Comments to CPSS-IOSCO Consultative report on Principles for financial market infrastructures:

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1.	Overview and objective of the Principles for financial market infrastructures: The CPSS and IOSCO believe that a single set of standards will provide greater consistency in the oversight and regulation of FMIs worldwide.	a. The FMI Principles should also supersede other existing standards such as: i. The ISSA Recommendations; ii. The G30 Recommendations for Clearing & Settlement – A Plan of Action; b. Ideally, FMIs should comply with just one set of standards – there are currently a plethora of standards for FMIs to comply with. c. In addition, there should be one sole regulatory body to oversee the compliance and assessment of FMI standards. Currently, there exists certain overlaps in the review process eg. the FSAP review(as part of the IMF/World Bank Surveillance program) tends to overlap the IOSCO assessment reviews notwithstanding that IOSCO principles are used as the benchmark for the FSAP Review. The result is that FMIs will have to handle more than one regulatory review.
2.	Principle 4: Credit Risk	a. The pros and cons of establishing for credit risk (1) a “cover one” minimum requirement for all CCPs; (2) a “cover two” minimum requirement for all CCPs; and (3) either a “cover one” or a “cover two” minimum requirement for a particular CCP, depending upon on the risk and other characteristics of the particular products it clears, the markets it serves and the number and type of participants it has? i. In order to determine the adequacy of the existing standard of

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		“cover one”, IOSCO should review the existing “cover one” standard based on empirical data from its members that the existing standard is inadequate. ii. Unless there is empirical data that the existing “cover one” standard is insufficient, the “cover two” standard may be capital intensive and may impact business of the FMI. At this juncture, there is an absence of empirical data to justify a “cover two” – this also begs the question of ‘why not a “cover three’’?’ b. What potential risk, competitiveness or other concerns might arise if certain CCPs that clear certain products would be subject to a “cover one” minimum requirement, while certain other CCPs that clear certain other products would be subject to a “cover two” minimum requirement? i. The standards must be clear and must not have any subjectivity so as to create a ‘level playing field’ for FMIs. ii. This can be achieved by having adequate data on default rates of FMIs under IOSCO. iii. Any differentiation is standards be it by products or type of market must be clear to prevent regulatory arbitrage between FMIs for competitive reasons. c. Where an FMI voluntarily adopts more stringent stress scenarios than the minimum, say “cover two” when the IOSCO prescribed standard is “cover one”, the FMI must be ‘incentivized’ to adopt a more stringent stress-tests. Such incentives, for example, could be in the form of a lower risk capital weightage to be set aside by participants dealing with such FMIs.

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		d. In the determination of the adequacy of stress scenarios, we have also to consider whether one should adopt a "historical" approach or a "crystal-ball" approach. The risk of a "crystal-ball" approach is inefficient use of capital by the FMI. Therefore, the historical worst case stress scenario may be adequate unless there are empirical data compiled by IOSCO to determine otherwise.
3.	Principle 7:- Liquidity Risk What are the pros and cons of establishing for liquidity risk (1) a "cover one" minimum requirement for all FMIs; (2) a "cover two" minimum requirement for all FMIs; and (3) either a "cover one" or a "cover two" minimum requirement for a particular FMI, depending on the risk and other characteristics of the particular payment obligations it settles, the products it clears, the markets it serves and the number and type of participants it has?	The requirement for minimum liquidity requirements should first be placed on direct clearing participants of FMIs which are CCPs. This is necessary to ensure that direct clearing participants are adequately liquid to meet all cash and delivery obligations as and when they fall due to the CCP. The minimum liquidity requirements should be based on the potential volume of trades to be cleared and settled by the CCP for the direct clearing participant. The potential business volume can be derived from the business plans of the direct clearing participant and trading limits must be set based on the potential volume of trades supported by the cash and/or credit facilities put in place by the direct clearing participant. This approach will prevent a direct clearing participant from creating positions which exceed the liquid resources of the direct clearing participant. For example, a direct clearing participant with USD1 million worth of liquid resources [ie. cash or credit facilities] must have a trading limit in place which prevents the direct clearing participant from creating exposures which exceed the USD1 million liquid resources under stressed scenario. Active surveillance by the CCP on the adequacy of cash and/or credit facilities of a direct clearing participant against the volume of business

