

Survey on the Principles for the Regulation and Supervision of Commodity Derivatives Markets

Final Report



OICU-IOSCO

**THE BOARD
OF THE
INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS**

FR08/12	OCTOBER 2012
----------------	---------------------

Copies of publications are available from:

The International Organization of Securities Commissions website www.iosco.org

© *International Organization of Securities Commissions 2012. All rights reserved. Brief excerpts may be reproduced or translated provided the source is stated.*

Contents

Chapter		Page
	Abbreviations	4
1.	Introduction	6
2.	Summary Discussion of Survey Results	7
Appendix A	Spreadsheet of Survey Results	
Appendix B	Summary Table of Survey Results	
Appendix C	Survey Questionnaire	

Abbreviations

Regulators

- Argentina - Comisión Nacional de Valores (CNV)
- Australia - Securities and Investments Commission (ASIC)
- Brazil - Comissão de Valores Mobiliários (CVM)
- Canada (Alberta) - Alberta Securities Commission (ASC)
- Canada (Manitoba) - Manitoba Securities Commission (MSC)
- Canada (Ontario) - Ontario Securities Commission (OSC)
- Canada (Québec) - Autorité des marchés financiers (Québec AMF)
- China - China Securities Regulatory Commission (CSRC)
- Chinese Taipei - Financial Supervisory Commission (Chinese Taipei FSC)
- Denmark - Danish Financial Supervisory Authority (Danish FSA)
- Dubai - Dubai Financial Supervisory Authority (DFSA)
- France - Autorité des marchés financiers (AMF)
- Germany - Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)
- Gibraltar - Financial Services Commission (Gibraltar FSC)
- Greece - Hellenic Republic Capital Market Commission (HRCMC)
- Hong Kong - Securities and Futures Commission (SFC)
- Hungary - Hungarian Financial Supervisory Authority (Hungarian FSA)
- India - Forward Markets Commission (FMC)
- Japan - Ministry of Agriculture, Forestry and Fisheries (MAFF)
- Japan - Ministry of Economy, Trade and Industry (METI)
- Korea - Financial Services Commission (FSC)
- Luxembourg - Commission de surveillance du secteur financier (CSSF)
- Malaysia - Securities Commission (SC Malaysia)
- Mexico - Comisión Nacional Bancaria y de Valores (CNBV)
- The Netherlands - Authority for the Financial Markets (AFM)
- Norway - Financial Supervisory Authority of Norway (FSAN)
- Panama - Superintendencia del Mercado de Valores (SMV)
- Portugal - Comissão do Mercado de Valores Mobiliários (CMVM)
- Romania - Romanian National Securities Commission (RNSC)
- Saudi Arabia - Capital Market Authority (CMA)
- Singapore - Monetary Authority of Singapore (MAS)
- South Africa - Financial Services Board (FSB)
- Switzerland - Swiss Financial Market Supervisory Authority (FINMA)
- Turkey - Capital Markets Board (CMB)
- United Arab Emirates - Securities and Commodities Authority (SCA)
- United Kingdom - Financial Services Authority (FSA)
- United States - Commodity Futures Trading Commission (CFTC)

Other Regulators mentioned

- European Securities and Markets Authority (ESMA)
- Hong Kong Monetary Authority (HKMA)

- Agency for the Cooperation of Energy Regulators (ACER)

Exchanges

- Australian Securities Exchange (ASX)
- Dubai Mercantile Exchange (DME)
- Hong Kong Futures Exchange (HKFE)
- IntercontinentalExchange (ICE)
- ICE Futures Europe (IFE)
- Hong Kong Mercantile Exchange (HKMEx)
- London Metal Exchange (LME)
- London International Financial Futures and Options Exchange – LIFFE
- New York Mercantile Exchange - NYMEX
- NYSE Euronext, Inc. (NYSE Euronext)
- NYSE Liffe Paris
- Powernext
- Tokyo Commodity Exchange (TOCOM)

Legislation/Regulation

- Commodity Derivatives Act (CDA) –a Japanese law
- European Market Infrastructure Regulation (EMIR) –a European Regulation
- Market Abuse Directive (MAD) –a European Directive
- Markets in Financial Instruments Directive (MiFID) –a European Directive
- Markets in Financial Instruments Regulation (MiFIR) –a European Regulation
- Regulation on Energy Market Integrity and Transparency (REMIT) – a European Regulation
- Recognised Investment Exchange and Recognised Clearing House sourcebook (REC) - a UK book of rules and guidance for exchanges and clearing houses
- Recognised Investment Exchange (RIE) –the UK terminology for a UK Regulated Market

