June 15th, 2012

Letter to be submitted by e-mail to cpss@bis.org, and fmi@iosco.org

Reference: CCP12 response to Public Consultation on Assessment Methodology and Disclosure Framework of the Principles for Financial Market Infrastructures.

Mr. Robert Lindley,
Head of Secretariat, CPSS
Mr. Masamichi Kono,
Chairman, IOSCO

Dear Mr. Lindley and Mr. Kono,

CCP12 The Global Association of Central Counterparties[1], welcomed the initiatives taken by CPSS[2] and IOSCO[3] in publishing the Public Consultations on Principles of Financial Market Infrastructures (PFMIs), its Assessment Methodology (AM) and Disclosure Framework (DF). These last two consultations were issued on April 16th. CCP12 is grateful to comment again on these reports.

CCP12 notes that the AM and the DF were developed respectively *with the aim of promoting observance of Principles*[4] and to have *clear and comprehensive disclosures by financial market infrastructures (FMIs) to support sound decision making by market participants, authorities, and the public... to enhance the safety and efficiency in payment, clearing, settlement, and recording arrangements, and more broadly, limit systemic risk and foster financial stability and transparency*[5].

Our Association wants to emphasize the relevance of the AM as a key tool for Regulators to Qualify CCPs. The AM and the DF should therefore contribute to the promotion of a level playing field in all the jurisdictions where our CCPs operate by establishing homogenous criteria amid Assessors. It is, nonetheless, important to

[1] CCP12, The Global Association of Central Counterparties, was formed in 2001, and is currently comprised of 30 members that operate major central counterparty (CCP) clearing house organizations across Africa, the Americas, Asia, Australia and Europe. These experienced members handle separate CCPs across an extensive range of OTC and exchange traded markets, both cash and derivatives, covering equities, fixed interest, commodities and energy. There is therefore substantial diversity across CCP12 membership in approach reflecting at times complex differences in: market protocols, local legislation and regulatory expectations, payment, trading and settlement systems with which the CCP interacts, product coverage, nature of the contractual obligations e.g. CCP relationship with the end user/client, nature of the business e.g. listed/mutualised/vertical/horizontal; and type, size and counterparty standing of the CCPs' members / participants

[22] Committee on Payment and Settlement System

[3] Technical Committee of the International Organization of Securities Commissions

[4] AM Consultatve Report, page 1

[5] DF Consultatve Report, page 1

recognize the diversity of economic, legislative and regulatory environments under which CCPs operate around the globe.

Annexed to this letter, you will find our response that is divided into two sections; the first one offering our high level opinion on both the AM and DF reports, the second one, containing punctual comments and recommendations on both documents under consultation.

We look forward to our comments and recommendations being taken into consideration and hope that they contribute to the development of a usable and profitable final version. We reaffirm our availability to cooperate with CPSS-IOSCO in further promoting projects for the long term stability and competitiveness of the global financial markets.

Sincerely yours,

Luis Jorge Pelayo
Chair CCP12

Annex

CCP12 comments to CPSS-IOSCO Public Consultation on Assessment Methodology (AM) and Disclosure Framework (DF) for FMI Principles (PFMI)

A. GENERAL COMMENTS TO AM AND DF

The Association and its membership recognize the AM and the DF as powerful tools to make transparent the current status of compliance of a CCP with the PFMIs, to identify gaps and shortcomings, as well as to facilitate the tracking of their fulfilment. In this section we externalize general comments on both reports and in some cases we suggest complementary ideas to be noted or highlighted in them. For each general comment, we specify (in parenthesis) if they apply to AM, DF or both.

Assessment and Disclosure of information size (AM / DF) - The PFMIs, AM and DF contain 106 Key Considerations (KC) applicable to CCPs (that is excluding Principle 11 and 24), and many of the KCs are sometimes integrated by several Key Elements (KE). Both KCs and KEs include more than 400 questions, while the RCCPs[6] contain 50 Key Issues and 71 questions (21 of which are related to Guarantee Funds). The response and much more important, the compliance effort for PFMIs is almost 6 times that for the RCCPs. There will be a considerable (and necessary) additional effort to assess, disclose relevant information, follow up and in general, to comply with PFMIs. We consider that relevant stakeholders such as Regulators should be conscious of this and promote a proactive and a communicative interaction with CCPs in order to facilitate the closing of gaps in the most reduced timeframe required to comply with the PFMIs. We want to highlight in the occasion of this Consultation, that compliance with the PFMIs is a joint effort of the relevant stakeholders. This should be explicitly noted.

