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Committee on Payment and Settlement
Systems
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

Technical Committee
International Organization of Securities
Commissions
C/ Oquendo 12
28006 Madrid
Spain

Ladies and Gentlemen:

The Depository Trust & Clearing Corporation ("DTCC") appreciates the opportunity to comment on the consultative report on "Disclosure Framework for Financial Market Infrastructures" (the "Consultative Report"), and the proposed framework for disclosure set forth in the Consultative Report ("Disclosure Framework") published in April 2012 by the Committee on Payment and Settlement Systems ("CPSS") and the Technical Committee of the International Organization of Securities Commissions ("IOSCO").

The Consultative Report was published in connection with the publication of the final "Principles for Financial Market Infrastructures," which sets forth 24 principles (the "Principles") constituting a single set of international standards for the oversight and regulation of financial market infrastructures ("FMIs"). Also published in connection with the Principles and the proposed Disclosure Framework was a consultative report on a proposed assessment methodology ("Assessment Methodology") that can be used to assess whether an FMI is observing the Principles. (Except as noted below in connection with the proposed Disclosure Framework, DTCC is not commenting on the Assessment Methodology.) Capitalized terms used in this letter have the meanings specified in the Principles.

As indicated in the Cover Note that accompanied the publication of the Principles, comments on the proposed Disclosure Framework and the proposed

Assessment Methodology are due by June 15, 2012. After that, CPSS and IOSCO expect to publish final reports on the Disclosure Framework and the Assessment Methodology by the end of 2012. The current CPSS and IOSCO expectation is that CPSS and IOSCO members will strive to adopt the new Principles by the end of 2012 and put them into effect as soon as possible. FMIs are expected to observe the Principles as soon as possible.

The Principles represent the culmination of an important effort to update, consolidate, strengthen and harmonize international standards for the oversight and regulation of systemically important FMIs, reflecting lessons learned from the recent financial crisis and new thinking about operations, governance, risk management, access and efficiency. DTCC supports the enhanced standards for FMIs reflected in the Principles, and supports the Principles as a framework for achieving desirable uniformity and consistency in the standards applicable to all FMIs, subject only to such variations in application as may be required by the constraints of applicable law, market practice and the financial asset classes eligible for an FMI's specific services. DTCC also broadly supports the proposed Disclosure Framework, although we note below those areas where we would recommend clarification or modification.

Structure of Proposed Disclosure Framework

The proposed Disclosure Framework sets forth the information that an FMI should publish in response to Principle 23: "Disclosure of rules, key procedures and market data," in order for the FMI to be transparent about the risks, fees and other material costs that participants and prospective participants incur by participating in the FMI. The proposed Disclosure Framework is comprised of five sections: (i) an executive summary; (ii) a general description of the FMI, including its organization, the market(s) it serves, and a table of "key metrics" of the FMI, for which a template for CCPs was provided as part of the proposed Disclosure Framework; (iii) a summary of major changes to the FMI's responses since the last update; (iv) a narrative disclosure on a Principle-by-Principle basis; and (v) an annex of additional publicly available resources.

The proposed Disclosure Framework would require each FMI to provide comprehensive narrative disclosure for each Key Consideration for each Principle that is relevant to the FMI. Such disclosure must address each Key Element listed in the proposed Assessment Methodology for each Key Consideration, and such disclosure should provide sufficient detail and context to enable the reader to understand the FMI's approach to or method for observing each Principle.

The proposed Disclosure Framework further provides that the FMI's responses should be thorough and at an appropriate level of detail to (i) provide substantive descriptions of key risks, policies, controls, rules and procedures on a Principle-by-Principle basis, (ii) provide current and prospective participants, other market participants, authorities and the general public with a comprehensive understanding of the FMI, its role in the markets it serves, and the range of its relationships, interdependencies and interactions (*e.g.*, key links, key service providers, and participants), and (iii) improve transparency of the FMI's governance, risk-management and operating structure in order to inform and facilitate comparisons among FMIs by current and prospective participants, other market participants, authorities and the general public.

The proposed Disclosure Framework provides that an FMI's responses must be updated following material changes to the FMI's system or its environment and that the section titled "Summary of Major Changes" must highlight material changes and updates to the FMI's design and services. The Cover Note and the proposed Disclosure Framework provide that the disclosure should be complete and accurate on an on-going basis, that FMIs should regularly review their responses to the Disclosure Framework and update their responses as soon as possible after significant changes, and that an FMI must perform a periodic comprehensive review of its responses no less than once every two years.