Summary of IOSCO Survey on Implementation of the IOSCO Principles for the Regulation and Supervision of Commodity Derivatives Markets

Introduction

At the G20 summit in Cannes in November 2011, the G20 endorsed IOSCO's report and its common principles for the regulation and supervision of commodity derivatives markets. In their declaration the G20 stipulated that Market Authorities¹ should be granted effective intervention powers to address disorderly markets and prevent market abuses. In particular it was stated that they should have the ability to use formal position management powers, including the power to set ex-ante position limits, particularly in the delivery month where appropriate. The G20 Leaders re-affirmed their commitment to enhance transparency and avoid abuse in financial commodity markets, including over-the-counter (OTC) markets. In the G20 declaration at the summit in Los Cabos, Mexico, on June 19th 2012, IOSCO was called on to “report on the implementation of its recommendations on commodity derivatives markets by November 2012.”

In April 2012, IOSCO commissioned a survey on commodity market regulation to be answered by all its members. Answers were received from 37 market regulators and collated by the IOSCO Committee on Commodity Futures Markets (Committee 7). The survey results are contained within this document and show how regulators globally undertake and execute the regulation of both financial and, in some cases, physical commodity markets. For additional information, please see the accompanying spreadsheet, showing results in a color-coded format, and the survey tables offering a more detailed compilation of responses.

Results show that the majority of respondents were broadly compliant with the Principles. Where respondents were not in compliance it was mainly due to the fact that there are no commodity derivatives markets in that jurisdiction. Moreover, not all of the reporting jurisdictions have commodity derivative markets of the same size and complexity and therefore do not currently have regulation which directly addresses these Principles.

Where commodity derivative markets exist and Market Authorities acknowledged non-compliance, many of those Market Authorities have proposed initiatives aimed at achieving full compliance in time. IOSCO will use this survey to discuss approaches to assist Market Authorities in implementing the Principles.

Completing the survey has provided the responding Market Authorities with the opportunity to self-audit current regulatory practices, which will prove useful for their ongoing work.

¹ A Market Authority is a governmental regulator, a self-regulatory organization or a regulated market.

Principles on Contract Design

Principle 1: Accountability – *Market Authorities should establish a clear framework as to design and review criteria or procedures for commodity derivatives contracts. Market Authorities should be accountable for compliance with statutory and/or self-regulatory standards on a continuing basis and should retain powers to address the provisions of existing contracts which produce manipulative or disorderly conditions. At a minimum a statutory Market Authority should have legal powers to address and where necessary to vary contract provisions which produce, or are deemed likely to produce, manipulative or disorderly conditions.*

Nearly all members who responded to the survey have a clear set of regulations, policy statements or guidelines that establish a framework that governs the design of commodity derivatives contracts. Members generally have listed statutes or rules that impose a legal obligation on the Market Authority to comply with commodity contract design standards. Some jurisdictions, such as Saudi Arabia and Denmark, which do not presently have commodity derivatives markets, do not have statutes or rules specifically relating to commodity contracts.

Nearly all members are in jurisdictions where the Market Authority has the power to address contract provisions that produce manipulative or disorderly conditions. In general, members approve, or have the authority to disapprove, contracts that trade on commodity derivative markets. Exchanges or the regulators in most jurisdictions have explicit authority to intervene to limit or suspend trading to address market integrity concerns.

Japan's MAFF and METI are notable in their authority because they are also the regulator for the underlying physical markets. Market Authorities that do not regulate the underlying physical market use a variety of methods to assess the underlying markets. For example, the U.S. CFTC requires all large futures traders to keep records of their related cash transactions, the Brazilian CVM works with an institute at the University of São Paulo to survey market participants, and a number of other Market Authorities have divisions that conduct analysis of the underlying market to detect changes. Approximately half of surveyed regulators have formal rules or guidelines that trigger re-evaluation. However, other Market Authorities stated they would re-evaluate the terms of a derivatives contract if there were a change in the underlying product. Finally, most Market Authorities have a procedure for addressing commercial participants' concerns about commodity derivatives contracts. In Germany, for example, there is an informal involvement of commercial participants through the Exchange Council.

Principle 2: Economic Utility – *Contracts should meet the risk management needs of potential users and promote price discovery of the underlying commodity. The design and/or review of commodity derivatives contracts should include a determination that the contract can meet the risk management needs of potential users of the contract and/or promote price discovery of the underlying commodity. The determination of economic utility may be supported by surveys of potential contract users or may be implied - for example, from an analysis of the physical market. The regulator should, as a minimum requirement, be informed of the type of products to*

be traded on an exchange or trading system and should review and/or approve the rules governing the trading of the product.

