



April 2026

## **ACIC Updates Model Form Note Purchase Agreements to Reflect Current Private Placement Market Practice**

The American Council of Investment Counsel (ACIC) has released updated Model Form Note Purchase Agreements, completing a two-year modernization effort aimed at aligning the model forms more closely with current private placement market practice, evolving buy-side expectations, and recent legal and regulatory developments.

Because the ACIC model forms are used as the starting point for documentation in the U.S. private placement market, these updates may influence negotiation dynamics, documentation norms, and transaction execution across a broad range of issuers and investors.

### **Background and Process**

The ACIC Transactions Process Management Committee (TPMC), co-chaired by ACIC President Bryan Cho and Greenberg Traurig Shareholder Charles C. Calloway, Jr. led the update, [as noted in our April 1, 2026, press release](#). Greenberg Traurig Shareholders Charles J. Kolin, Julia J. Singh, and Eric W. Larson assisted with the update. The committee reviewed and revised all four current ACIC model forms with input from a broad cross-section of the private placement market, including institutional investors, law firms, and investment banks. Participants included leading insurance company investors, private capital

platforms, and law firms regularly active in the market, reflecting an effort to ensure the forms remain practical, balanced, and reflective of how transactions are currently executed.

For more information on the committee and its initiatives, interested parties may [visit the ACIC's site](#).

### **Key Themes of the Model Form Note Purchase Agreements Updates**

While the overall structure of the model forms remains intact, the revisions include targeted changes in several areas that commonly arise in negotiation and execution:

#### *Closing Deliverables and Mechanics*

The updated forms refine and expand closing conditions and deliverables, including:

- Enhanced mechanics addressing antifraud and microdeposit verification practices in connection with the funding process (Section 4.10).
- Express inclusion of items such as debt ratings (Section 4.13) and offeree letters (Section 4.11) as closing deliverables.

These changes are intended to better reflect current diligence and operational practices at closing.

#### *Expanded and Refreshed Issuer Representations*

Issuer representations have been updated to address:

- Securities Act considerations, including matters tied to Rule 502(c). The updated Section 5.13 clarifies that the issuer has not engaged in any general solicitation or advertising in violation of Rule 502(c) of the Securities Act. It also confirms that each purchaser was given the opportunity to discuss the company's financial statements, business, management, and the terms and conditions of the note offering with management (Section 5.13).
- Expanded the Office of Foreign Assets (OFAC) and sanctions representations to include the United Kingdom (Section 5.16).
- Investment Company Act representation has been updated to confirm that neither the company nor any of its subsidiaries is required to register as, or is subject to regulation as, an investment company under the Investment Company Act of 1940 (Section 5.17).
- A priority of obligations representation that confirms that, upon issuance, the notes will rank at least pari passu with all other unsecured, unsubordinated indebtedness of the company, ensuring no contractual subordination or priority over comparable debt (Section 5.18).
- An updated accredited investor representation reflecting current eligibility concepts for accredited investors (Section 6.1).

#### *Ongoing Reporting and Covenant Enhancements*

The revised forms aim to strengthen post-closing monitoring and reporting, including by:

- Making debt ratings an express ongoing reporting requirement (Section 7.1(g)).

- Expanding the “requested information” catch-all to expressly include Know Your Customer information and updates related to significant events or changes in the obligor’s organizational structure (Section 7.1(h)).
- Adding a priority of obligations covenant (Section 9.8) to Model Form 1 and 2.
- Adding a debt ratings covenant (Section 9.9) aligned with recent changes adopted by the National Association of Insurance Commissioners’ Securities Valuation Office (SVO).

### *Change-of-Control and Asset Sale Frameworks*

The updates introduce model frameworks for change-of-control prepayment offers (Section 8.8), and asset sale prepayment and covenant provisions (Section 8.9, Section 10.6), providing parties with clearer operational guidelines, a fair offer and acceptance process which should yield a stronger starting point for negotiation in areas that have become more prominent in recent transactions.

### *Housekeeping and Operational Improvements*

Additional revisions address:

- Explicit requirement of the issuer to maintain a Notes Register (Section 13.1).
- Company coverage of SVO fees over the life of a transaction (Section 15.1).
- Expansion of the confidentiality provisions to cover additional buy-side parties that are necessary to the operation of accredited investors (Section 20).
- Expanded recognition of electronic delivery (Section 22.5).
- The TPMC also added updated footnotes designed to provide additional guidance and practical assistance to deal drafters.

### **Practical Takeaways**

- **Issuers** may see increased focus on ratings, reporting, sanctions representations, and post-closing information requests, particularly in rated transactions.
- **Investors** may view the updated forms as reinforcing diligence, transparency, and monitoring expectations consistent with current portfolio management practices.
- **Arrangers and counsel** should anticipate that these updated provisions may increasingly be treated as “market” starting points in negotiations, even in transactions that do not formally adopt the ACIC forms.

### **Why This Matters**

Given the scale of the private placement market, even targeted updates to the ACIC model forms might influence documentation norms and expectations. Market participants should consider familiarizing themselves with the revised forms and assessing how the changes may affect both new transactions and amendments to existing facilities.

[View the updated ACIC Model Form Note Purchase Agreements.](#)

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