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		cleared and settled is suggested. IOSCO guidelines as to what sort of stress scenario a CCP should adopt in the stress-testing of the adequacy of liquid resource adequacy of participants is also suggested. The above suggestions will create a “first line of defense” for CCPs to mitigate liquidity risk.
4.	Principle 14: Segregation and portability	What are the different models and approaches to establishing segregation and portability? What are their pros and cons respectively, for example in terms of efficiency and level of protection that can be achieved? There appears to be two very different treatment of client collateral for equities and for derivatives. For equities, all collateral posted by clients are considered as collateral posted by the direct clearing participant notwithstanding the segregation of client assets. This is how a FMI which is a CCP protects itself against principal risk ie. where the direct participant fails to pay the CCP, the CCP will have a right to dispose the underlying securities to be delivered to the defaulting direct clearing participant because the contractual relationship is one between the CCP and the direct clearing participant through novation. Therefore, the rights of the customers of the direct clearing participants cannot be recognized. Part 3.12.4 of Principle 12 which states that “Further, blocked securities must not be subject to a claim…(….or even the CSD itself) because these claims would give rise to principal risk” will require clarification because it implies that a CSD is not supposed to exert a claim over blocked securities even if the direct clearing participant has defaulted cash settlement to the CSD. Where a direct clearing participant is in default, the CCP must have

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		access to all collateral posted by the direct clearing participant notwithstanding that such collateral may be held in segregated client accounts. If a CCP does not have such access, then the CCP may be at risk. Therefore, the issue of segregation must take into consideration the concept of novation whereby the CCP deals with direct clearing participants as principals without acknowledgement of the rights of the direct clearing participant's customers.
5.		In view of the different options and models that may exist, is there any one option or model in particular that could usefully serve as a minimum requirement? Would it is be possible to identify a specific approach to segregation and portability that could be defined as best practice? Mandatory client-level securities settlement for settlement of trades. Newer exchanges are adopting this approach whereby securities settlement for cash markets are settled at a client-level instead of at a member-level. This approach will address the concerns of client protection as the client can easily be identified. Client-level settlement does not mean that omnibus accounts cannot co- exist. On the contrary, omnibus accounts may exist for trade execution whereas settlement may then be done at the client-level.
6.		Would it be helpful to distinguish between different types of customers, such as by the degree of tiering or by domestic or cross-border activity? Please explain. For this proposal to be successful, client-level settlement should be considered as a standard .
7.		What are the existing legal constraints that limit segregation and portability?

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		Novation. In the case of the cash market, a CCP will have rights over any blocked securities should a direct clearing participant default. This means that the customers may not be receiving securities purchased by them but the CCP must be protected against principal risk.
8.	Principle 15: general business risk	If a quantitative requirement is established, what are the pros and cons of setting this amount equal to six, nine or twelve months of operating expenses? The criteria should take into account the primary role of the FMI. Where the FMI is a CCP which settles trades, the FMI should perhaps use the average settlement value as a benchmark in determining the quantity of liquid net assets. And the liquid assets should be adequate to address settlement for at least 3 settlement days [if settlement is T+3] to wind down outstanding settlements.
	Adoption and implementation of the principles	Against this background, the CPSS and IOSCO request input on how quickly FMIs will be able to implement the changes necessary to increase their resilience consistent with the new principles. There should not be a one size fits all approach for implementation because different FMIs are at different stages of implementation of the existing IOSCO standards [and other standards]. One suggestion is perhaps to use market classification as a basis for assigning deadlines for market implementation. For example, FMIs in market rated as "developed markets" should have no issues for implementation and may be given a one to two year timeframe. FMIs in "advanced emerging" market classification may get a slightly longer implementation timeframe. Countries in "emerging" or "frontier" market classification will require a minimum of three to five years to ensure successful implementation of the proposed

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		IOSCO standards.
	Assessment methodology	It is our opinion that any assessment methodology be also subject to public consultation in view of the fact that such assessments going forward will be used for the rating of FMIs to determine whether a particular FMI meets the definition of a "qualifying CCP" under the Basel Committee on Banking Supervision's Consultative Document titled "Capitalisation of bank exposures to central counterparties". There must be a clear and concise methodology on how FMIs which are CCPs are to be assessed, who the assessors are going to be, whether self-assessment is sufficient or whether a peer-assessment is required, the criteria to qualify as "qualifying CCP"; what happens if an FMI CCP fails to meet the criteria, whether a review is permitted. The stakes will be very high for an FMI CCP to not implement the proposed new IOSCO standards. Therefore, there must be great clarity on how a CCP can achieve meeting the proposed new IOSCO standards. In addition, any proposed assessment methodology must be subject to a public consultation process before adoption.

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