ANNEX B

ANNEX B – ASSESSMENT METHODOLOGY AND QUESTIONNAIRE

I. THE ASSESSMENT METHODOLOGY

A. Introduction

This Assessment Methodology has been developed to facilitate the assessment of the consistency of implementation of the nine Principles by Participating Jurisdictions and the description of the legislative, regulatory and policy measures that have been taken. Where appropriate, it will also facilitate the Review Team's determination as to whether further policy and/or monitoring work is necessary.

The main part of the Assessment Methodology is the Questionnaire in Section II which authorities from Participating Jurisdictions are asked to complete. The Questionnaire is supported by the following:

- The text of each Principle; and
- Questions designed by the Review Team to assess the consistency of implementation against the Means of Implementation and the Principle. These questions are not intended to be a restatement of the Principles and Means of Implementation, rather they facilitate responses and demonstration of implementation.

Section I sets out instructions for Participating Jurisdictions about how they should complete the Questionnaire. It includes the ratings scale which authorities will be asked to use to report the status of their implementation. The Review Team will use the self-assessments provided by a Participating Jurisdiction as the starting basis for its own assessment of the consistency of implementation against the Principles.

Under this Assessment Methodology, Participating Jurisdictions' consistency of implementation will be assessed and rated for each of the nine individual Principles. However, there will not be an overall rating for a Participating Jurisdiction's implementation of the Principles as an integrated whole.

B. Approach to Assessing Progress — Implemented and Planned Policies and Practices

Overview

Participating Jurisdictions are asked to respond to the questions set out in each part of the Questionnaire about implementation measures taken. Respondents are asked to provide enough detail to allow the Review Team to validate their response.

They are also asked to describe (using the below ratings scale) their own assessment of the consistency of their implementation measures against the Principles as of **end-February 2018**.

The Review Team will review this self-assessment as part of the matters it considers when it prepares its qualitative assessment of the Participating Jurisdiction's consistency in implementing legislative, regulatory and policy measures for each individual Principle.

Reporting Scale

In addition to answering the Questionnaire below, for each Principle, authorities are asked to report their own self-assessment of the Participating Jurisdiction's own regulatory regime using the following scale:

ANNEX B

Fully Consistent	The jurisdiction's regulatory framework is **fully consistent** with the Principle. The assessment has identified **no gaps or shortcomings**, or only a few gaps/shortcomings that have **no material impact** on the intended outcomes of the Principle.
Broadly Consistent	The jurisdiction's regulatory framework is **broadly consistent** with the Principle. The assessment has identified gaps/shortcomings that only have a **minor impact** on the intended outcomes of the Principle.
Partly Consistent	The jurisdiction's regulatory framework is **partly consistent** with the Principle. The assessment has identified gaps/shortcomings that have a **significant impact** on the intended outcomes of the Principle.
Not Consistent	The jurisdiction's regulatory framework is **not consistent** with the Principle. The assessment has identified that the jurisdiction's regulatory framework does not achieve the intended outcomes of the Principle.
Not Applicable	No implementation measures needed given the nature of the securities market and/or relevant structural, legal and institutional considerations. This status corresponds to the case where there is **no market or activity** in the jurisdiction that falls within the scope of the Principle.

The responses to the Questionnaire should note instances where the consistency of implementation in relation to a particular Principle could not be adequately assessed and explain why. For example, certain information needed to demonstrate implementation may not have been provided to the Review Team, or the information provided to demonstrate implementation may be inconclusive or is otherwise unavailable. Should a Participating Jurisdiction fail to provide requested information needed in order for the Review Team to assess the consistency of implementation, especially if there are inadequate responses to follow-up requests, the Review Team may consider, as appropriate, to reflect this fact within the final report.

ANNEX B

II. QUESTIONNAIRE

Guidance about the Detail Necessary in Responding to the Questions

This Questionnaire is designed to assess the Principles in IOSCO's *Suitability Requirements with respect to the Distribution of Complex Financial Products*. The report contains nine Principles, each containing a set of Means of Implementation (**"MoI"**).