Multiple related reports to PFMIs (AM / DF) - In the short and middle term, FMIs will need to intensively refer to the three reports in the effort of complying with Principles. Some CCP12 members that have already begun their self-assessment have constantly to go and back from PFMIs and AM, searching for concepts, precise definitions at the glossary for further reference in the explanation of the Principle, etc. It seems practical to have a single integral document.

Assessment Framework Methodology (AM) - The five steps for assessing an FMI (scope, facts, conclusions, rating categories and the timeframe for addressing issues) offer an integral overview of the actual compliance level, gaps and shortcomings, as well as a clear path to comply with PFMIs. We feel that this methodology is a usable tool to the end of promoting observance of the Principles.

Assessors' criteria (AM) - The proposed multi-step methodology requires the Assessor to elaborate particular conclusions according to his/her criteria for each Principle instead of using the *Assignment of an assessment category* guide used for assessing each Recommendation as in the past RCCPs. By applying the AM, the Assessor would identify gaps or shortcomings, the risks for each issue of concern and then would judge

[6] CPSS-IOSCO, Recommendations For Central Counterparties, November 2004

on the priority to address such issues. We agree that this flexibility in rating the Principles is necessary in order to put a CCP in the context of the market where it operates. However it is important to recognise the risk that this flexibility results in a misjudgement of the CCP. We want to highlight the relevance of the experienced profile of the Assessor.

Identification and follow up of gaps (AM / DF) – In the AM, questions for each Key Consideration can serve, in our opinion, as a guidance to identify the gaps. We consider it positive that these gaps are explicitly noted as well as the risk and concerns. This provides clarity on the priority of issues to be heeded. Moreover we feel that in the DF Disclosure Template, the summary of major changes since the last update; should be oriented to report the evolution of the gaps' completion.

Contextual information (DF)- In order to satisfy the information needs of diverse stakeholders, we agree with item II related to The General Description of the FMI. It is important that the disclosure template considers information providing them with a general overview of the CCP. In the respective table of Recommendations and Comments, we propose some other complementary elements that would put the CCP in a clear context to stakeholders providing an idea of the systemic relevance of that CCP.

Timing for disclosure PFMI compliance – Both Regulators and FMIs are for the first time using these Principles as a reference to comply with in 2012. As the development of the reports based on AM and DF will need substantial effort and time, we suggest that FMIs disclose their compliance to PFMIs by 2013

AM questions as a possibility of disclosure- CCP12 agrees with the scope and particular purposes of both AM and DF. However we expect that CCPs will be required to answer AM questions as part of the regular assessments, which can create additional complexity and duplicated efforts, because both AM responses and DF sentences are supposed to be aligned. We suggest that FMIs are permitted to voluntarily use AM responses as part of their disclosure report.

Confidentiality- CCP12 considers relevant that the AM should establish explicitly a clear obligation for the Assessor to keep confidentiality about sensible business information and that this could be preferably formalized in a confidentiality agreement.

B. PARTICULAR COMMENTS AND RECOMMENDATIONS

In this section punctual observations, request for clarification and recommendations to both reports are specified.

Assessment Criteria

1.0. Introduction Page 1	*Key benefits include objectivity and comparability across the assessments* Observation- This reference should be qualified to emphasize that the comparability may be conditioned on the level of experience of the Assessors and whether the assessment is conducted by the same Assessors. If assessments of different CCPs are conducted by different national, international or external Assessors without the same degree of experience or if different Assessors apply the AM inconsistently, it may well limit the comparability of the assessment results. Recommendation- Add the following to the above reference: " if the assessments of different CCPs are able to be conducted in a consistent manner by appropriately experienced Assessors and/or conducted by the same authorities."
1.1. Use of the Assessment Methodology Page 1	*CPSS and IOSCO are also encouraging external assessments of FMI … conducted by international financial institutions (IFIs),* Observation- While CCP12 agrees with CPSS-IOSCO in encouraging external assessments by IFIs, we consider that further clarity on Assessor selection is needed. That is, it's important to know if the FMI can suggest an Assessor, if the national authority would necessarily select it and/or if experienced and independent advisors could also act as Assessors and under which criteria would they be selected. Recommendation- The categories of Assessors as well as the eligibility criteria of each type of Assessor should be referenced.
1.1. Use of the Assessment Methodology Page 2	*This AM is primarily intended for external Assessors at the international level, in particular the IFIs. It also provides a baseline for national authorities to assess FMIs under their supervision and oversight* Observation- It is not clear why the AM is intended primarily for external Assessors at the international level and complementary to national authorities Recommendation- The AM should explicitly establish that the AM is intended to be applied by all Assessors. Moreover, those Assessors not applying the AM should provide justification on applying any alternative methodologies.