The majority of respondents employed specific regulation to ensure the integrity of the processes for satisfying the risk management needs of potential users and the promotion of price discovery in the underlying commodity. Others opted for a more informal process in obtaining feedback from stakeholders. Contract design, in a number of cases, is an interactive process between the exchange introducing the product and the regulator (for example, between the DFSA and DME in Dubai). Similarly, Hong Kong's HKFE and HKMEX use feasibility studies and the input and commentary from participants to gauge market demand. This process aims at simultaneously weighing risk assessment measures and achieving proper design. Some participants do not have a set of rules in place or a formalized process of assessment, but rely instead on market forces to determine the ultimate success of a product.

Those respondents in jurisdictions with commodity derivative exchanges affirmed they have a minimum requirement to be informed of new products. Jurisdictions required either direct approval by the regulator or a review process which in some instances (e.g. the U.S. and Argentina) relies on a self-regulatory body being responsible for the design or oversight of the product but requires submission to the regulator for approval or review. Almost all jurisdictions could point to specific rules or regulations that enforce either the reporting or approval process. In the German example, the review and approval process is entirely the exchange's responsibility. The exchange, however, has an obligation to report to the regulator, who can reject the product if it is deemed to affect the orderly conduct of trading.

Principle 3: Correlation with Physical Market - *Contract terms and conditions generally should, to the extent possible, reflect the operation of (i.e., the trading in) the underlying physical market and avoid impediments to delivery.*

All respondents who have commodity derivative exchanges in their jurisdictions indicated that contract design needs to reflect prevailing market practices and needs, as much as possible, to reflect price conditions in the underlying market and facilitate convergence. The design process is left to exchanges, which must respect their own rules relating to contract specifications and unimpaired delivery, with the aim of reducing non-convergence and manipulation. In cases where exchanges set rules governing this process, the regulator must approve these rules. In other cases, the product itself is submitted to the regulator for review and approval. In both cases, some jurisdictions enforce specific criteria for this process, while others have adopted a more interpretive approach with wider parameters of analysis.

Hong Kong's HKFE and HKMEX have a more interactive approach with their stakeholders, conducting feasibility studies and using models based on product ideas, market opportunity, competitive advantage, key success factors and business risks. The responses from the other jurisdictions largely indicated a similar process but did not specifically delineate how their exchanges arrived at their contract designs.

Principle 4: Promotion of Price Convergence through Settlement Reliability - *Settlement and delivery procedures should reflect the underlying physical market and promote reliable pricing relationships and price convergence and should be regularly evaluated to ensure that they meet this standard. Settlement and delivery terms should be specified and made available to market participants.*

A majority of jurisdictions adhere to this Principle. Although all jurisdictions considered it a desirable goal that the settlement price in a physical commodity derivatives contract be a reliable indicator of transactions in the physical market, not all had directives in place to facilitate this objective.

China did not experience problems in this regard, which they attribute to their having only physically delivered contracts, but the CSRC explained it will adopt cash-settled futures-product guidelines when needed. France, too, cited only physical deliveries on contracts at NYSE LIFFE Paris and Powernext. Germany imposes no such condition on the markets it oversees. Although it has no official requirements, SC Malaysia will seek comments from the market to ensure that derivative contracts can serve as a reliable indicator. Other jurisdictions that indicated no requirements were Mexico, Panama, Portugal, and South Africa. In the case of South Africa, "masters studies" are conducted from time to time to confirm the relationship between the futures market and the physical market.

The other half of the respondents employs rules and regulations that impose requirements on the Exchanges to promote product design aimed at achieving price convergence. The U.K. FSA cited Article 37 of MiFID Implementing Regulation and REC 2.12.e 1 & 2, and the CFTC described monitoring cash settled contracts for the integrity of the cash price series used to settle futures contracts. Most other jurisdictions were able to point to specific regulation imposed by the regulator or the exchange that would enhance delivery procedures and tighten the price relationship between the contract and the underlying commodity.

Principle 5: Responsiveness - *The views of potential contract users should be taken into account in designing commodity contracts.*

Where applicable, jurisdictions were highly compliant with this Principle. The differences arose in the methods used to achieve the end results. Most jurisdictions employed regulation to encourage market or stakeholder feedback that is used by the exchanges to design contracts. The U.K. FSA stipulates that as part of their submission to the FSA for new financial products, "the [Recognised Investment Exchanges] ("RIEs") must evidence that they have consulted with market participants on the suitability of the contract specifications and other requirements." Similarly, the U.S. CFTC cited Part 38 Appendix C which requires the "designated contract market ... [to] consult with market users to obtain their views and opinions during the contract design process..."