The proposed Disclosure Framework also provides that the FMI's responses are to be made readily available through generally accessible media, such as the Internet, and that an FMI should not disclose confidential information in its responses.

DTCC Comments on Proposed Disclosure Framework

DTCC broadly supports the proposed Disclosure Framework and respectfully submits the following comments that it believes will further enhance the goals of providing comprehensive disclosure that is user-friendly, has as little duplication and redundancy as possible, and promotes consistent disclosures of information by FMIs globally.

General

The proposed basis for disclosure using a Principle-by-Principle narrative and including a comprehensive discussion of each Key Consideration and each Key Element will entail an extensive undertaking by each FMI, even for those that currently provide a significant amount of information publicly. While CPSS and

IOSCO undoubtedly recognize the extensive nature of the changes in international standards reflected in the Principles, we believe that, in establishing global expectations with respect to the date by which FMIs will be required to provide their first set of responses to the Disclosure Framework, CPSS and IOSCO should also be cognizant of the extensive resources that FMIs will have to expend in order to prepare the initial set of responses (which will be coupled with the cumulative impact of the changes in systems and procedures — and the aggregate costs of such changes — that may also be required on the part of FMIs and their participants in order for FMIs to be fully compliant with the heightened standards reflected in the Principles).

Given that the Disclosure Framework is to be made publicly available, and thus will serve to provide information not only to the FMI's participants, applicants and regulators, but also to the general public, it should be made clear that the Disclosure Framework is intended to give an overview of the FMI and its organization, but not describe in detail all of its policies and procedures. CPSS and IOSCO recognize in the Consultative Report that an FMI's responses to the Disclosure Framework are intended to provide assessors with a basic set of information from which to *begin* their assessments of FMIs. DTCC believes that this recognition should be extended to all users of the FMI's responses. While an FMI's responses to the Disclosure Framework will be comprehensive, they will necessarily be an overview and should not be viewed as a substitute for a due diligence review of the FMI and its operations by applicants, participants or other stakeholders.[1]

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[1] In this vein, we question the practicality of some of the questions posed in the Assessment Methodology for Principle 23 — which asks an FMI whether there is evidence that the means by which the FMI facilitates its participants' understanding of the FMI's rules, procedures and risks of participating in the FMI enable and actually result in participants understanding the FMI's rules, procedures and risks they face from participation in the FMI and, should the FMI identify a participant that demonstrates a lack of understanding, what remedial actions would the FMI take. This puts the burden on the FMI to determine whether its participants have an appropriate level of understanding. While the Disclosure Framework should go a long way in providing a basic level of understanding, it should not be viewed as a substitute for review of the FMI's actual rules and procedures, or of the other materials an FMI makes available to applicants and participants.

DTCC also believes that, given the extensive amount and nature of the disclosures required, the process can and should be streamlined where practical to avoid duplicative or redundant disclosure. For example, there is considerable overlap in the Key Elements for each of the Key Considerations under Principle 2 (Governance), for Principle 6 (Margin) and for Principle 7 (Liquidity Risk). One way to streamline the process would be to permit an FMI to combine narratives for different Key Considerations, provided the disclosure is in a comprehensible narrative that addresses all of the relevant elements.

In addition, and very importantly, it should be made clear that if an FMI prepares a self-assessment based on the Assessment Methodology framework (including responding to the specified questions), then the publication of that report (other than any portion thereof that contains confidential, sensitive or proprietary information) would satisfy the FMI's obligation to provide responses under the Disclosure Framework.

As regards the disclosure of confidential or sensitive information, while the proposed Disclosure Framework acknowledges that FMIs should not disclose confidential information in their responses, there is some tension given the quantity and type of information required to be disclosed. The final Disclosure Framework should make clear that an FMI is not required to disclose information that is sensitive, proprietary or confidential. In some cases the disclosure of sensitive information may not promote market stability but rather possibly have an opposite effect (e.g., the disclosure of actual stress test results or non-routine margin collections for individual participants if that information is misunderstood or taken out of context). In other cases disclosure should be made only at a high level given an FMI's appropriate security concerns, as, for example, any discussion with respect to cyber security controls, specifics about business continuity sites and the like. In these instances it may be appropriate for the FMI's supervisor/assessor — who is going to form a conclusion as to the adequacy of the FMI's protections in these areas — to provide a statement (or permit the FMI to make a statement) to the public regarding the adequacy of the FMI's relevant protections. These matters should be covered by a high-level general discussion of the FMI's methods and procedures for compliance with the Principles in these areas.[2]

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[2] In this regard we support the approach advocated by the European Association of Clearing Houses (EACH) that "as a principle an FMI should be required to disclose the 'how' (procedures used to obtain qualitative and

