

Okay, Can

From: Jackson, Kathie on behalf of CPSS, Service
Sent: 02 October 2012 10:11
To: Lindley, Robert; Okay, Can
Subject: FW: CPSS-IOSCO issue consultative report on the recovery and resolution of financial market infrastructures

From: Ayala Agreda Marianita de Jesús [mailto:mariana@supercias.gob.ec]
Sent: 01 October 2012 20:53
To: CPSS, Service; fmiresolution@iosco.org
Cc: Lopez Espinoza Eduardo Antonio; Segarra Mora Manuel Ernesto; Bustamante Anismán Mérida Beatriz
Subject: RV: CPSS-IOSCO issue consultative report on the recovery and resolution of financial market infrastructures

Dear Members,

In response to the request for comments and opinions about any problems or additional circumstances that aren't included on the consultative report about recovery and resolution of financial market infrastructures (IMFs) and that should be considered in the development of recovery strategies or liquidation of financial market infrastructures (IMFs) from Committee on Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO), it's considered the following:

- (1) *The Securities Market regulations of Ecuador on the development of recovery strategies or liquidation of market infrastructure don't cover specifically requirements by recovery plans of operations and contingency plans to mitigate the risks of FMIs.*

The Codification of Resolutions issued by the National Securities Council (governing body Securities Market), establishes that the "definitive cancellation of one participant, whose operating license has been granted by the Superintendency of Companies [1], involve physical impossibility to comply its purpose and therefore incur for dissolution "[2], and also provides that" (...) the participant's legal representative may request the cancellation of the registration in the Securities Market, which be authorized by the Superintendency of Companies provided the same is not prejudicial to the participants of the securities market ". [3]

The Securities Market Act has established, among others, issues related to dissolution and liquidation of the stock exchange (Art. 51), deposits centralized clearing and settlement (Art. 73), fund managers and trustees, risk rating companies (Art.108). In matters not covered by it, according to Article 236, shall be governed by the provisions of the Companies Act, Law of Financial Institutions, Commercial Code, Civil Code, Law on Financial Management and Control Law Monetary Regime and State Bank and other laws that regulate the activities of entities and securities market participants.

It should be mentioned that the Codification of Preventive Competition Law, which establishes that "The competition is aimed at concluding an agreement or concordat between the debtor and its creditors, which will facilitate the extinction of the obligations of the company, regulating relations between them and to keep the company ... "[4] sets that:

"Companies incorporated in the country, subject to supervision and control by the Superintendency of Companies, that have assets that exceed ten thousand five hundred and fifteen 60/100 (10,515.60) dollars of the United States of America or more than one hundred permanent workers, with liabilities exceeding five thousand two hundred fifty-seven 80/100 (5257.80) dollars of the United States of America, cannot be declared bankrupt but when previously exhausted the procedures of bankruptcy.

For purposes of this Act any amounts owed to the partners or shareholders in respect of profits or dividends not paid, shall not be considered as a liability nor credits in favor of them, administrators, commissioners, nor the areas of capital and reserves. "

- (2) *The FMIs play an essential role in the global financial system. The disorderly declared bankruptcy of an FMI can lead to serious systemic disruptions if the cause is that markets cease functioning effectively, therefore it is essential to identify the weaknesses of the FMIs in the jurisdiction, evaluate the implementation of the principles*

for financial market infrastructures ^[5], have appropriate recovery plans of operations and compliance of the obligations of the FMIs with a system of regulations and appropriate procedures or mechanisms to confront, manage and overcome risks and problems that distort functioning of the FMI in the financial market.

Note:

[1] Those who practice the supervision and control of the stock markets and other entities, in terms of the Securities Market Law.

2] Third paragraph of Article 12 of Chapter I of Title "Disposition Common to the registration" of the Codification.

[3] Paragraph 3 of Article 11 of Chapter I of Title "Disposition Common to the registration" of the Codification.

[4] Article 2 of the Codification of Preventive Competition Law.

[5] In April 2012, CPSS-IOSCO published the Principles for financial market infrastructures, designed to ensure that the FMIs operate with safety and efficiently in normal circumstances and times of market stress. They require strict risk controls and adequate contingency plans for the essential role played by FMIs in preserving financial stability.

For the purposes of this report, FMIs are systemically important payment systems, central securities depositories (CSDs), securities settlement systems (SSSs), central counterparties (CCPs) and trade repositories (TRs), as defined by and subject to the CPSS-IOSCO Principles for Financial Markets Infrastructure.

Best Regards,

Intendencia de Mercado de Valores- Superintendencia de Compañías del Ecuador

De: Lopez Espinoza Eduardo Antonio

Enviado el: Martes, 31 de Julio de 2012 15:17

Para: Ayala Agreda Marianita de Jesús

Asunto: RV: CPSS-IOSCO issue consultative report on the recovery and resolution of financial market infrastructures

De: ordmem@iosco.org [<mailto:ordmem@iosco.org>]

Enviado el: Martes, 31 de Julio de 2012 3:09

Para: Lopez Espinoza Eduardo Antonio

Asunto: CPSS-IOSCO issue consultative report on the recovery and resolution of financial market infrastructures

Dear Members,

Please find below the links to a CPSS-IOSCO press release and consultation report on *Recovery and resolution of financial market infrastructures*.

Press release - CPSS-IOSCO issue consultative report on the recovery and resolution of financial market infrastructures

<http://www.iosco.org/news/pdf/IOSCONEWS246.pdf>

CPSS-IOSCO cover letter and consultation report on *Recovery and resolution of financial market infrastructures*.

<http://www.iosco.org/library/pubdocs/pdf/IOSCOPD388.pdf>

Comments on the report should be sent by **28 September 2012** to both the CPSS secretariat (cpss@bis.org) and the IOSCO secretariat (fmiresolution@iosco.org).

^[4] Artículo 2 de la *Codificación de la Ley de Concurso preventivo*

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