The questions are numbered to facilitate quick reference to the 2013 report and the policy recommendations contained therein (e.g. Q.5.4.1. is the first question on Principle 5 MoI 4).

Authorities are kindly asked to carefully read the report before responding to the questions below, in order to gain full understanding of the Principles and relevant interpretation.

In response to each of the nine Principles, you are asked to provide the following:

(i) Provide the "Jurisdiction's Self-Assessed Overall Rating for each Principle using one of the following stages which best describes your jurisdiction's implementation status:

- Fully Consistent/Broadly Consistent/Partly Consistent/Not Consistent
- Not Applicable

(ii) Regarding '"Background Issues" please describe and provide details of implementation including (where relevant):

- A brief overview of the background issues (market factors/legal framework);
    - o An explanation of design of the regulatory framework including:
    - o Sources of powers;
    - o Provisions of legislation, regulation or other binding policies/rules; and
    - o Programs and procedures intended to implement these rules and encourage their adherence;
- An explanation of the reason for any exemptions to a Principle.

Preliminary Questions

Jurisdiction: **Name:** **Title and Organization:** **Telephone:** **Email:**	
I. Does the regulatory system require intermediaries to distinguish complex products from non-complex products? **a.** If Yes, what criteria are used? **b.** Does the regulatory regime define "complex products" differently than	

defined in the 2013 report (see Introduction)? **c.** Describe the types of complex products in your jurisdiction. **II.** How does the regulatory system define intermediaries? **a.** Does the regulatory regime define 'intermediaries' differently than defined in the 2013 report (see Introduction)? **b.** Describe the types of intermediaries in your jurisdiction. **III.** Has your jurisdiction revised its regulation in light of the Principles? **a.** If Yes, how have you incorporated the Principles? **b.** If No, why not? **IV.** In your view, do the Principles offer sufficient guidance for implementation? **V.** Please explain the reasons (such as events or circumstances) that lead to revisions of the regulatory framework (including changes regarding compliance and supervision).	

A. Principle 1: Intermediaries should be required to adopt and apply appropriate policies and procedures to distinguish between retail and non-retail customers when distributing complex financial products. The classification of customers should be based on a reasonable assessment of the customer concerned, taking into account the complexity and riskiness of different products. The regulator should consider providing guidance to intermediaries in relation to customer classification.

Jurisdiction's Self-Assessed Overall Rating:	(***Please choose one of the following***) Fully/Broadly/Partly/Not Consistent Not Applicable
Background issues:	
1.1.1 Are there requirements for intermediaries to adopt and apply policies and procedures to classify customers? (***Yes/No***) **a.** If Yes, please explain briefly the requirements for customer classification. **b.** No ***(go to Principle 2)***.	
1.1.2. Does the regulatory system establish that, in the customer classification process, intermediaries take into consideration the complexity and riskiness of the product subject to distribution? (***Yes/No***) If Yes, please explain.	

1.1.3. Does regulation prescribe the customer classification criteria? (***Yes/No***) **1.1.4.** If Yes, please specify the type of criteria required (such as: nature of customer (regulated or unregulated entity, person acting in a business/personal capacity); ability of customer to understand the risks of complex products; customer's knowledge of investments and experience with investment products (and whether such knowledge is required to be product specific e.g. complex products); customer's financial position (e.g. net worth above a certain threshold amount); or other).	
1.1.5. Please explain whether classification requirements contain both objective and subjective elements.	
1.1.6. Are intermediaries required to make their own assessments on the customer qualification, without automatically relying on a customer's request for non-retail status? (***Yes/No***) Please explain. **1.1.7.** Is there a requirement for intermediaries to classify the customer as "retail" in circumstances of ambiguity? (***Yes/No***) Please explain.	
1.2.1. Are safeguards/requirements in place to distinguish between customer classifications?(***Yes/No***) If Yes, please describe how the safeguards/ requirements apply in: **a.** Verification of customer classification. **b.** Gathering of additional or updated information regarding classification. **c.** Re-assessment of the customer/product for suitability in certain circumstances regardless of classification. **d.** Allowing clients to waive suitability requirements or opt-up (i.e. non-retail choosing to be classified as retail). **e.** Other. **(*Please address all listed categories and explain the circumstances, restrictions and procedures*)**	
1.4.1. Are intermediaries required at the outset to disclose or provide information to customers about: **a.** Their classification. (***Yes/No***) Please explain. **b.** Implications on the intermediaries' duties to the customer. (***Yes/No***) Please explain.	

