

## Annex A

### Summary of Proposed Amendments Relating to EU Equivalency and IOSCO Code Revision

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

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

#### 1. EU equivalency

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

##### *Credit ratings and rating outlooks*

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

We also included requirements providing that:

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

##### *Initial reviews and preliminary ratings*

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

##### *Rating categories*

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

##### *Rating methodologies*

We included requirements providing that:

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

### ***Significant security holders***

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

### ***Treatment of confidential information***

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

### ***Internal control mechanisms***

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

### ***Policies and procedures***

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

### ***Fees***

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

### ***Form 25-101F1***

We revised:

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

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

## **2. IOSCO Code revision**

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

### ***Credit ratings***

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

***Novel structures***

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

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

***Rating methodologies***

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

***Discontinued credit ratings***

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

***Prospective assessments***

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

***Books and records***

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

***Integrity of the rating process***

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

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

***Independence and conflicts of interest***

We revised:

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

We added requirements that:

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

disclosed in the same form and through the same means as the relevant credit rating action (section 3.8 of Appendix A to NI 25-101).

***Transparency and timeliness of ratings disclosure and other disclosure***

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

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

We revised:

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

We added requirements that:

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

### ***Treatment of confidential information***

We revised:

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

### ***Compliance officer***

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

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

### ***Board monitoring of compliance***

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

### ***Risk management***

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

### ***Treatment of complaints***

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

### ***Policies, procedures and controls***

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

- Policies, procedures and controls reasonably designed to avoid issuing a credit rating, action or report that is false or misleading as to the general creditworthiness of a rated entity or rated securities (section 2.6.1 of Appendix A to NI 25-101).
- Policies, procedures and controls to ensure that a DRO does not use the services of a DRO employee which a reasonable person would consider to be lacking in or have compromised integrity (section 2.18.1 of Appendix A to NI 25-101).

- Policies, procedures and controls reasonably designed to ensure that the DRO and its DRO employees comply with the DRO’s code of conduct and securities legislation (section 2.28.1 of Appendix A to NI 25-101).
- Policies and procedures requiring DRO employees to undergo ongoing training (section 2.30 of Appendix A to NI 25-101).
- Policies, procedures and controls to identify and eliminate, or manage and disclose, as appropriate, any actual or potential conflicts of interest that may influence the credit rating methodologies, credit rating actions, or analyses by the DRO or the judgment, opinions or analysis by ratings employees (section 3.7.1 of Appendix A to NI 25-101).
- Policies, procedures and controls for distributing credit ratings, actions, updates, rating outlooks and related reports and for when a credit rating will be withdrawn or discontinued (section 4.1.1 of Appendix A to NI 25-101). Section 4.2 of Appendix A to NI 25-101 requires that a DRO must publicly disclose the policies and procedures.
- Policies, procedures and controls governing the treatment of confidential information and record-keeping (section 4.24 of Appendix A to NI 25-101).

### **3. Other**

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