

We have noted the requests for more clarity on the exclusions in paragraphs (i) and (ii) of the definition of “providing credit rating services”.

After consideration, we think that the two paragraphs are sufficiently clear. Paragraph (i) clearly excludes the preparation of privately commissioned credit ratings that are used exclusively by the person who orders the ratings and not intended to be distributed or disclosed to the public.

Paragraph (ii) excludes entities that prepare credit scores, credit scoring systems or similar types of assessments as stated. We believe that the meanings of “credit scores” and “credit scoring systems” are generally well understood and would not be confused with “credit ratings”. It should be noted that, in line with recent international developments in regulating the credit rating industry, our policy intent is to regulate credit rating agencies that provide credit rating services and not entities that provide credit information or scoring in respect of individuals or businesses.

1.3 Registration of CRA representatives under the Representative Notification Framework

MAS proposed to require CMS licensees for providing credit rating services to appoint and register under the Representative Notification Framework (“RNF”) any individual who acts as their representative in respect of the regulated activity of “providing credit rating services” or holds himself out as doing so.

Instead of imposing a requirement to pass the Capital Markets and Financial Advisory Services (“CMFAS”) examinations and in view of the higher standards of competence that representatives providing credit rating services are generally expected to meet, we proposed that individuals must hold, at the minimum, a Bachelor’s degree in any discipline, in order to qualify for appointment and registration as CRA representatives.

Feedback

Registration of individuals

Some respondents felt that the registration of individual credit rating analysts is unnecessary. They were of the view that individual licensing is inconsistent with global developments as most jurisdictions do not require individual analysts to be licensed. They also felt that individuals need not be licensed because credit ratings are the product of a collective decision-making process and are not issued in the name of individual analysts.

Clarification on the term "representative"

The majority of respondents asked for clarification on who would be considered representatives of CMS licensees for providing credit rating services. Some respondents further commented that the individual licensing requirement should only apply to individuals who participate in the determination and monitoring of credit ratings, and the development and review of credit rating methodologies and models. These respondents were of the view that individuals who represent a CRA only in a commercial capacity and are not otherwise involved in the determination and monitoring of credit ratings, or the development and review of credit rating methodologies and models, should not be required to be licensed.

Minimum entry requirements for representatives

The majority of the respondents agreed that representatives of CMS licensees for providing credit rating services should hold at least a Bachelor's degree and that it is not necessary to impose a CMFAS examinations requirement.

One respondent, however, was of the view that a Bachelor's degree is a weak indicator of ability to qualify for registration as a representative and suggested that suitable consideration be made to take into account relevant experience in lieu of a degree.

Another respondent, suggested that individuals who are already employed by CRAs providing credit rating services on the date the proposed regulatory framework comes into force should be exempt from this requirement. The respondent added that such a "grandfathering exemption" should not adversely affect the quality of the rating process as the CMS licensee for providing credit rating services will be subject to provision 2.8 of the proposed Code of Conduct for CRAs to ensure that the individuals who act as its representatives have, individually or collectively, the appropriate knowledge and experience in developing a credit rating for the type of credit being considered.

MAS' response

Registration of individuals

MAS is not persuaded that CMS licensees for providing credit rating services should be exempted from the requirement to appoint and register their representatives under the RNF.

The RNF was introduced in November 2010 to replace the previous requirement under the SFA for representatives of CMS licensees to hold individual licences.

Under the RNF, individuals are not required to hold licences to carry out regulated activities as representatives of CMS licensees. Instead, individuals are permitted to act as representatives once their names appear on the public register of representatives. This usually occurs within 14 days of the notification submission by the CMS licensee.

We note that the main argument put forward by respondents for not requiring individual registration is that credit ratings are made through a collective process. We believe that this is not a sufficient reason for not requiring regulatory oversight over individual CRA representatives. This is because there are conduct rules that need to be imposed on individual representatives if they are to be effective. These include rules relating to the management of conflicts of interests and the maintenance of confidentiality of information. It would be difficult to enforce such rules against CRA representatives if MAS does not have regulatory purchase over them such as the power to suspend or revoke their status as representatives.

Further, the RNF is an integral part of the existing CMS licensing regime. We do not see sufficient reasons to exclude CRA representatives from the RNF when it applies to all other CMS representatives.

Clarification on the term "representative"

MAS has noted the queries and feedback received and will provide clarification via a set of Frequently Asked Questions that will be published on the MAS website following the implementation of the regulatory regime for CRAs.

Minimum entry requirements for representatives

MAS will proceed to implement the requirement for representatives providing credit rating services to hold at minimum a Bachelor's degree. However, to enhance the effectiveness of the requirement as an indicator of a representative's suitability for carrying out the work of a CRA representative, we will require that the Bachelor's degree be in a discipline that is relevant to him acting as a representative of his principal in respect of providing credit rating services.