1.6.1. When the intermediaries have an ongoing relationship with a customer, are they required to take reasonable steps to obtain updated or additional information from their customers on a periodic basis? (***Yes/No***) Please explain. **1.6.2.** Are intermediaries required to undertake appropriate actions in case they become aware that a customer no longer fulfils the criteria that made her/him eligible for the non-retail customer classification? (***Yes/No***) Please explain.	

B. Principle 2: Irrespective of the classification of a customer as retail or non-retail, intermediaries should be required to act honestly, fairly and professionally and take reasonable steps to manage or mitigate conflicts of interest through implementing appropriate procedures in the distribution of complex financial products, and where there exists a potential risk of damage to the customer's interest, the intermediaries should, where appropriate, be required to clearly disclose the risk.

Jurisdiction's Self-Assessed Overall Rating:	(***Please choose one of the following***) Fully/Broadly/Partly/Not Consistent Not Applicable
Background issues:	
2.1.1. Are intermediaries required to: **a.** Act honestly, fairly, professionally. **b.** Gather information and evidence about the client at the point of starting the relationship. **c.** Protect client assets they hold. **d.** Not mislead customers in their business dealings. (***Yes/No***) Please explain. (***Please address all listed categories***) **2.1.2.** Do these requirements apply regardless of customer classification and/or waiver? If No, why not?	
2.2.1. Are there requirements for the intermediary to take reasonable steps to identify, manage and mitigate conflicts of interest? **a.** If Yes, explain briefly the requirements and related procedures. Do these requirements apply regardless of customer classification and/or waiver? If No, why not? **b.** No ***(go to Principle 3)***.	
2.2.2. Are there requirements on intermediaries when a conflict poses a *potential* risk of damage to a client's interests?	

a. Take reasonable efforts to manage or mitigate conflicts. **b.** Make clear, timely, appropriate disclosure about nature/source of conflict. **c.** Other. (***Yes/No***) Please explain. (***Please address all listed categories***)	
2.3.1. Please explain any additional requirements on intermediaries to address relationships that have *inherent* conflicts of interest? Are there requirements to: **a.** Assess whether the client has sufficient knowledge and expertise to evaluate the transaction, risks and conflicts. **b.** Other.	

C. Principle 3: Customers should receive or have access to material information to evaluate the features, costs and risks of the complex financial product. Any information communicated by intermediaries to their customers regarding a complex financial product should be communicated in a fair, comprehensible and balanced manner.

For this principle, please focus responses on circumstances of intermediaries advising or otherwise recommending complex products and services.

Jurisdiction's Self-Assessed Overall Rating:	(***Please choose one of the following***) Fully/Broadly/Partly/Not Consistent Not Applicable
Background issues:	
3.0.1. Is there a disclosure regime for intermediaries? **a.** If Yes, does this apply equally to complex and non-complex products? **b.** No ***(go to 3.2.1.)***.	
3.1.1. When intermediaries advise or recommend complex products do they disclose: (***Yes/No***) **a.** Risk-return profile. **b.** Features, risks and fair value of the complex product. **c.** Comparative information of appropriate (less-complex, less costly) alternative products. **d.** Costs and charges, ideally on an unbundled basis. **e.** Pricing mechanism and disinvestment options for illiquid products. **f.** Any other material information. (***Please address all listed categories***)	

3.1.2. Do the disclosure standards require intermediaries provide information in a clear, comprehensible, fair and balanced way? (***Yes/No***) Please explain.	
3.2.1. Are there requirements to prevent intermediaries from giving a false impression that complex products are comparable to non-complex products?(***Yes/No***) Please explain.	
3.2.2. Are there requirements for intermediaries to provide customers access to information about complex products?. (***Yes/No***) Please explain.	
3.6.1. Please explain any requirements on intermediaries regarding the form of disclosure (e.g. simplified format; user-friendly summary of key features). **3.6.2.** In particular, describe specific requirements for retail customers.	

