

CPSS-IOSCO

**Consultative report on the
Assessment methodology for the principles
for FMIs and the responsibilities of authorities**

**Consultative report on the
Disclosure framework for financial market
infrastructures**

Clearstream's response to the consultative reports

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Clearstream Banking AG, Frankfurt and Clearstream Banking S.A., Luxembourg (jointly referred to as Clearstream) appreciate the opportunity to comment on the public consultation on the "Disclosure framework for financial market infrastructures" as well as the "Assessment methodology for the principles for FMIs and the responsibilities of authorities" issued by CPSS-IOSCO.

As a wholly owned subsidiary of Deutsche Börse Group, Clearstream is one of the world's leading suppliers of post-trading services including settlement, safekeeping, and administration of securities. Clearstream welcomes the objective of the new Principles which will further harmonize at a global-level the existing international standards for central securities depositories (CSDs), and securities settlement systems (SSSs).

The settlement of market transactions and the custody of securities are Clearstream's most important fields of activity. In this environment Clearstream provides two fundamental services:

- International Central Securities Depository (ICSD): As an ICSD it has, over a period of over 40 years, developed a strong position in the international fixed income market. It handles the clearing, settlement and safekeeping of international securities and offers its customers the possibility to use Clearstream Banking as a single point of access for the settlement and custody of internationally traded bonds and equities across 50 markets.
- Central Securities Depository (CSD) for German domestic securities.

(I)CSDs have proven their resilience during the financial crisis, while playing a stabilizing role on the financial markets, in particular in facilitating the movement of collateral between counterparties at a time of severe liquidity stress and in ensuring the availability of global settlement liquidity to the financial centre. This has been a test for the (I)CSDs throughout the world that has proven the appropriate implementation of sound and safe risk management procedures and global best-practice standards. It needs to be ensured that newly introduced international rules and the proposed disclosure requirements do not affect the safety, efficiency and services innovation of the current post-trading arrangements.

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Comments on the Consultative report on the Assessment methodology for the principles for FMIs and the responsibilities of authorities

1. While the approach of the two consultative reports seems very different from one another, from a respondent point of view the two are very closely linked in an ever growing transparency aim.

We believe there is scope duplication between the Assessment methodology (AM) and Disclosure framework (DF). While you could argue that only FMIs are only obliged to publish the Disclosure framework, there has been a very strong incentive from the authorities for FMIs to publish the CPSS-IOSCO assessment against the Recommendations (which is likely to grow with the publication of the Principles).

From a respondent perspective very often the response provided for the Assessment will be also used for the Disclosure framework, taking care to eliminate the confidential topics addressed which cannot be made public.

An assessment methodology which would have taken into account the need to create a disclosure document within the same exercise would have been much preferred, and would have made the exercise much more efficient and less resources intensive.

2. Commenting on the Assessment methodology consultative report, has revealed itself very a very difficult task without having undertaken the self-assessment exercise: which in itself cannot be undertaken until the Assessment methodology will be finalised. With the aim to create an ever enhanced assessment tool, we reserve ourselves the possibility to provide additional comments on this Assessment methodology, at the time when the first self-assessment will need to be undertaken.
3. The customization approach proposed in the Assessment methodology is likely to create confusion once implemented, as this is designed to cover all of the types of FMIs: systemically important payment systems, central securities depositories (CSDs), securities settlement systems (SSSs), central counterparties (CCPs), and trade repositories (TRs). This solution is likely to create confusion once implemented as it requires the FMI to "chose" the relevance of each principle, and to "exercise some judgment" in the identification and classification of the Principles. We believe this solution is likely to create grey areas, which could easily lead to applying the "higher common denominator" and a general misinterpretation of the Principle's scope.

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Comments on the Consultative report on the Disclosure framework for financial market infrastructures

1. Please refer to the comment 1 and 2 in the previous page, which also fully applies to the Disclosure framework
2. The consultative report dwells on a substantially strengthened set of principles, risk management obligations and transparency/disclosure requirements. We draw your attention (as we did for the Consultation on the Principles) to the fact that excessive disclosure could also be in contradiction with the data privacy rules applicable in several modern jurisdictions, and particularly true in Europe. These requirements (particularly the governance, most of the risks and business continuity) should be shared and discussed with Regulators and Supervisors, while their disclosure to participants should not be made mandatory.
3. We believe that the revised Disclosure framework proposed will not enhance transparency compared to the former disclosure framework as it relies entirely on "free text" responses which will make comparisons between different infrastructures quite difficult.
4. A major concern that afflicts the FMIs is the multiplicity of transparency requirements that apply to them. In the case of CSDs are not only expected to publish a yearly disclosure framework based on the CPSS-IOSCO framework, but also other disclosure questionnaires whose contents largely overlaps with the CPSS-IOSCO disclosure requirements.

As an example (I)CSDs are currently already subject to publishing the following best practice and other compulsory information:

- BIS Disclosure framework for securities settlement systems
- Pillar III Disclosure Report according to the Basel II framework
- ECSDA Disclosure framework
- Questionnaire of the Association of Global Custodians
- European Code of Conduct-related:
 - Unqualified independent assurance report on the Self-assessment Report
 - Fee Schedule
 - General Terms and Conditions
- Statement on Auditing Standards (SAS) No. 70 by the American Institute of Certified Public Accountants (AICPA), soon to be replaced by the new SSAE 16 reporting standard.

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We believe this could have been an opportunity to avoid duplication, by harmonising such requirements for FMIs at a global scale, making the disclosure exercise much more efficient and less resource intensive for FMIs.

For any further details or clarifications, please contact:

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