1.1. Use of the Assessment Methodology Page 2	*If a national authority uses a different rating scheme… National authorities may choose to use the AM rating scheme or may choose to use another rating scheme in particular when they are legally bound to use a different assessment methodology.* Observation- The usage of different rating schemes risk to lead to a misinterpretation of the assessment results Recommendation- CPSS-IOSCO should promote explicitly the use of the AM rating scheme and if possible to establish them as a minimum standard. When necessary for an authority to use an alternative scheme, the AM should ask that a clear interpretation of each of the proposed ratings is done. For those Assessors/authorities mandated to use another rating scheme, the AM should provide a mapping of the results to the AM rating scale.
1.1. Use of the Assessment Methodology Page 2	*Different types of Assessors may communicate the outcome of their assessments of FMIs differently, depending on their specific objectives.* Observation- We feel that PFMI compliance should not depend on a perspective of assessment. However, we do agree that PFMI compliance can be an evolutive process, so Assessors can configure the assessment and communicate the results according to their objectives. Recommendation- The AM should specify that even if the outcome can be communicated depending on Assessor's objective, the judgment of compliance according to the rating scale should not vary.
1.1. Use of the Assessment Methodology Page 2	*Technical assistance (TA) Assessors are not necessarily expected to use a rating scheme* Observation- This type of Assessor is mentioned only once in the AM and its role is not clear. Recommendation- AM should provide clarity on the role of the Technical Assistance Assessor (TA) and what expertise may be applicable. Same applies for all categories of Assessor.
1.4. Practical considerations in conducting an assessment Page 4	*Assessors' background, experience, and training – the use of professional judgment when carrying out an assessment requires qualified individuals possessing both practical and relevant experience.* Observation- We agree that AM establish this profile for Assessors; however this *background, experience, and training* is not informed in the assessment report (I. Background, Key Findings, and Follow-up, page 14)

	Recommendation- Assessors' background, experience, and training should be explicitly and clearly specified in the AM report.
2.1. Step 1: Scope of the assessment	*national authorities are expected to regularly assess FMIs that they have deemed systemically important* Observation- 1) According to PFMI page 12[7], CCPs are supposed to be systemically important at least in their jurisdictions, unless the Authority determines otherwise, 2) The regularity of assessment or a criteria for regularity is not specified. Recommendation- The AM should specify that an update to assessment should be reflected once the CCP addresses any material gap or shortcoming identified in previous assessment.
2.2. Step 2: Fact gathering Page 7	*Assessors must develop a general understanding of the FMI's* Observation- - CCP12 agrees in this statement. A basic part of a general understanding of the FMI is a general understanding of the market where the FMI operates. This is particularly relevant when an IFI acts as the Assessor. Corporate and market practices are important facts to be considered in the assessment and into the improvement planning. These practices are not sometimes easy to change. The communication process within an FMI is very relevant in order to facilitate the required changes Recommendation- AM should specify that the Assessor should also have a general understanding of relevant market practices and any unique aspects of the local market which may be relevant to the assessment.
2.3. Step 3: Key conclusions for each key consideration Page 7	*A key conclusion for each key consideration should be drawn.* Observation- The conclusions for each key consideration in a narrative format are made in the DF Recommendation- The AM and DF should specify that conclusions in the AM and statements in DF for each Key Consideration, should be aligned.
Translating key conclusions into the relevant ratings Page 9	*The rating is built on the key conclusions and reflects the Assessors' judgment regarding* Observation- The rating reflects the Assessor judgment. The Assessor is supposed to be an experienced person / entity. There's still a qualitative element of potential misjudgment and disagreement between Assessor

[7] PFMIs, page12: *The presumption is that all CSDs, SSSs, CCPs, and TRs are systemically important, at least in the jurisdiction where they are located, typically because of their critical roles in the markets they serve*

	and FMI. Recommendation- AM should establish that the FMI have the right to ask for a revision or further justification of a conclusion, when it disagrees.
I. Background, Key Findings, and Follow-up Page 14	*Introduction…* Observation- In this section the Assessor background is not specified and we consider it relevant to further transparency Recommendation- The Assessment report should mention the Assessor background.
Page 14	*Key findings and follow-up* Observation- This section only mentions how to report the Key Findings and does not address the follow up. However, if the assessment report is an update of a previous one, it is important to provide for reflection of the follow-up action(s) taken since the assessment was concluded. Recommendation- The assessment report should address how to reflect follow up action(s) taken on addressing material gaps. Furthermore, we recommend that the assessment report is updated exclusively when gap(s) is(are) closed. A full update is more effective.