D. Principle 4: When an intermediary sells a complex financial product on an unsolicited basis (no management, advice or recommendation), the regulatory system should provide for adequate means to protect customers from associated risks.

For this principle, please focus responses to unsolicited or non-advised transactions.

Jurisdiction's Self-Assessed Overall Rating:	(***Please choose one of the following***) Fully/Broadly/Partly/Not Consistent Not Applicable
Background issues:	
4.1.1. Are there requirements in place to protect customers in respect of unsolicited or non-advised (such as execution-only) transactions involving complex products? (***Yes/No***) If Yes, please describe customer protections or requirements on intermediaries (such as assessments of customer knowledge and experience; appropriateness requirements; customer warnings; product features or risk disclosures; senior management approvals; and restrictions on products or services offered).	
4.1.2. Do the requirements explained in **4.1.1.** differ based on: (***Yes/No)*** **a.** Customer classification? **b.** Riskiness/complexity of product? If Yes, describe the circumstances in which the requirements differ and how they differ.	
4.2.1. Are there specific customer protection requirements on intermediaries that offer or	

operate trading platforms through which customers may effect execution-only transactions with little to no human involvement or intervention? (***Yes/No)*** If Yes, describe the nature of those requirements and circumstances in which they apply.	

E. Principle 5: Whenever an intermediary recommends the purchase of a particular complex financial product, including where the intermediary advises or otherwise exercises investment management discretion, the intermediary should be required to take reasonable steps to ensure that recommendations, advice or decisions to trade on behalf of such customer are based upon a reasonable assessment that the structure and risk-reward profile of the financial product is consistent with such customer's experience, knowledge, investment objectives, risk appetite and capacity for loss.

Jurisdiction's Self-Assessed Overall Rating:	(***Please choose one of the following***) Fully/Broadly/Partly/Not Consistent Not Applicable
Background issues:	
5.0.1. Are intermediaries required to take reasonable steps to *ensure* the suitability of recommendations/ advice/ investment management discretion involving complex products? **a.** If Yes, please explain. **b.** No (***go to Principle 6***).	
5.0.2. Do these requirements apply to intermediaries in connection with: (***Yes/No***) **a.** Recommendations/Investment advice; **b.** Exercising investment management discretion; **c.** Other services or transaction types (***please elaborate***). (***Please address all listed categories***)	
5.0.3. Are the suitability requirements applicable to complex financial products the same as those applicable to other securities? If No, how are they different?	
5.2.2. Are there differing or variable suitability requirements (i.e., more stringent or rigorous considerations of suitability) based on: **a.** The type or complexity of the product or service (including products considered 'complex products' as well as other products of varying degrees of complexity);	

b. Customer classification; **c.** The type of intermediary; **d.** Any other circumstances (***please elaborate***)? If Yes, explain how the requirements are calibrated, the circumstances in which differing suitability requirements apply, and the nature of those differences. (***Please address all listed categories***)	
5.4.1. Are intermediaries required to have processes to assess the profile of a customer? Please specify if the profiling is based on, among other things, the following: (***Yes/No***) **a.** Investment objective and horizon; **b.** Risk profile (tolerance/preferences) taking into account purpose of the investment and the need for portfolio diversification; **c.** Financial situation (e.g. the customer's other assets, income and tax liabilities) and loss tolerance; **d.** Liquidity needs; **e.** Investment knowledge and experience with complex financial products (nature, volume, frequency of previous transactions; familiarity with relevant complex products); **f.** Investment knowledge and experience (profession, former professional experience, level of financial education); **g.** Other required disclosure factors (***please elaborate***)? Please also describe requirements about the processes for intermediaries to gather client information. (***Please address all listed categories***)	
5.6.1. Are intermediaries required to perform their own product analysis/due diligence? Please explain the due diligence process and which of the following product features intermediaries need to consider in connection with recommendations of complex products: (***Yes/No***) **a.** How products are structured and priced; **b.** The nature and complexity of a product's pay-off and underlying components (if any); **c.** Relevant level of risk (with, if appropriate, a separate assessment of counterparty liquidity and market risks); **d.** Experience and reputation of issuers and product providers/manufacturers; **e.** Fees, charges or any other costs associated with the product;	