After further consideration, we agree with the suggestion to exempt representatives who are already employed by CRAs providing credit rating services on the date the proposed regulatory framework comes into force from this requirement. We think it is reasonable to "grandfather" these representatives given that the requirement for a Bachelor's degree is relatively stringent and requiring existing experienced analysts without a Bachelor's degree to leave their employment may not be warranted.

1.4 Prudential requirements

MAS proposed to require a CMS licensee for providing credit rating services to maintain a minimum base capital of S\$250,000.

Feedback

Respondents did not object to the proposal to impose a minimum base capital requirement of S\$250,000 on CMS licensees for providing credit rating services. Respondents also commented that the amount proposed is reasonable and appropriate.

MAS' response

MAS will proceed to implement the proposal to impose a minimum base capital requirement of S\$250,000 on CMS licensees for providing credit rating services.

1.5 Exemption from dispute resolution scheme

MAS proposed to exempt CMS licensees for providing credit rating services from the requirement to be a member of a specified alternative dispute resolution ("ADR") scheme.

Feedback

The majority of the respondents supported the proposal to exempt CMS licensee for providing credit rating services from the requirement to be a member of a recognised ADR scheme.

Two respondents, however, viewed that it would be prudent for a CMS licensee providing credit rating services to be a member of a recognised ADR scheme since credit ratings are relied upon by retail investors in their investment decisions and added protection should be afforded to retail investors.

MAS' response

MAS will proceed to implement the proposal to exempt CMS licensees for providing credit rating services from the requirement to be a member of a specified ADR scheme.

CRAs do not typically give opinions on whether a particular debt security should be bought, sold or held. Moreover, credit ratings reflect a CRA's assessment of the likelihood that the issuer will default on its financial obligations or on a particular debt or fixed income security, and do not generally reflect an opinion on the value of a given security. As such, we do not think that requiring a CMS licensee providing credit rating services to be

a member of a recognised ADR scheme would necessarily enhance consumer protection since credit ratings are not meant to be relied upon solely in any investment decision. We note further that financial advisers and other intermediaries, who may market products which make use of credit ratings to retail clients, are already required to be members of the ADR scheme.

2 CONSULTATION PAPER SECTION 4: CODE OF CONDUCT FOR CREDIT RATING AGENCIES

MAS proposed to prescribe a Code of Conduct for Credit Rating Agencies (the "Code") specifically to CMS licensees for providing credit rating services. The Code is largely based on the IOSCO CRA Code and is to be issued pursuant to section 321 of the SFA. We invited feedback to the draft Code which was included in the Consultation Paper.

Feedback

Respondents were generally supportive of the adoption of a Code which incorporates provisions of the IOSCO CRA Code to the extent possible in the Singapore context.

Some respondents provided comments on specific provisions of the draft Code as follows:

- (a) *Paragraph 6.3 of the draft Code*
One respondent suggested that the requirements in this paragraph should be extended to require disclosure of rating analysts' compensation arrangements.
- (b) *Paragraph 8.1 of the draft Code*
One respondent was of the view that this paragraph might require CRAs to publicly disclose all reports they publish on credit ratings for free and would thus unnecessarily interfere with a CRA's ability to capitalise on and protect its intellectual property.
- (c) *Paragraph 10.4 of the draft Code*
Two respondents commented that paragraphs 10.4(a) and 10.4(c) refer to largely similar requirements given that both require the disclosure of details of the "internal control mechanisms adopted by a CRA to ensure the quality of its credit rating activities" and the "quality control system". These respondents thus suggested that paragraph 10.4(c) be omitted from the Code.

MAS' response

Paragraph 6.3

The provisions in the Code on compensation for CRAs and rating analysts are in line with the IOSCO CRA Code. Compensation arrangements for individual analysts need not be disclosed, but CRAs are to ensure that their rating analysts will not be compensated on the basis of the amount of revenue that the CRA derives from rated entities of the credit ratings that the analysts rate or with which the analysts interacts regularly. We are of the view that these are sufficient to mitigate risks of misalignment of interests.

Paragraph 8.1

We do not agree that this paragraph could be read to require CRAs to publicly distribute their reports for free. It does, however require CRAs to distribute them in a timely manner to persons (for example, subscribers to such reports) who are entitled to receive them. As such, we do not propose to make any amendment to the paragraph.

Paragraph 10.4

We note respondents' comments on the similarity between paragraphs 10.4(a) and 10.4(c) of the CRA Code and agree with the suggestion to remove paragraph 10.4(c).

Revisions to the CRA Code

In addition to the amendment to paragraph 10.4 as noted above, MAS has decided to make several other revisions to the CRA Code. Some of these revisions are made to provide more clarity. Others are made to align our regulatory regime more closely with the equivalent regulations in other jurisdictions such as the European Union.

A marked-up copy of the Code which shows where the revisions are made can be found in Appendix C to this response paper.

3 CONSULTATION PAPER SECTION 5: TRANSITIONAL PROVISION

MAS proposed to provide a transition period of 6 months during which CRAs already operating in Singapore may operate without holding a CMS licence in respect of the regulated activity of "providing credit rating services".

