Comparison of good practices set forth in
IOSCO's June 2024 Final Report and September 2023 Consultation Report

Theme A	**Origination and refinancing based on sound business premise**
Measure 1	**Debt repayment capacity ~~test~~assessment** Leveraged loans offered to the market in both new originations, debt refinancings and debt restructurings should be underpinned by sound business and financial risk assumptions. Borrowers should be able to demonstrate sufficient debt repayment capacity. An adequate debt repayment capacity is considered the ability to repay 100% of senior debt or 50% of total debt over the medium term. For example, some regulatory agencies and other market practitioners measure the debt repayment capacity ~~test~~ over a 5 to 7 year period. Where this is not evident, a credible explanation should be provided. It is also considered good practice to disclose debt repayment capacity in ~~term sheets and~~ supporting documentation at the time of debt offering and refinancing. A robust assessment of cash flows including stress testing should inform debt repayment capacity assessments.
Measure 2	**Dividend Recapitalisations** Dividend recapitalisations should be considered with reference to the level of remaining equity support, degree of leverage and debt repayment capacity. ~~The use of incremental debt to affect a dividend recapitalisation should be limited. In addition, borrowers are encouraged to clearly disclose dividend distribution policy and strategy.~~Lenders should apply additional scrutiny to the use of incremental debt to fund dividend recapitalisations where borrowers are highly leveraged.
Measure 3	**Enterprise Values ~~(EVs)~~** The calculation of EVs which support the capitalisation structures of LBOs should be based on a well-constructed financial model. ~~Underwriting entities~~Borrowers / Sponsors are encouraged to clearly disclose the key assumptions underpinning the financial model / basis of EV. It is good practice that any EV model (DCF~~[3]~~ or otherwise) is reviewed and validated by a function independent of the origination unit. ~~Where possible, the~~The basis for EV ~~should be~~ under-pinned by multi-year forecasted cashflows from a DCF model typically result in a more robust estimation. If an alternative approach is applied, such as ~~and not based only on~~ comparable multiples of EBITDA derived from other LBO transactions, the assumptions should be clearly outlined. It is good practice that DCF valuations which are heavily influenced by terminal values extrapolated from final year forecasted cashflows be credible and challenged.
Theme B	**EBITDA and loan documentation transparency**
Measure 4	**EBITDA complexity and opacity** EBITDA definitions should avoid unnecessary complexity. Pro-forma EBITDA adjustments based on future synergies, earnings and asset

~~[3] Discounted cash flow (DCF) modelling is one methodology used to calculate EVs~~

	disposals should be made on a reasonable basis and borrowers are encouraged to provide clear justifications of these adjustments to investors / lenders. Borrowers are encouraged to subject forecasted cost savings and synergies to prudent time horizons and caps. Underwriting entities are encouraged to subject all EBITDA adjustments to independent review by an appropriate second line control function as part of the underwriting process with periodic back-testing thereafter.
Measure 5	**Transparency on covenant~~s~~' limitations** It is good practice for material covenants and associated terms contained in term sheets and loan documentation to be written and presented in a clear, concise and effective manner that can be readily understood by the contracting parties, including under what circumstances covenants can be triggered. Where relevant, industry participants are encouraged to consider best practice guidance for transparency when drafting key marketing materials (e.g., term sheets). ~~It is good practice for borrowers and underwriting entities to provide marketing materials that clearly disclose key terms that could materially impact a borrower's credit risk, including terms that could result in subordination, structural or otherwise, of lenders. In this regard, it is considered good~~Existing best practice guidance encourage ~~to provide~~ clearer disclosures on material covenants that could impact a borrower's credit risk and impact lender protections. It is good practice to disclose the calculation of marketed leverage ratio to assist lenders in their credit risk assessment. Borrowers / sponsors are also encouraged to provide clear disclosures of the quantity of incremental debt (i.e., on day one / at issue) and associated baskets that can be raised ~~and~~ as well as the ability to move assets beyond the reach of the lender group. ~~Detailed disclosures of key risks including documentation risk, through a risk factors disclosure, could be provided in a loan document.~~
Theme C	**Strengthening alignment of interest from loan origination to end investors**