f. Level of liquidity; **g.** Lock-in periods and relevant termination conditions, exit options and associated costs; **h.** How the product performs under abnormal or extreme conditions; **i.** The nature of any guarantees; **j.** The components of a complex product; and **k.** Any other product details ***(please elaborate)***. (***Please address all listed categories***)	
5.6.2. In selecting complex products for distribution, are intermediaries required to consider whether the products, in general, meet the needs of the customer group at which the intermediary aims its services (e.g. retail; non-retail; or customers of a certain risk tolerance)? (***Yes/No***) Please explain.	
5.8.1. Does the regulatory system apply suitability obligations to: (***Yes/No***) **a.** Intermediaries (firm-level); **b.** Representatives (individual level)? (***Please address all listed categories***)	
5.8.2. Describe requirements, if any, on intermediaries to ensure the competence, including knowledge and experience, of representatives who make product recommendations involving complex products?	
5.8.3. Describe the applicability of suitability obligations in respect of intermediaries' use of technology (e.g., digital or robo-advice) or outsourced services.	
5.10.1. After the assessment of the customer profile (**5.4.1.**) and the product due diligence (**5.6.1.**), are intermediaries required to determine whether the product is in fact suitable to the customer? Please specify which, if any, of the following are considered: **a.** Whether duration and liquidity of the investment matches customer needs (e.g. investment horizon); **b.** If for hedging purposes, whether the product can meet the customer's hedging needs; **c.** That intermediaries take into account the composition of the customer's portfolio when providing individual portfolio	

management or advice (e.g. there is an assessment of concentration risk); **d.** Other (***please elaborate***).	

F. Principle 6: An intermediary should have sufficient information in order to have a reasonable basis for any recommendation, advice or exercise of investment discretion made to a customer in connection with the distribution of a complex financial product.

Jurisdiction's Self-Assessed Overall Rating:	(***Please choose one of the following***) Fully/Broadly/Partly/Not Consistent Not Applicable
Background issues:	
6.1.1. Before making a recommendation/providing advice /exercising investment discretion, are intermediaries required to gather / have sufficient information to form a reasonable basis concerning suitability? **6.1.2.** How does the regulation ensure intermediaries don't recommend complex products they do not understand?	
6.2.1. In the case where a customer fails to provide all requested information, at a minimum, does the regulation specify alternative intermediary requirements: **a.** To consider whether it has sufficient information to make a reasonably based recommendation; **b.** To ensure that recommendations made are reasonable; **c.** To prohibit or restrict the intermediary making the recommendation or providing the service; **d.** To clearly disclose that the recommendation is based on limited information); or **e.** Other (***please elaborate***).	

G. Principle 7: Intermediaries should establish a compliance function and develop appropriate internal policies and procedures that support compliance with suitability requirements, including when developing or selecting new complex financial products for customers.

Jurisdiction's Self-Assessed Overall Rating:	(***Please choose one of the following***) Fully/Broadly/Partly/Not Consistent Not Applicable

Background issues:	
7.1.1. Are intermediaries required to establish a compliance function and develop and maintain internal processes and procedures to ensure the firm and its employees: (***Yes/No***) **a.** Comply with suitability requirements; **b.** Manage conflicts of interest; and **c.** Fulfill other conduct obligations (such as ensuring fair treatment of customers)? (***Please address all listed categories***)	
7.1.2. Explain whether and how intermediaries are required: **a.** To report and communicate relevant information internally to a compliance function and / or senior management. **b.** To ensure that the compliance function verifies that the policies and processes in place for the development and distribution of complex products are properly functioning.	
7.2.1. Are intermediaries required to put in place and enforce compliance functions/controls (e.g. written strategies, processes) for the distribution of complex products? (***Yes/No***) Please explain requirements in relation to **7.1.1.(a)**, **(b)** and **(c)** above. **7.2.2.** Are there any record retention requirements applicable to customer information, or any other documents or information, gathered/used by intermediaries in connection with suitability determinations? (***Yes/No***) Please explain requirements in relation to **7.1.1.(a)**, **(b)** and **(c)** above.	
7.3.1. Are there requirements for the following specific tasks: **a.** Product design and development, including product testing; **b.** Product selection; **c.** Product target market; **d.** Product marketing and distribution. (***Yes/No***) Please explain requirements in relation to **7.1.1.(a)**, **(b)** and **(c)** above. (***Please address all listed categories***)	