Feedback

A respondent who is a CRA suggested that CRAs should be allowed to continue operating without the CMS licence until such time as MAS either grants the licence or rejects the licence application provided that the CRA applies for the required license within the 6-month transition period.

MAS' response

MAS agrees with the suggestion mentioned above. We will proceed to implement a 6-month transition period which will allow existing CRAs to operate without a CMS licence until such time as MAS either grants the licence or the licence application is refused or withdrawn provided that the CRA applies for the required license within the 6-month transition period.

MONETARY AUTHORITY OF SINGAPORE
17 January 2012

APPENDIX A

LIST OF RESPONDENTS TO POLICY CONSULTATION ON PROPOSED REGULATION OF CREDIT RATING AGENCIES

- Moody's Singapore Pte. Ltd.
- Standard & Poor's International LLC
- WongPartnership LLP
- United Overseas Insurance Ltd.
- Great Eastern Life Assurance Co. Ltd.
- Ernst & Young LLP
- CARE Ratings
- CFA Institute and CFA Singapore

*This list shows only those respondents who did not request that their submissions be kept confidential. MAS would like to thank all respondents for their feedback.

APPENDIX B

DEFINITIONS

“**providing credit rating services**” means preparing, whether wholly or partly in Singapore, credit ratings in relation to activities in the securities and futures industry for —

- (a) ~~dissemination disseminating to the public or a section of the public~~, whether in Singapore or elsewhere, or with a reasonable expectation that they will be so disseminated; or
- (b) ~~distribution distributing~~ by subscription, whether in Singapore or elsewhere, or with a reasonable expectation that they will be so distributed,

but does not include —

- (i) preparing a private credit rating pursuant to an individual order which is intended to be provided exclusively to the person who placed the order and not intended for public disclosure or distribution by subscription; or
- (ii) preparing credit scores, credit scoring systems or similar assessments related to obligations arising from consumer, commercial or industrial relationships.

“**credit rating**” means an opinion expressed using an established and defined ranking system of rating categories, primarily regarding the creditworthiness of a rating target. ~~—(a) a person other than an individual; (b) the government of a sovereign country, including the Government of Singapore; or (c) securities.~~

“**rating category**” means a rating symbol, such as a letter or numerical symbol which might be accompanied by appending identifying characters, used in a credit rating to provide a relative measure of risk to distinguish the different risk characteristics of the types of rating targets. ~~rated entities, issuers and financial instruments or other assets.~~

“**rating target**” means the subject of a credit rating which may be —

- (a) a person other than an individual;
- (b) the government of a sovereign country, including the Government of Singapore; or
- (c) securities.

APPENDIX C

CODE OF CONDUCT FOR CREDIT RATING AGENCIES

DISCLAIMER: This version of the Code is in draft form and subject to change.

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PREAMBLE

This Code of Conduct for Credit Rating Agencies (“**Code**”) is issued by the Monetary Authority of Singapore (the “**Authority**”) pursuant to section 321 of the Securities and Futures Act (Cap. 289) (the “**Act**”). This Code applies to holders of a capital markets services licence in respect of providing credit rating services (individually, “**CRA**”) and, where appropriate, to their representatives and employees.

The Code is non-statutory in nature. A failure by any person to comply with any requirement in this Code shall not of itself render that person liable to criminal proceedings.

However, a failure by a CRA to comply with this Code will be taken into account by the Authority in determining whether a CRA satisfies the requirement that it is fit and proper to remain licensed and whether to revoke or suspend the CRA’s licence under section 95 of the [SFAAct](#).

Similarly, a failure by a representative of a CRA to comply with this Code will be taken into account by the Authority in determining whether the representative satisfies the requirement that he is fit and proper to remain as an appointed, provisional or temporary representative and whether to revoke or suspend the status of the representative as an appointed, provisional or temporary representative of a CRA under section 99M of the [SFA Act](#) or whether to impose any conditions or restrictions on the representative under section 99N of the [SFAAct](#).

1 Interpretation

For the purposes of this Code:

“Authority” ~~has the same meaning as in section 2(1) of the Act;~~

“credit rating” ~~has the same meaning as in Part II of the Second Schedule to the Act; means an opinion expressed using an established and defined ranking system of rating categories, primarily regarding the creditworthiness of a rating target.~~

“credit rating activities” means data and information analysis and the evaluation, approval, issuing and review of credit ratings;

“CRA” means a holder of a capital markets services licence in respect of providing credit rating services;

“collective investment scheme” has the same meaning as in section 2(1) of the Act;

“debenture” has the same meaning as in section 2(1) of the Act;

“entity” has the same meaning as in section 2(1) of the Act;

“immediate family”, in relation to an individual, means the individual’s spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister;

“interest” includes an interest of any nature, whether legal, equitable, proprietary or otherwise;