Measure 6	**Transparency and fairness during underwriting and syndication** Underwriting entities are encouraged to: • P~~p~~rovide sufficient and clear information to investors early in the syndication process with the aim of achieving a fair and efficient market in which investors have sufficient time and a fair opportunity to negotiate and to make well-informed investment decisions. • R~~r~~eview the full loan documentation thoroughly before signing the commitment letter and engage in negotiation so that they are satisfied that the risk posed by a failed syndication is within their risk appetite. • P~~p~~rovide an anonymised feedback summary on investors' documentation points to all investors in a transparent way. • ~~highlight to investors new flexibilities built into loan documentation as well as those which have previously faced opposition from the investor base.~~

Measure 7	**Alignment of interest between underwriting entities and investors** Underwriting entities are encouraged to demonstrate how they have aligned their interests with LL investors~~, through risk retention or other means~~. Implementation of robust risk management of leveraged lending activities, including robust legal negotiation of the loan terms, can strengthen alignment of interests as well as prevent the build- up of systemic risks. Underwriting entities ~~and LL investors~~ are encouraged to obtain independent and impartial legal advice which represents their interests and strengthens their ability to negotiate loan terms and influence market evolution.
Theme D	**Addressing interests of different market participants throughout the intermediation chain**
Measure 8	**Reducing restrictions on transferability of loans** Transferability of loans within a pool of potential investors should be as broad as possible to support a liquid secondary market. It is considered good practice that where lists of approved and disqualified lenders are used, they should only be created based on clear and documented principles and rationale for the purpose of including or excluding particular types of investors~~reasons~~. It is expected that investors be provided with transparency early in the syndication process on transferability restrictions and how these might evolve during the life of the loan. ~~In particular, it~~It is expected that investors are provided with sufficient clarity on the precise definition of an event of default, which will cause limitations on transferability to no longer apply.

Measure 9	**Managing conflicts of interest where Private Equity sponsors also act as lenders** Conflicts of interest which can arise from a group's investments in different parts of a borrower's capital structure, should be appropriately identified and managed. It is expected that participants in a syndication and LL investors be properly informed of the instances where a group is acquiring the debt of a borrower while also acting as the borrower's sponsor or holding other classes of debt of that borrower. The disclosure should indicate whether the sponsor affiliated lender falls within the disenfranchisement provisions (if applicable). ~~In such cases, the~~The use of a sponsor disenfranchisement clause or similar clause is encouraged in such cases.
Measure 10	**Managing conflicts of interest in management of CLOs** Potential conflicts of interest in the management of CLOs should be appropriately identified and managed. It is expected that policies governing the purchase of distressed assets, cross-sales and trading / valuation of CCC/Caa rated loans and the related policies be clearly set out in a CLO ~~indenture~~ documentation to enable investors to make an informed investment decision. It is considered good practice that trustee reports regularly disclose the trading activity and valuation of assets (where relevant) of a CLO to enhance transparency to investors. It is considered good practice that investors are provided with sufficient opportunity to conduct due diligence on the valuation methodology and results produced by the CLO manager and assess the strategy and rationale for management of assets when performance tests are at risk of being breached.

Theme E	**Disclosure of information on an ongoing basis**
Measure 11	**Disclosure in CLOs** CLO investors should be provided with all materially relevant information on the valuation, credit quality and performance of the portfolio of a CLO, consistent with jurisdictional regulatory requirements. It is expected that such data is made available on a regular basis (e.g., monthly) to CLO investors in order for them to make an informed judgement of their investment decisions and portfolio risk management. Likewise it is expected that potential CLO investors be provided access to such information upon request.
Measure 12	**Disclosure on underlying loans** B~~LL b~~orrowers are encouraged to provide their investors on a timely basis with their latest financial information and status, for example, the audited financial statements, periodic management financial information and financial forecast and budget in relation to ~~its~~ their business plan. ~~LL b~~Borrowers are also encouraged to inform their investors within a reasonable timeframe of occurrence of any events that may invalidate any assumptions originally applied in the EBITDA addbacks (including any activities that are outside the normal course of business) and potential implications and impact on the projected EBITDA. Where relevant, borrowers / sponsors are encouraged to provide their investors on a regular basis (e.g., quarterly) with clear disclosures of the quantity of incremental debt and associated baskets that can be raise as well as the underlying calculations.