

## AFME Recommended Market Practices Disclosure by Issuers of Non-Investment Grade Debt Securities<sup>1</sup>

March 2016

The Association for Financial Markets in Europe recommends that the issuers of non-investment grade debt securities adopt the following four principles of disclosure as “best practice” where their securities are to be listed or otherwise publicly traded:<sup>2</sup>

### **1. Disclosure of Debt Documentation and Amendments**

An issuer of non-investment grade debt securities should make publicly available the key documentation for its material debt facilities and intercreditor arrangements, including agreed amendments and waivers. The documentation should be available on the issuer’s public website, Bloomberg (or other comparable public news service), and/or, to the extent practicable, the exchange on which the securities are listed.

### **2. The Offering Memorandum**

An offering memorandum for a new issue of non-investment grade debt securities should include an organizational chart of the issuer’s corporate legal structure, including an indication of where in the corporate legal structure each material debt facility or other financing (including any guarantees or security interests, if applicable) is located.

In addition, the offering memorandum should disclose the key terms of the issuer’s material debt facilities and other financings, including a table showing the maturity profile of the issuer’s long term debt obligations (on a pro forma basis for the offering) over the next 5 years and, with respect to each material facility or instrument:

- Key payment terms, including unused availability, interest rate, maturity and required amortization;

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<sup>1</sup> The recommendations in these guidelines are subject to applicable laws in the relevant jurisdiction.

<sup>2</sup> These guidelines represent an update of the disclosure guidelines that were issued by AFME in December 2011..

- Financial covenants, including definitions, and ratios (for each period of the loan until maturity) in sufficient detail to enable investors to understand the issuer's obligations under the covenants;
- Guarantees and security, including material limitations on enforceability and release provisions; and
- Terms of any intercreditor arrangements that affect such debt.

This description may be in any form, including term sheet format.

### **3. Ongoing Disclosure**

The issuer of non-investment grade debt securities should promptly disclose to the same extent and in substantially the same manner as the initial issue disclosure:

- When agreed:
  - The terms of any material amendments to, or waivers of, provisions of its material debt facilities (including any related guarantees and security interests);
  - The terms of any material amendments to, or waivers of, provisions of its material intercompany debt arrangements, including intercompany loans, guarantees and security interests;
  - new or refinanced material debt facilities;
- Payment or covenant default or any other triggering event that has resulted in acceleration of debt of the issuer; and
- Any material changes to its corporate legal structure (including any material acquisitions, disposals or corporate reorganizations).

### **4. Financial Disclosure and Ongoing Reporting Obligations**

Issuers of non-investment grade debt securities are reminded of their recurring and special reporting obligations under the indenture or trust deed and the listing rules of the exchange on which the securities may be listed. Any financial reports or other disclosure given after the initial issuance of non-investment grade debt securities should be consistent with, and made to the same extent and in substantially the same manner as, the reports and disclosure given in connection with the initial issuance, including a reconciliation between EBITDA and the Cash Flow Statement, if applicable.

The issuer's quarterly (semi-annual, if any) and annual reports should include, where applicable:<sup>3</sup>

- Balance Sheet, Income Statement and Cash Flow Statement, each prepared in accordance with the relevant GAAP standard;
- Definitions for non-GAAP measures referred to in the report;
- Information regarding the issuer's outstanding debt obligations, including:
  - The total amount of the issuer's material debt obligations, including a breakdown of the individual components of such debt obligations; and

Unused availability under committed credit lines.

The issuer's annual report should also include a maturity profile for the issuer's long term debt obligations over the next 5 years, shown on a yearly basis (to be included in the issuer's annual report).

It is recommended that the publication of each quarterly (semi-annual, if any) and annual financial reporting disclosure should be followed by a conference call open to all relevant market participants (as outlined below). We encourage market participants to include a covenant in the relevant indenture requiring such conference call.

Issuers of non-investment grade debt securities should ensure that:

- Any report, financial or other disclosure, or other information regarding the relevant securities (or, if applicable, the Issuer), is released promptly and simultaneously to all relevant market participants;
- All relevant market participants are given reasonable advance notice of (a) any conference calls related to the securities (or, if applicable, the Issuer) and (b) the release dates and times of any quarterly report, annual report or other relevant information regarding the securities (or, if applicable, the Issuer); and
- To the extent that information regarding the securities or the Issuer is released via email, the related email distribution list is updated on a continuous basis.
  
- In addition to the foregoing, the issuer should, within a reasonable time after each quarterly and annual report, make the report accessible to investors on the issuer's website.

Issuers of non-investment grade debt securities should be able to satisfy the disclosure and reporting and other obligations referred to above by posting the relevant information to the

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issuer's public website, Bloomberg (or other comparable public news service), and/or, to the extent practicable, the exchange on which the securities are listed, in each case simultaneously with, or as soon as practicable after, such information is first released or otherwise disseminated by the issuer.

It is recommended that access to any issuer website, or any relevant section of an issuer's website, related to the relevant securities should not be conditional on registration of a password (or other prior registration), approval of access, acceptance of confidentiality obligations or other restrictions on access or on the use or disclosure of the information related to the relevant securities disclosed on the issuer's website.

Issuers are reminded that the relevant listing or disclosure rules may also require the issuer to make disclosures using a prescribed service (such as an approved regulatory information service in the UK and Ireland) and to post information to its own website. Those rules may also require that material information should not be publicly disclosed by posting to a website or otherwise released in advance of publication via the prescribed service.