“providing credit rating services” has the same meaning as in ~~section 2(1) Part II of the Second Schedule of to~~ the Act;

“rated entity” means the rating target or, in the case of a rating target that is securities, the issuer of the securities;

“rating category” ~~has the same meaning as in Part II of the Second Schedule to the Act means a rating symbol, such as a letter or numerical symbol which might be accompanied by appending identifying characters, used in a credit rating to provide a relative measure of risk to distinguish the different risk characteristics of the types of rated entities, issuers and securities or other assets;~~

“rating target” ~~has the same meaning as in Part II of the Second Schedule to the Act; means the subject of a credit rating which may be—~~

~~(a) — a person other than an individual;~~

~~(b) — the government of a sovereign country, including the Government of Singapore; or~~

~~(c) — securities;~~

“representative” has the same meaning as in section 2(1) of the Act;

“securities” has the same meaning as in section 2(1) of the Act;

“securitisation transaction” means an arrangement that involves the sale, transfer or assignment of assets to a special purpose vehicle where –

- (a) such sale, transfer or assignment is funded by the issue of debentures or units of debentures (whether by that special purpose vehicle or another special purpose vehicle); and
- (b) payments in respect of such debentures or units of debentures are or will be principally derived, directly or indirectly, from the cash flows generated by the assets;

“special purpose vehicle” means an entity that is established solely in order to, or a trust that is established solely in order for its trustee to, do either or both of the following –

- (a) hold (whether as a legal or an equitable owner) the assets from which payments to holders of any structured finance product are or will be primarily derived;
- (b) issue any structured finance product;

“structured finance products” means securities resulting from a securitisation transaction.

SECTION A QUALITY AND INTEGRITY OF THE RATING PROCESS

2 Quality of the Rating Process

2.1 A CRA should adopt and implement written procedures to ensure that the credit ratings it prepares are based on thorough analysis of all information known to the CRA that is relevant to its analysis according to the CRA's published rating methodology.

2.2 A CRA should use rating methodologies that are rigorous, systematic, and, where possible, result in credit ratings that can be subjected to some form of objective validation based on historical experience, including back-testing.

2.3 A representative of a CRA who is involved in the preparation or review of any credit rating to be issued by a CRA should use rating methodologies established by the CRA. The representative should apply a given rating methodology in a consistent manner, as determined by the CRA.

2.4 A CRA should ensure that the credit ratings it prepares are assigned by the CRA and not by any individual representative. A CRA should ensure that the credit ratings it prepares reflect all information known, and believed to be relevant, to the CRA, consistent with its published rating methodology.

2.5 A CRA and its representatives should ensure that they do not issue any credit analysis or report which contains misrepresentations or is otherwise misleading as to the general creditworthiness of the rating target.

2.6 A CRA should maintain records to support every credit rating that it issues. Such records should be kept for not less than 6 years from the issue date of the relevant credit rating.

2.7 A CRA should adopt and implement written procedures to document reporting lines and allocate functions and responsibilities clearly.

2.8 A CRA should ensure that persons who act as its representatives have, individually and collectively (particularly where rating committees are used) the appropriate knowledge and experience in developing a credit rating for the type of credit being applied.

2.9 A CRA should ensure that it has sufficient resources which are devoted to carry out high-quality credit ratings of all rating targets that it rates. When deciding whether to rate or continue rating a rating target, a CRA should assess whether it is able to devote sufficient personnel with sufficient skill sets to make a proper credit rating assessment, and whether its personnel likely will have access to sufficient information needed in order to produce the credit rating. A CRA should adopt reasonable measures so that the information it uses in assigning a credit rating is of sufficient quality to support a credible credit rating. A CRA should refrain from assigning a rating, and should ensure that any existing rating is withdrawn, if the CRA does not have sufficient quality information to support a credible rating. If the credit rating involves a type of securities presenting limited historical data (such as an innovative financial vehicle), the CRA should make clear, in a prominent place, the limitations of the credit rating.

2.10 A CRA should establish a review function made up of one or more senior staff members who have the appropriate experience to review the feasibility of providing a credit rating for securities that are materially different from the securities which the CRA currently rates.

2.11 A CRA should establish and implement a rigorous and formal review function responsible for periodically reviewing (a) the rating methodologies and models and (b) the adequacy and effectiveness of its systems and internal control mechanisms, including periodically (and at least annually) reviewing any significant change to the rating methodologies and models it uses, as well as its independent compliance function. The CRA should establish this review function to be independent from the business lines that are principally responsible for ~~credit~~-rating various classes of rating targets.

2.12 A CRA should assess whether existing rating methodologies and models for determining credit ratings of structured finance products are appropriate when the risk characteristics of the assets underlying a structured finance product change materially. In cases where the complexity or structure of a new type of structured finance product or the lack of robust data about the assets underlying the structured finance product raise serious questions as to whether the CRA can determine a credible credit rating for the structured finance product, the CRA should not issue a credit rating in this regard.