H. Principle 8: Intermediaries should be required to develop and apply appropriate incentive policies designed to ensure that only suitable complex financial products are recommended to customers.

Jurisdiction's Self-Assessed Overall Rating:	(***Please choose one of the following***) Fully/Broadly/Partly/Not Consistent Not Applicable
Background issues:	
8.1.1. Does the regulatory system set out any standards or requirements for intermediaries' incentive (i.e., remuneration) policies? If Yes, please describe.	
8.1.2. Does the regulatory system set out requirements for compensation policies (including non-monetary and other incentives) not to conflict with the duty to act honestly, fairly, professionally, and consistent with the best interests of customers? Please explain including relevant disclosure requirements, if applicable.	
8.2.1. Does regulation require intermediaries' senior management to (regularly) review or approve: (***Yes/No***) **a.** Incentive schemes? **b.** Employees' distribution and sales practices by sales staff?	
8.2.2. For background, please discuss whether the regulatory system aims to ensure accountability of senior managers?	

I. Principle 9: Regulators should supervise and examine intermediaries on a regular and on-going basis to help ensure firm compliance with suitability and other customer protection requirements relating to the distribution of complex financial products. The competent authority should take enforcement actions, as appropriate. Regulators should consider the value of making enforcement actions public in order to protect customers and enhance market integrity.

Jurisdiction's Self-Assessed Overall Rating:	(***Please choose one of the following***) Fully/Broadly/Partly/Not Consistent Not Applicable
Background issues:	
9.1.1. Does the regulatory system incentivise intermediaries to comply with regulatory requirements regarding product suitability and, more generally, consumer protection? (***Yes/No***) Please explain.	
9.1.2. Describe any requirements and/or supervisory mechanisms designed to prevent intermediaries from bypassing suitability	

requirements (e.g. regulation should be designed to prevent intermediaries avoiding its suitability obligations by claiming it has not made any recommendation).	
9.2.1. Describe the regulator's supervision efforts (within the last two years) on intermediaries' compliance with suitability requirements regarding the distribution of complex products. Please specify any use of onsite/off-site visits, thematic reviews, and risk-based surveillance. If any, describe: **a.** Supervisory/ public enforcement actions taken regarding the absence or weakness of a compliance function regarding the suitability requirements; **b.** Any themes/trends identified in intermediary misconduct. For background, please explain whether your jurisdiction has considered how the supervision framework could be modified to address issues relating to **(a)** or **(b)** above?	
9.3.1. Please explain if and how your regulatory framework allows for collaboration with other jurisdictions for the purposes of supervisory actions, particularly when examining or investigating intermediaries that are part of a multinational group? ***Please explain supervisory efforts (outside of IOSCO MMoU enforcement efforts).***	
9.4.1. What, if any, regulatory requirements exist concerning intermediaries' complaints handling procedures regarding suitability obligations in distributing complex products? Please explain if and how customer complaints factor into the regulators' supervisory strategy? For background, please specify if the regulator has identified any particular trends in the manner intermediaries address customer complaints within the last two years.	
9.4.2. Please explain if and how the manner in which intermediaries address customer complaints and resolve any disputes with their customers are considered within enforcement actions. **9.4.3.** Please also describe if and how the regulator receives information on customer complaints? **a.** Directly from intermediaries. **b.** From a 3rd party empowered to act on complaints about intermediaries. **c.** Directly from customers. **d.** From other 3rd parties.	

ANNEX B

(***Please address all listed categories***)	