

ACG Comments on the CPSS-IOSCO consultative report on Recovery of financial market infrastructures

**Asia-Pacific Central Securities Depository Group (ACG)
(Prepared by the ACG Legal Task Force)
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As the group of CSDs in the Asia-Pacific region, ACG welcomes the opportunity to comment on the CPSS-IOSCO consultative report on Recovery of financial market infrastructures.

It's very important for a FMI to continue to provide its critical services even in times of extreme stress in preserving financial stability. The report is very inspirational in many ways, such as the recovery tools, which is very suitable to the competitive and highly interrelated market with complete market and legal system like European countries. Yet further consideration could be necessary in order to see whether the recovery plan can match all the needs of many ACG members' countries with a huge variety of administrative color, legal system and development stage of markets. Considering such points, we would like to comment as follows.

1. It's suggested that there should be no rigid requirements on whether regulatory authorities can be involved in recovery tools because some administrative measures for CSDs (e.g. under certain circumstances a CSD can apply to regulatory authorities for using risk fund if participants default) exists even at ordinary times and they can help CSDs deal with systematic risks effectively in a sense. Therefore, the report shouldn't limit such effective administrative measures in recovery tools considering various conditions of different markets.
2. The report should consider that addition of a new tool such as cash call on participants would be difficult, costly and risky in some ACG members' markets and it would take a considerable amount of time because they may be required to change the current legal system. Besides, it is easier for the FMI to implement the tool by combing with current PFMI risk management measures.
3. Loss sharing is applicable to well-developed markets where participants have signed contracts ex ante. On the other hand, the report should note that it may be very difficult and take a great deal of time to implement it in emerging markets such as some ACG members' countries. In such markets, loss sharing may also be contradictive to the regulatory rules for securities companies.
4. Related to the tool of explicit insurance, the object of insurance should be

specified. Besides, the insurance mainly covers general risks, but liquidity shortfall, loss of settlement business and credit risk may be difficult to be insured against. As far as we know, insurance companies in many ACG members' jurisdictions don't provide this kind of insurance.

5. Regarding the general business risk, it's very difficult to identify the risk scenarios and corresponding recovery plans beyond general risk management. In this report, recovery tools to allocate losses from general business risk are described; however, it is preferable to describe the specific examples of the risk scenarios necessary to develop recovery plans. For example, "general business risks that may materialize more slowly" (2.4.8) is very difficult to be clearly understood.

6. As to 2.3.1, some FMIs in ACG have wide range of governance structures. In particular, FMIs are operated as a government institution in some emerging markets. In such cases, the report should consider that such FMIs may have access to state support or resources rather than "not assume any extraordinary form of state or central bank support".

7. As to 2.4.5, there should be clarification on the definition of "pre-funded financial resources" in page 9. Information shall include

- (i) Definition of "pre-funded"
- (ii) Types of instrument included in "pre-funded"
- (iii) Criteria that qualify a resource as "pre-funded" that can be computed into the clearing fund.

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About ACG

The Asia-Pacific Central Securities Depository Group (ACG) was formed in November 1997 with the objective to facilitate the exchange of information and to promote mutual assistance among member securities depositories and clearing organizations in the Asia Pacific region.

The number of participants as of the end of September 2013 is 32 institutions in 23 countries/regions.

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