2.13 A CRA should structure its rating teams to promote continuity and avoid bias in the credit rating process. Where feasible and appropriate for the size and scope of its credit rating services, a CRA should establish an appropriate gradual rotation mechanism for its representatives which should provide for rotation in phases on the basis of individuals rather than the entire rating team.

3 Monitoring and Updating

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

- (a) reviewing, at least annually, the creditworthiness of the rating target concerned;
- (b) initiating a review of the status of the credit rating upon becoming aware of any information that may reasonably be expected to result in a revision or termination of the credit rating, consistent with the applicable rating methodology; and
- (c) updating on a timely basis the credit rating, as appropriate, based on the results of such review.

3.2 Subsequent monitoring should incorporate all cumulative experience obtained. Changes in methodologies, models and key rating assumptions relevant to a credit rating should be applied where appropriate to both the initial credit rating and subsequent credit ratings. A CRA should review affected credit ratings as soon as

possible and in any case not later than 6 months after the change and should, before the review is carried out, place those credit ratings under observation.

3.3 If a CRA uses separate rating teams for determining the initial credit rating and for subsequent monitoring of the credit rating for a structured finance product, each rating team should have sufficient expertise and resources to perform its respective functions in a timely manner.

3.4 If a CRA discontinues the preparation or issuance of a credit rating which the CRA has made available to the public, the CRA should, in a timely manner, announce the discontinuance to the public. If a CRA discontinues the production or issuance of a credit rating which the CRA has made available to subscribers only, the CRA should, in a timely manner, announce the discontinuance to the subscribers. In both cases, continuing publications by the CRA of the discontinued credit rating should indicate the date on which the credit rating was last updated and the fact that the credit rating is no longer being updated.

4 Integrity of the Rating Process

4.1 In carrying on the business of providing credit rating services, a CRA and its representatives and employees should deal fairly and honestly with issuers of securities, investors, other market participants, and the ~~general~~ public.

4.2 A CRA should ensure that its representatives are held to high standards of integrity, and a CRA should not employ individuals with demonstrably compromised integrity.

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

4.4 A CRA should prohibit its representatives from making proposals or recommendations regarding the design of structured finance products that the CRA prepares, issues or reviews credit ratings on.

4.5 A CRA should institute policies and procedures that clearly specify a person ("**compliance officer**") to be responsible for compliance by the CRA, and compliance by its representatives and employees, with any law, regulations, notices, conditions, codes, guidelines or other requirements which are imposed on and apply to the CRA. The compliance officer should also be responsible to ensure adherence by the CRA and its representatives and employees with the CRA's internal code of conduct (as described in paragraph 10.1 of this Code). The compliance officer's reporting lines and compensation should be independent of the CRA's credit rating operations.

4.6 A CRA should institute policies and procedures that requires its representatives and employees, upon becoming aware that another representative or employee of the CRA or an entity under common management or shareholding control with the CRA, is or has engaged in conduct that is illegal, unethical or contrary to the CRA's internal code of conduct (as described in paragraph 10.1 of this Code), to report such information immediately to the compliance officer or a director of the CRA, as

appropriate, so that appropriate action may be taken. A CRA's representatives and employees are not necessarily expected to be experts in the law. Nonetheless, its representatives and employees are expected to report the activities that a reasonable person would question. The compliance officer, or any director, of a CRA who receives such a report from a representative or employee should take appropriate action, including such action as is required by any law, regulations, notices, conditions, guidelines, codes or other requirements which are imposed on and apply to the CRA. A CRA should not retaliate and should prohibit retaliation by its other representatives and employees against any representative or employee who, in good faith, makes such a report.

SECTION B INDEPENDENCE AND AVOIDANCE OF CONFLICTS OF INTEREST

5 General

5.1 A CRA should not forbear or refrain from preparing or revising a credit rating based on the potential effect thereof (economic, political, or otherwise) on the CRA, an issuer of securities, an investor, or other market participant.

5.2 A CRA and its representatives should use care and professional judgment to maintain both the substance and appearance of independence and objectivity in relation to any credit rating prepared, issued or revised by the CRA.

5.3 When assigning a credit rating, a CRA should take into consideration only factors relevant to the credit assessment.

5.4 A CRA should ensure that its credit ratings are not affected by the existence of or potential for a business relationship between the CRA (or its affiliates) and any rated entity (or its affiliates) or any other party, or the non-existence of such a relationship.

5.5 A CRA should not provide consultancy or advisory services to a rated entity or a related party of the rated entity regarding the corporate or legal structure, assets, liabilities or activities of that rated entity or its related party.

5.6 A CRA should not carry on any business, including consulting or advisory businesses, which can reasonably be considered to have the potential to give rise to any conflict of interest in relation to the carrying on of its business of providing credit rating services.

