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Recovery and resolution of financial market infrastructures – consultative report

This letter contains Norges Bank's comments to the consultative report "*Recovery and resolution of financial market infrastructures*", which has been issued by the Committee on Payment and Settlement Systems (CPSS) and the Board of the International Organization of Securities Commissions (IOSCO).

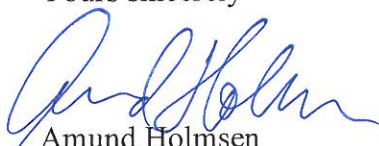
Norges Bank welcomes the initiative taken by CPSS and IOSCO to improve the framework for financial market infrastructures (FMIs) in financial difficulties. We find that the basic idea – using elements from Financial Stability Board's key attributes of effective resolution regimes for financial institutions on FMIs – is a constructive approach. We would like to comment on some of the issues:

- (3.5-3.7) *Resolution of FMIs that do not take on credit risk*. A transfer of critical key functions to a solvent third party might be a possible solution to a situation where an FMI is not financially viable. The report, however, finds that there might be serious obstacles to a solution like this, and points out that some kind of public administration might be an alternative. We agree and would argue that public administration often will be the most targeted approach. However, some requirements must be met for a solution with public administration to be efficient. For example, a legal framework for establishing a government body that can handle such FMIs should be in place. Furthermore, authorities must make certain that they have access to employees in key positions with the failing FMI (such conditions could be included in hiring contracts for FMI staff).
- (4.20-4.22) *Funding of FMIs resolution (Key Attribute 6)*. We believe that it is appropriate that there is regulation of loss recovery (in addition to the FMIs own rules) which authorities can use to allocate costs in extreme situations to avoid or reduce the

consequences of a financial crisis. In principle, we think it is appropriate that such a regulation may be used on all FMIs. It is important that such a regulation ensures a predictable distribution of costs, especially when the FMI operates cross border.

- *Outsourced operation of an FMI.* Outsourcing of activities may imply serious risk for FMIs. The authorities must be able to handle a situation where a failing FMI has outsourced a large part of its operation to a third party. FMIs therefore need to make sure that relevant parts of contracts with important service providers are still in force even if FMIs fail. Similarly, contracts - and contract enforcement - must ensure continued high quality operation of FMI services if a service provider fails. This issue should be a key consideration in outsourcing decisions.

Yours sincerely



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