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15 June 2012

**CPSS-IOSCO – Assessment Methodology for the Principles for FMIs and the Responsibilities of Authorities**

Dear CPSS and IOSCO Secretariats,

The Australian Securities Exchange (ASX) would like to thank CPSS and IOSCO for the opportunity to comment on the Assessment Methodology for the Principles for FMIs and the Responsibilities of Authorities. While ASX is broadly supportive of the proposed Assessment Methodology, we would like to make the following comments.

*Key issues*

ASX is concerned that the Assessment Methodology only allows FMIs and their regulators to assess performance against each principle without a method to convert these assessments to a single view of the FMI's compliance with the Standards. The absence of such guidance creates the opportunity for significant international variance in the application of the Standards.

While the Assessment Methodology outlines the steps involved in formulating a particular rating, it does not provide any guidance on sanctions for poorly performing FMIs or specify any minimum required FMI rating. ASX is concerned that, without a consistent framework in place to manage poorly performing FMIs, some entities may choose to delay or fail to implement regulatory concerns in a timely fashion. Such an outcome would be particularly undesirable and could propagate systemic risk across global financial markets.

ASX also considers that the Assessment Methodology needs to better recognise that domestic regulators will retain their ability to impose more onerous requirements on domestic FMIs. As a result the Assessment Methodology should not be explicitly or implicitly accepted as a uniform global standard for mutual recognition.

*Other issues*

ASX is concerned that some current domestic regulatory settings (e.g. domestic insolvency law) may prevent FMIs from fully complying with all key considerations under each principle. ASX is strongly of the view that, where compliance is not possible due to existing regulatory settings, FMIs should not be penalised or downgraded under the Assessment Methodology.

ASX believes that the Assessment Methodology should state that, where an FMI must comply with domestic regulations which are inconsistent with the Principles for FMIs, compliance with the domestic regulations is sufficient for deeming the FMI's compliance with the Principles.

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If you would like further detail on any of our suggestions, please contact Joshua Everson on +61 2 9227 0233.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alan Bardwell', with a long horizontal flourish extending to the right.

Alan Bardwell  
Chief Risk Officer



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## CPSS-IOSCO – Disclosure framework for Financial Market Infrastructures

Dear CPSS and IOSCO Secretariats,

The Australian Securities Exchange (ASX) would like to thank CPSS-IOSCO for the opportunity to comment on the Disclosure framework for Financial Market Infrastructures (FMIs). For many years ASX has been an advocate of clearing and settlement facility transparency and we strongly support CPSS-IOSCO's efforts to enhance FMI disclosure. We believe transparency is particularly important as it enables customers to understand the risks inherent in the use of the FMI's services.

### *Key Issues*

1. Having been subject to detailed annual regulatory assessments for some time, ASX sees strong financial market benefits from public disclosure being undertaken by regulatory authorities as part of the routine regulatory assessment mechanism. Such annual reviews generally involve the disclosure of very detailed information on FMI operations. ASX considers that, where national regulators publish a detailed annual assessment on FMI compliance with national requirements (which are consistent with CPSS-IOSCO's *Principles for FMIs*) and this is readily available through generally accessible media, then this is sufficient, in whole or part as appropriate, to meet the CPSS-IOSCO FMI disclosure requirements. This will avoid considerable duplication of effort and will ensure that timely information is made available to all stakeholders.
2. Should a CCP need to provide the disclosure itself, in assessing a CCP's compliance with the Disclosure Framework, regulators should take into consideration the specific needs of FMIs in respect of:
  - protection of intellectual property rights;
  - maintenance of privacy and commercial confidence; and
  - the importance and primacy of FMI Rulebooks by ensuring they are not undermined by the disclosure documentation.

If you would like further detail on any of our suggestions, please contact Joshua Everson on +61 2 9227 0233.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alan Bardwell', is written over a horizontal line.

Alan Bardwell  
Chief Risk Officer