5.7 A CRA should ensure that its ancillary business operations which do not necessarily present conflicts of interest with the CRA's credit rating business have in place procedures and mechanisms designed to minimise the likelihood that conflicts of interest will arise. A CRA should also define what it considers to be an ancillary business and why it cannot reasonably be considered to have the potential to give rise to any conflict of interest with the CRA's credit rating business.

5.8 A CRA should not enter into any contingent fee arrangement for providing credit rating services. For the purpose of this paragraph, a contingent fee is a fee the amount

of which is determined by reference to the outcome of a transaction or the result of services provided by the CRA.

6 Procedures and Policies

6.1 A CRA should adopt and implement written procedures and mechanisms to (a) identify, and (b) eliminate, or manage and disclose, as appropriate, any actual or potential conflicts of interest that may influence the credit ratings a CRA makes or the judgment and analyses of its representatives on the CRA's credit ratings decisions. A CRA's internal code of conduct (as described in paragraph 10.1 of this Code) should also state that the CRA will publicly disclose such conflict avoidance and management measures.

6.2 A CRA should publicly disclose any actual or potential conflicts of interest that may arise in relation to the carrying on of its business of providing credit rating services. Such disclosures should be complete, clear, concise, specific and prominent and should be made in a timely manner. A CRA should also publicly disclose a list of all its ancillary businesses and update the list in a timely manner whenever there is any change thereto.

6.3 A CRA should publicly disclose the general nature of its compensation arrangements with rated entities.

6.4 Where a CRA, or any of its affiliates that is a credit rating agency, receives from a rated entity compensation unrelated to the CRA's or the affiliate's credit ratings services, the CRA should publicly disclose the proportion such compensation constitutes against the fees the CRA or the affiliate receives from the rated entity for providing credit ratings services.

6.5 A CRA should publicly disclose if it ~~or any of its affiliates~~ receives 5 percent or more of its annual revenue from a single issuer, originator, arranger, client or subscriber, of securities (including any affiliates of that issuer, originator, arranger, client or subscriber).

6.6 CRAs should encourage issuers and originators of structured finance products to publicly disclose all relevant information regarding these structured finance products so that investors and other CRAs can conduct their own analyses independently of the CRA contracted by the issuers and/or originators to provide a rating. CRAs should disclose in their credit rating announcements whether the issuer of a structured finance product has informed the CRA concerned that it is publicly disclosing all relevant information about the product being rated or if the information remains not available to the public.

6.7 A CRA should ensure that it and its representatives and employees do not engage in any dealings in securities or derivatives that can reasonably be considered to have the potential to give rise to any conflict of interest in relation to its business of providing credit rating services.

6.8 In instances where rated entities (e.g., the government of a sovereign country) have, or are simultaneously pursuing, oversight functions related to the CRA, the CRA

should use different representatives to prepare and revise its credit ratings in relation to those rated entities from those individuals involved in its oversight issues.

7 Representatives and Employee Independence

7.1 Reporting lines for representatives and employees of a CRA and the compensation arrangements of the representatives and employees should be structured to eliminate or effectively manage actual and potential conflicts of interest.

7.2 A CRA's internal code of conduct (as described in paragraph 10.1 of this [NoticeCode](#)) should state that a representative will not be compensated or evaluated on the basis of the amount of revenue that the CRA derives from rated entities of the credit ratings that the representative rates or with which the representative interacts regularly.

7.3 A CRA should conduct formal and periodic reviews of compensation policies and practices for its representatives and employees who participate in or who might otherwise have an effect on the credit rating process to ensure that these policies and practices do not compromise the objectivity of the CRA's credit rating process.

7.4 A CRA should ensure that representatives who are directly involved in credit rating activities do not initiate, or participate in, discussions regarding fees or payments with any rated entity, ~~or potential rated entity.~~ [related third party or any person directly or indirectly linked to the rated entity by control.](#)

7.5 No representative or employee of a CRA should participate in the credit rating activities or otherwise influence the determination of a credit rating of any particular rating target if the representative or 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 family member who currently works for the rated entity;
or
- (e) has, or had, any other relationship with the rated entity or any related party thereof that may cause or may be perceived as causing a conflict of interest.

7.6 A representative of a CRA who is directly involved in credit rating activities (or his or her spouse or minor children or any account that is controlled by the representative in which the representative has a beneficial interest) should not buy or sell or engage in any transaction in securities or derivatives based on the securities

issued, guaranteed, or otherwise supported by any entity within such representative's area of primary analytical responsibility, other than holdings in diversified collective investment schemes.

7.7 A CRA and its representatives should comply with Division 1 of Part VII of the Act as if they are each a "relevant person" for the purposes of that Division.

7.8 A CRA should prohibit its representatives and employees from soliciting money, gifts or favours from anyone with whom the CRA conducts business and should prohibit its representatives and employees from accepting gifts offered in the form of cash or any gifts exceeding a minimal monetary value.

7.9 Any representative of a CRA 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 or agent of a rated entity within the representative's area of analytic responsibility), should be required to disclose such relationship to the compliance officer or an appropriate director of the CRA, as determined by the CRA's compliance policies.

