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## COMMENTS ON THE ASSESSMENT METHODOLOGY FOR THE PRINCIPLES FOR FINANCIAL MARKET INFRASTRUCTURES AND THE RESPONSIBILITIES OF AUTHORITIES

South Africa welcomes the opportunity to comment on the consultative report on the assessment methodology ("the assessment methodology") for the principles for Financial Market Infrastructures prepared by the Committee on Payment & Settlement Systems ("CPSS") and the Technical Committee of the International Organization of Securities Commissions ("IOSCO").

We have found the assessment methodology clear and comprehensive and therefore wish to commend CPSS-IOSCO for the work of their technical and working committees who have drafted this lucid and thorough report.

Overall, South Africa is supportive of the scope and intent of the proposed assessment methodology and wishes to highlight some considerations (see Annexure A) that we believe should be reflected upon in the finalisation of the assessment methodology.

Yours sincerely

  
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### Appendix 3:

#### Principle 1: Legal basis

**An FMI should have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.**

KC 1.2 An FMI should have rules, procedures, and contracts that are clear, understandable, and consistent with relevant laws and regulations.

KE 2. Consistency of the FMI's rules, procedures, and contracts with relevant laws and regulations.

Q.1.2.2: How does the FMI ensure that its rules, procedures, and contracts are consistent with relevant laws and regulations? For example, has a legal opinion confirmed that these are consistent with relevant laws and regulations?

Are the FMI's rules, procedures, and contracts reviewed or assessed by external authorities or entities? Do the FMI's rules, procedures, and contracts have to be approved before coming into force, by whom and how? Have any inconsistencies been identified and remedied?

**Comment:**

- **Will the committee provide any guidance on how inconsistencies would be remedied?**

KC 1.3 An FMI should be able to articulate the legal basis for its activities to relevant authorities, participants, and, where relevant, participants' customers, in a clear and understandable way.

KE 1. Ability of the FMI to articulate the legal basis for its activities to relevant authorities, participants, and, where relevant, participants' customers.

Q.1.3.1: How does the FMI articulate the legal basis for its activities to relevant authorities, participants, and, where relevant, participants' customers?

**Comment:**

- **The methodology for the measurement of this key element should be clearly articulated.**

#### Principle 2: Governance

**An FMI should have governance arrangements that are clear and transparent, promote the safety and efficiency of the FMI, and support the stability of the broader**

**financial system, other relevant public interest considerations, and the objectives of relevant stakeholders.**

KC 2.1 An FMI should have objectives that place a high priority on the safety and efficiency of the FMI and explicitly support financial stability and other relevant public interest considerations.

KE 1. Identification of the FMI's objectives. Q.2.1.1: What are the FMI's objectives, and are they clearly identified?

Q.2.1.2: How is the FMI's performance in meeting its objectives assessed?

**Comment:**

- **It is not clear who assesses the performance of the FMI and how frequently is such an assessment undertaken?**

KC 2.3 The roles and responsibilities of an FMI's board of directors (or equivalent) should be clearly specified, and there should be documented procedures for its functioning, including procedures to identify, address, and manage member conflicts of interest. The board should review both its overall performance and the performance of its individual board members regularly.

KE 2. Identification of procedures for the functioning of the board.

Q.2.3.2: What are the procedures of the board?

For example, describe how the board committees have been established to facilitate the functioning of the board. What are the roles, responsibilities, and composition of such committees?

**Comment:**

- **The question is too broad (i.e. "procedures of the board") and could be rephrased to provide more clarity.**

### **Principle 3: Framework for the comprehensive management of risks**

**An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.**

KC 3.4 An FMI should identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. An FMI should prepare appropriate plans for its recovery or orderly wind-down based on the results of that assessment. Where applicable, an FMI should also provide relevant authorities with the information needed for purposes of resolution planning.



KE 2. Preparation of appropriate plans for recovery or orderly wind-down.

Q.3.4.5: How and how often are the plans for the FMI's recovery and orderly wind-down reviewed and updated?

**Comment:**

- **The question should also explicitly include testing of the systems.**

**Principle 5: Collateral**

**An FMI that requires collateral to manage its or its participants' credit exposure should accept collateral with low credit, liquidity, and market risks. An FMI should also set and enforce appropriately conservative haircuts and concentration limits.**

KC 5.6 An FMI should use a collateral management system that is well-designed and operationally flexible.

KE 1. Design of the FMI's collateral management system.

**Comment:**

- **A question on the outsourcing of certain functions to a third party or other FMI, for the purposes of collateral management should be included.**

**Principle 8: Settlement finality**

**An FMI should provide clear and certain final settlement, at a minimum by the end of the value date. Where necessary or preferable, an FMI should provide final settlement intraday or in real time.**

KC 8.1 An FMI's rules and procedures should clearly define the point at which settlement is final.

KE 2. Occurrence of intraday or real-time final settlement.

**Comment:**

- **Add. Q.8.2.5: the question may be rephrased as follows: "Does the FMI inform participants of final account balances in real time? If not, when are participants informed?"**

KC 8.3 An FMI should clearly define the point after which unsettled payments, transfer instructions, or other obligations may not be revoked by a participant.

KE 1. Identification of the points after which unsettled payment, transfer instructions, or other obligations may not be revoked by a participant.