Disclosure Framework

2 FMI disclosure template Page 1	Observation- There's a Principle-by-Principle narrative disclosure; however there's not a Rating Summary as Table 1 of Key findings and follow-up of the AM. Recommendation- CCP may choose to disclose this rating summary or at least to summarize the CCP's observance of Principles and/or key conclusions for each one of the Principles and /or to show a general summary on how will the CCPs address the gaps (if they are mentioned) and in what timeframe.
2 FMI disclosure template Page 1	*II. General description of the FMI: (a) organization; (b) market(s) served; and (c) key metrics* Observation- 1) When developing items (a), (b) and (c); Key metrics is labeled as B. and there's not a market(s) served explanation. 2) Additional contextual information can be useful to enhance transparency. Recommendation- 1) It's necessary to correct the item labels. 2) Other contextual information that we consider useful to be disclosed for the key metrics is: • Products cleared • Size of the market • Number of Clearing and Non-Clearing members • Relevant laws and regulation to which the CCP is subject to • Relevant authorities • Relevant links and a very broad description on how the CCP controls it's risks face to these linked entities • Disclosure/description of relevant risk management policies • Level of segregation and key aspects of portability • Other activities if any
Annex 2 Page 39	Observation- The table should be considered illustrative, because it's highly probable that CCPs would require more space to show clearly their information
Annex 2 Margin Page 39	*Proportions of non-cash collateral held by collateral type List of eligible collateral accepted* Observation- It's useful to have the list, but it's more relevant to show a summary of the approved policy to elect collateral. Recommendation- We recommend that DF indicates the disclosure of the general characteristics of the acceptable collateral, as well as the proportions and a generic list.
Annex 2 Margin Page 39	*Number of non-routine margin calls over last 12 months* Observation- This is an interesting statistic of abnormal situations (market conditions, risk accumulation, etc); however it is important to put this information in a context that facilitates the comprehension of the situations that originated the non-routine margin calls. Recommendation- DF should recommend that a general explanation of why these non-routine margin calls were generated is made.
Annex 2	*The initial margin requirement that would result from simple specified example trades…*

Margin Page 39	 Observation- It's very common that stakeholders ask how margin is computed, however due to the diversity of the products it is important to context this explanation and mention the factors that determines the margin levels. Recommendation- DF should ask also for a general explanation of the methodology an how the parameters and risk factors influence the results of margin / variation margin calls.
Annex 2 Liquidity risk Page 39	*Coverage policy (cover one, cover two, etc.)* Recommendation- For transparency purposes, we consider important to mention in general why the assessed CCP is classified as Cover One / Cover Two; and in this last case, why the CCP is considered to be involved in activities with a more-complex risk profile or that is systemically important in multiple jurisdictions.
Annex 2 Investment risk Page 39	*Summary details of investments held at the CCPs own risk* Observation- This item is not clear enough, because the whole amount of resources invested are at CCPs own risk and CCPs define the risk tolerance of investing its resources. Recommendation- CCP12 would ask further explanation to this item.
Annex 2 Default fund Page 39	*Discussion of ability to call additional contributions from participants* Observation- The discussion is not necessarily profitable to disclose. It's more relevant to establish clearly the ability to call for additional contributions according to the CCP Rulebook, under what circumstances, conditions (for example deadline to replenish the default fund), maximum amount expected to be replenish, the consequences for a Participant if it doesn't replenish the fund, etc. Recommendation- DF should establish that the CCP disclose its ability to call additional contributions from participants.
Annex 2 Uncovered credit losses Page 39	Observation- This is a very relevant item to be disclosed. It is also important to clarify what happens in the extreme scenario that the CCP defaults and where the losses are supposed to be allocated.
Annex 2 Page 39	Recommendation- For CCPs , there should be an extra section on FMI links which should seek brief disclosure of description and nature of links with other CCPs, if any and how risks relating to such links are managed. The disclosure should cover summary of cross margining methodology, if any, including process for movement of margins between CCPs , statistics of maximum exposures on other linked CCPs on intra-day basis, default handling special arrangements, if any and the proposed approach to manage any contagion risk if one of the linked CCPs goes insolvent.

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