7.10 A CRA should establish policies and procedures for reviewing the past work of representatives that leave the employ of or engagement with the CRA and join a rated entity that the representative has been involved in preparing, issuing or revising a credit rating, or a financial firm with which the representative has had significant dealings as part of his duties at the CRA.

SECTION C RESPONSIBILITIES TO THE INVESTING PUBLIC AND ISSUERS

8 Transparency and Timeliness of Ratings Disclosure

8.1 A CRA should distribute its credit ratings, reports and updates in a timely manner.

8.2 A CRA should publicly disclose its policies for distributing credit ratings, reports and updates.

8.3 A CRA should include with each of its credit ratings (a) a clear indication of when the credit rating was first distributed and when it was last updated, and (b) a clear and prominent statement identifying the name and job title of the representative who is primarily responsible for the credit rating, and the name and the position of the person primarily responsible for approving that credit rating.

8.4 A CRA should indicate in each credit rating announcement the principal rating methodology or methodology version that was used in determining the credit rating and where a description of that rating methodology can be found. Where the credit rating is based on more than one methodology, or where a review of only the principal rating methodology might cause investors to overlook other important aspects of the credit rating, the CRA should explain this fact in the credit rating announcement, and indicate where a discussion of how the different methodologies and other important aspects factored into the credit rating can be found.

8.5 ~~Except for private credit ratings prepared pursuant to an individual order which is intended to be provided exclusively to the person who placed the order and not intended for public disclosure or distribution by subscription, a CRA should disclose any credit rating, as well as any decision to discontinue a credit rating, on a non-selective basis and in a timely manner. For the avoidance of doubt, in the case of credit ratings that are only provided to subscribers, disclosure on a non-selective basis means disclosure to all the subscribers only. Except for private credit ratings provided only to the issuer, the CRA should disclose to the public, on a non-selective basis and free of charge, any credit rating regarding publicly issued securities, or public issuers themselves, as well as any subsequent decisions to discontinue such a credit rating, if the credit rating or the decision to discontinue the credit rating is based in whole or in part on material information that is not publicly available.~~

8.6 ~~A CRA should publish sufficient and clear information about its procedures, rating methodologies and assumptions applicable to any credit rating (including financial statement adjustments that deviate materially from those contained in the issuer's published financial statements and a description of the rating committee process, if applicable). This information should 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.~~ A CRA should also ensure that all material sources, including the rated entity and, where appropriate, a related party of the rated entity, which were used to produce, assign, issue or revise the credit rating, are identified. An indication should also be provided as to whether the credit rating has been disclosed to the rated entity or to its related party and, following such disclosure, whether the credit rating has been amended before being issued.

8.7 A CRA should publicly disclose the extent to which it has examined the quality of information used in the credit rating process and whether it is satisfied with the quality of information it bases its credit rating on.

8.8 Where a CRA rates a structured finance product, it should provide to the public (in the case of a credit rating which is made available to the public) or to subscribers (in the case of a credit rating which is made available only to subscribers) with sufficient information about its loss and cash-flow analysis so that an investor in the product can understand the basis for the CRA's credit rating, and an indication of any expected change in the credit rating. A CRA should also publicly disclose the degree to which it analyses how sensitive a credit rating of a structured finance product is to changes in the CRA's underlying rating assumptions.

8.9 A CRA should publicly disclose, on a timely and ongoing basis, information concerning all structured finance products submitted to it for its initial review or for a preliminary credit rating. Such disclosure should be made irrespective of whether the issuer of such a structured finance product engages the CRA to provide a final credit rating. A CRA should state the level of assessment it has performed concerning the due diligence processes conducted in relation to the underlying finance products, or other assessment of the structured finance product. The CRA should publicly disclose whether it has undertaken any assessment of such due diligence processes or whether it has relied on a third-party assessment, indicating how the outcome of such assessment influences the credit rating.

8.10 A CRA should differentiate credit ratings of structured finance products from credit ratings of traditional corporate bond, preferably through a different rating symbology. A CRA should also publicly disclose how this differentiation functions. A CRA should clearly define a given rating symbol and apply it in a consistent manner for all types of securities to which that symbol is assigned.

8.11 A CRA should provide information and explanations to assist investors in developing a greater understanding of what a credit rating is, and the limits to which credit ratings can be put to use vis-à-vis the particular types of securities that the CRA rates. A CRA should clearly indicate the attributes and limitations of each credit rating and the limits to which the CRA verifies information provided to it by the rated entity.

8.12 When issuing or revising a credit rating, the CRA should explain in its press releases and reports the key elements underlying the credit rating.

8.13 Where feasible and appropriate, prior to issuing or revising a credit rating, the CRA should inform the issuer of securities of the critical information and principal considerations upon which a credit 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 credit rating. A CRA will-should 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.