List of Key Metrics

DTCC has the following comments on the list of key metrics provided for CCPs:

Limit list to numbers, currency amounts, and percentages. DTCC believes that the list of key metrics would be more useful to readers if it was limited to actual metrics, i.e., numbers, currency amounts and percentages. In particular, DTCC believes that this section of an FMI's responses to the Disclosure Framework should not require the FMI to describe policies or otherwise provide responses that require narrative disclosure or discussion, particularly where the narrative disclosure or discussion is provided elsewhere in the FMI's response to the Disclosure Framework. Examples of line items provided in the template for CCPs that require descriptions of policies or narrative disclosure or discussion include: "Summary description of margin methodology"; "summary of netting arrangements across positions/products"; "Discussion of ability to call additional contributions from participants"; "Explanation of the specific stress test or series of test from which the size of the DF was derived"; "Amount of own funds committed to waterfall"; "How uncovered credit losses will be allocated"; "Policy on how margin and default fund invested"; and "Arrangements to cover liquidity needs in event of failure to pay". These line items will be addressed by CCPs elsewhere in their responses to the Disclosure Framework.

In other cases it is not clear how the proposed "key metric" will be informative or useful, or whether it will provide the intended result. Examples of this category of disclosure are "Results of Simple Standardized Stress Tests" and "the initial margin requirement that would result from simple specified example trades/portfolios [so that participants, and regulators and market could compare the output]". Given that formulas for the calculation of margin will be based on a number of factors, as well as historical market data that is effective for the period of time when the calculation is done, it is not clear how such "simple" examples will be helpful or informative. In addition, we do not understand what is intended to be shown by "value of routine margin collection vs. non-routine margin calls over past 12 months." (This is an example of a metric disclosure that might be more misleading or confusing than illuminating.)

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quantitative sensitive information), while keeping confidential the 'what' (the actual information)."

Certain terms to be defined or explained. In order to ensure consistent disclosure, DTCC suggests that CPSS and IOSCO provide definitions for certain terms that do not have a consistent meaning across all FMIs. Such terms include: "summary measure of interest rate and fx risk in the investment portfolio" and "average aggregate intraday exposures of the FMI to its participants".

Frequency of updating data. DTCC believes that the Disclosure Framework should provide that the list of key metrics should be updated on a specific cycle; currently the draft Framework does not, implying that the key metrics should be kept current at all times. The Framework could provide that the key metrics would be updated on a cycle specified by the FMI, or provide that they should be updated on a standard cycle for all FMIs. If the latter, DTCC would suggest that that should not be more frequently than quarterly. The metric data listed therein should be data that is as of or for the FMI's most recently completed fiscal quarter, except where yearly statistics are required, in which case that data should be provided as of the most recent fiscal year end. While others may suggest that such data be updated more frequently, market metrics will change over time so it is not clear how useful more frequent updates would be.

Summary of Major Changes

The proposed Disclosure Framework provides that an FMI's responses must be updated following material changes to the FMI's system or its environment and that FMIs should update their responses as soon as possible after significant changes. The instructions require FMIs to provide in a separate section titled "Summary of Major Changes" a summary of changes since the FMI's last disclosure to highlight any material changes and updates to the FMI's design and services. DTCC believes that, because an FMI will have already provided elsewhere in its responses (viz., the executive summary, general description of the FMI and/or the Principle-by-Principle section) a discussion of the FMI's significant changes since the last update to its responses, the separate requirement to provide an additional discussion of such changes in the "Summary of Major Changes" section is redundant, thereby making the disclosure document unnecessarily long, more burdensome and costly to prepare, and less useful to the reader. Accordingly, DTCC suggests that the "Summary of Major Changes" section be limited to a listing of the sections of

the FMI's responses to the Disclosure Framework that have changed since it was last updated.[3]

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DTCC appreciates the opportunity to comment on the proposed Disclosure Framework and looks forward to working with CPSS and IOSCO and other FMIs in further enhancing and finalizing the Disclosure Framework.

Very truly yours,

Donald F. Donahue

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[3] As an alternative approach, the "Summary of Major Changes" section would be the only section that discusses the significant changes since the FMI's last update of its responses, and the FMI would indicate by footnote (or otherwise) the sections affected throughout its responses so that the reader would know to look to the "Summary of Major Changes" section for an update. Under this approach, the FMI would incorporate all of the changes discussed in the "Summary of Major Changes" section into the other sections of its responses only when it performed the comprehensive review of its responses, i.e., at least once every two years.