**Comment:**

- **Question Q.8.3.2:** may be rephrased as follows “Under what circumstance can an instruction or obligation accepted by the system for settlement still be revoked (for example, queued obligations)? Who can and what procedure must be followed to revoke unsettled payment or transfer instructions?”

#### **Principle 11: Central securities depositories**

**A CSD should have appropriate rules and procedures to help ensure the integrity of securities issues and minimise and manage the risks associated with the safekeeping and transfer of securities. A CSD should maintain securities in an immobilised or dematerialised form for their transfer by book entry.**

KC 11.4 A CSD should protect assets against custody risk through appropriate rules and procedures consistent with its legal framework.

KE 1. Rules and procedures for protecting assets from custody risk.

Q.11.4.1: How do the CSD's rules and procedures protect participants' assets against custody risk, including the risk of loss because of the CSD's negligence, misuse of assets, fraud, poor administration, inadequate recordkeeping, or failure to protect participants' interests in their securities?

#### **Comment:**

- **The question may be rephrased to read as follows “How do the CSD's rules and procedures protect participant clients' assets against custody risk, including the risk of loss because of the participants' negligence, misuse of assets, fraud, poor administration, inadequate recordkeeping, or failure to protect clients' interests in their securities?”**

#### **Principle 14: Segregation and portability**

**A CCP should have rules and procedures that enable the segregation and portability of positions of a participant's customers and the collateral provided to the CCP with respect to those positions.**

#### **Comment:**

- **Please provide some clarity as to why “portability” was considered as applicable to CSDs.**
- **Provision should be made for segregation and portability arrangements in respect of customers' assets which are held with a failing CSD participant.**

#### **Principle 17: Operational risk**

**An FMI should identify the plausible sources of operational risk, both internal and external, and mitigate their impact through the use of appropriate systems, policies,**

procedures, and controls. Systems should be designed to ensure a high degree of security and operational reliability and should have adequate, scalable capacity. Business continuity management should aim for timely recovery of operations and fulfilment of the FMI's obligations, including in the event of a wide-scale or major disruption.

KC 17.7 An FMI should identify, monitor, and manage the risks that key participants, other FMIs, and service and utility providers might pose to its operations. In addition, an FMI should identify, monitor, and manage the risks its operations might pose to other FMIs.

KE 2. Identification, monitoring, and management of risks posed by the FMI to other FMIs.

Q.17.7.3: How, and to what extent, does the FMI identify, monitor, and mitigate the risks it may pose to another FMI?

**Comment:**

- **We are of the view that this should not be limited to another FMI as it could expose other entities to risk as well e.g. the Central Bank, a service provider, a participant or its clients.**

Q.17.7.4: How, and to what extent, does the FMI coordinate its business continuity arrangements with those of other interdependent FMIs?

**Comment:**

- **We are of the view that this should not be limited to another FMI as it could expose other entities to risk as well e.g. the Central Bank, a service provider, a participant or its clients.**

**Principle 19: Tiered participation arrangements**

- **An FMI should identify, monitor, and manage the material risks to the FMI arising from tiered participation arrangements.**

**Comment:**

- **The requirement that FMIs monitor risk exposures of from indirect participants may have severe operating cost implications on the FMIs.**
- **Allowance should be made for FMIs to rely on the controls of direct participants or the direct participants' regulatory authorities to monitor/manage and mitigate risks.**

**Principle 20: FMI links**

**An FMI that establishes a link with one or more FMIs should identify, monitor, and manage link-related risks.**



**Comment:**

- The principles do not address instances where the FMI may have a link with a different type of FMI only links between same FMIs are questioned i.e. CSD to CSD, and CCP to CCP. (See 3.20.1 page 110 of the Principles)

**Principle 23: Disclosure of rules, key procedures, and market data**

**An FMI should have clear and comprehensive rules and procedures and should provide sufficient information to enable participants to have an accurate understanding of the risks, fees, and other material costs they incur by participating in the FMI. All relevant rules and key procedures should be publicly disclosed.**

KC 23.1 An FMI should adopt clear and comprehensive rules and procedures that are fully disclosed to participants. Relevant rules and key procedures should also be publicly disclosed.

KE 1. Clarity and comprehensiveness of rules and procedures.

Q.23.1.1: Which documents comprise the system's rules and procedures?

**Comment:**

- We are of the view that this question should apply to more than systems.

**Principle 24: Disclosure of market data by trade repositories**

**A TR should provide timely and accurate data to relevant authorities and the public in line with their respective needs.**

**Comment:**

- It is not clear why this principle is limited only to trade repositories as it could be applicable to all FMIs

**General Comments**

- The effectiveness of ratings will be reduced if national authorities chose to use different rating systems.
- The principles should recognise differences in various jurisdictions within which CCP's operate and be broad enough to accommodate such differences and should be aligned with the amendments required by other global regulatory standards such as Basel III. For example, In their paper titled Capitalisation of bank exposures to central counterparties, published in November 2011, the Basel committee on banking supervision indicated that they will rely on the application of the CPSS-IOSCO standards by CCP regulators to determine if exposures to a given CCP are eligible to receive the beneficial capital

treatment. The assessment methodology is not clear on how such qualification is to be achieved.