8.14 In order to promote transparency and to enable market participants to best judge the performance of its credit ratings, a CRA, where possible, should publish sufficient information about the historical default rates of the CRA's rating categories and whether the default rates of these rating 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 credit rating or other circumstances makes a historical default rate inappropriate, statistically invalid, or otherwise likely to mislead the users of the credit rating, the CRA should explain this. This information should include verifiable, quantifiable historical information about the performance of its credit ratings that are organised, structured and, where possible, standardised in such a way to assist investors in drawing performance comparisons between different CRAs.

8.15 For each credit rating, a CRA should publicly disclose with the credit rating whether the rated entity or any related party of the rated entity participated in the process of the credit rating and (in the case of an unsolicited rating) whether the CRA had access to the accounts and other relevant internal documents of the rated entity or its related party. Each unsolicited credit rating should be identified as such. A CRA should also publicly disclose its policies and procedures regarding unsolicited credit ratings.

8.16 A CRA should fully and publicly disclose the ensure that sufficiently clear and easily comprehensible information is published about its methodologies, models, key rating assumptions and significant practices, procedures and processes (including financial statement adjustments that deviate materially from those contained in the issuer's published financial statements and a description of the rating committee

process, if applicable) used in carrying out its credit rating activities, so that outside parties can understand how a rating was arrived at by the CRA. This information should 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.

8.17 A CRA should ~~fully and~~ publicly disclose any material modification to its methodologies, models, key rating assumptions and significant practices, procedures, and processes. Where feasible and appropriate, disclosures of such material modifications should be made prior to their going into effect. A CRA should carefully consider the various uses of credit ratings before modifying its methodologies, models, key rating assumptions, practices, procedures and processes.

8.18 When methodologies, models or key rating assumptions used in preparing any of its credit ratings are changed, a CRA should immediately disclose the likely scope of credit ratings to be affected by using the same means of communication as was used for the distribution of the affected credit ratings.

9 The Treatment of Confidential Information

9.1 A CRA should adopt procedures and mechanisms to protect the confidential nature of information which is shared with it by rated entities under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially. Unless otherwise permitted by the confidentiality agreement and consistent with applicable law and regulations, the CRA and its representatives and 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.

9.2 A CRA should use confidential information only for purposes related to its credit rating activities or otherwise in accordance with any confidentiality agreements with the rated entity.

9.3 A CRA should take all reasonable measures to protect all property and records belonging to or in possession of the CRA from fraud, theft or misuse.

9.4 A CRA should prohibit its representatives and employees from engaging in transactions in securities when they possess confidential information concerning the issuer of such securities. A representative or employee of a CRA (or his or her spouse, minor children or any account that is controlled by the representative or employee in which the representative or employee has a beneficial interest) should not engage in transactions in securities when the representative or employee possesses confidential information concerning the issuer of such securities.

9.5 In preservation of confidential information, representatives and employees of a CRA should familiarise themselves with the internal securities trading policies maintained by the CRA, and periodically certify their compliance as required by such policies.

9.6 A CRA should ensure that its representatives and employees do not selectively disclose any information that are not publicly available about credit ratings or possible

future issues or revisions of any credit rating by the CRA, except to the issuer of the securities or its designated agents.

9.7 A CRA should ensure that it and its representatives and employees do not share confidential information entrusted to the CRA with its affiliates that are not credit rating agencies or with the employees of such affiliates. A CRA and its representatives and employees should not share such confidential information within the CRA or with its affiliates that are credit rating agencies or the employees of such affiliates except on an “as needed” basis and as permitted under any relevant confidentiality agreement.

9.8 A CRA should ensure that its employees do not use or share confidential information for the purpose of dealing in securities or for any purpose other than for carrying on business in providing credit rating services.

SECTION D DISCLOSURE OF INTERNAL CODE OF CONDUCT AND COMMUNICATION WITH MARKET PARTICIPANTS

10.1 A CRA should have its internal code of conduct and should publicly disclose it ~~to the public~~ together with a description of how the provisions of its internal code of conduct fully implement the provisions of this Code. A CRA should also describe generally how it intends to enforce its internal code of conduct and should disclose on a timely basis any changes to its internal code of conduct and how it is implemented and enforced.

10.2 A CRA should establish a function within its organisation (or that of an affiliate) 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 organisation’s policies.

10.3 A CRA should publish in a prominent position on its home webpage links to (a) the CRA’s internal code of conduct; (b) a description of the rating methodologies it uses; and (c) information about the CRA’s historic performance data and that of its affiliates which are credit rating agencies.

10.4 A CRA should ensure that details of the following information are made available to the public on an annual basis -

(a) its legal structure;

(b) its ownership;

(c) financial information about its revenue;

~~(a)~~(d) internal control mechanisms adopted by it to ensure the quality of its credit rating activities;

~~(b)~~(e) its record-keeping policy; and

| ~~(c) — its quality control system; and~~

| ~~(d)(f)~~ its management and representative rotation policy.