Japan's MAFF and METI both cited the same regulations which, as part of the criteria for the authorization, licensing, and approval of a new commodity market, require confirmation that a satisfactory number of participants with an overall experience in trading the underlying

commodity be involved. The requirement to publicly notify participants of a commodity product also ensures the views of stakeholders are taken into account.

Other jurisdictions rely on the exchanges to adequately consult with stakeholders without the need for regulation. Canada's AMF, ASC and MSC all rely on the exchanges to demonstrate to the regulator that they have taken sufficient steps to ensure there is market demand for the product and that market needs are being met in this respect. Mexico's derivative exchange looks to design products that satisfy participant needs but no formal regulatory structure is in place to ensure this.

Principle 6: Transparency - *Information concerning a physical commodity derivatives contract's terms and conditions, as well as other relevant information concerning delivery and pricing should be readily available to Market Authorities with respect to all derivatives transactions within its jurisdiction and to market participants in organized derivatives markets.*

Without limiting the factors that a Market Authority includes in those terms and conditions, market rules should specify, for example:

- i) Minimum price fluctuations (price ticks);*
- ii) Maximum price fluctuations (daily price limits), if any;*
- iii) Last trading day;*
- iv) Settlement and delivery procedures;*
- v) Trading months;*
- vi) Position limits, if any;*
- vii) Reportable levels at end-user level; and*
- viii) Trading hours.*

The vast majority of respondents have rules requiring that relevant information concerning physical commodity derivatives contracts be made available to Market Authorities. Countries in which Market Authorities do not have access to such relevant information include Greece, Gibraltar, Mexico, and Saudi Arabia, none of which have a commodities derivatives market. Generally, the national regulator – or the market itself when it has been delegated authority – has full access to clearing and margining information. Information is generally available on the internet, usually through the market's website. In some jurisdictions that do not have commodities markets existing equities rules would apply to any future commodity derivatives.

Most respondents have commodity derivative exchanges that provide incentives to market-makers, and these incentives are subject to regulatory oversight. Denmark, Greece, Gibraltar, Mexico, and Saudi Arabia do not have commodities derivatives markets. India, Norway, Panama, and UAE either do not have these markets and, if they do, they do not publicize and/or regulate incentive schemes. Incentive schemes for market-makers are generally published on the

market's website for public viewing. Incentive schemes are treated in various ways. In most cases, they are bilateral agreements (sometimes standardized) between the exchange and the participant/market-maker, and subject to Market Authority approval; in some cases, incentive schemes are considered rules of the exchange and subject to oversight. Some noteworthy structures are to be found in Brazil, which incentivizes hedgers but requires them to declare their status as hedgers at the time of registration, and Hong Kong's HKFE, which incentivizes liquidity providers in the gold futures market.

Principles for Surveillance of Commodity Derivatives Markets

Principle 7: Framework for Undertaking Market Surveillance – *Market Authorities should have a clear and robust framework for conducting market surveillance, compliance and enforcement activities and there should be oversight of these activities. A market surveillance program should take account of a trader's related derivatives and physical market positions and transactions. Market surveillance programs should be supported by sufficient resources, access to physical market data and analytical capabilities.*

Nearly all respondents to the survey have a clear and robust framework, derived from statute, regulations, rules or agreements, for conducting market surveillance, compliance, and enforcement activities. The exceptions are Panama and the UAE, which indicated that they do not have such a framework in place. However, four jurisdictions that responded in the affirmative (Canada (Québec), Canada (Ontario), Denmark and Saudi Arabia) do not presently have an underlying commodities market at this time, but indicated that an appropriate framework for surveillance, compliance and enforcement either already exists, or would exist, when a commodities market came into being.

A significant majority of respondents indicated that they monitor the day-to-day trading activity in their markets, both in real-time and post-trade. Denmark does not have a framework and indicated that, were it to have an underlying commodities market, surveillance would be conducted both post-trade by the Danish FSA, and in real-time by the regulated market. Germany indicated that surveillance of one commodity futures exchange is currently conducted only on a T+1 basis, but that it expects to introduce real-time surveillance.

A significant majority of respondents indicated that their surveillance program monitors the conduct of market intermediaries through examination of business operations, and collection and analysis of trade information. Most affirmative respondents indicate that this type of monitoring occurs on a T+1 basis. None of the negative respondents (Argentina, Denmark and Panama), seem to have plans to adopt this type of monitoring in the near future. Luxembourg's response suggests, a more detailed reporting regime will exist across the European Union with the implementation of EMIR, MiFIR and MiFID II legislation.

Most respondents confirmed that arrangements are in place to permit Market Authorities to analyze on-exchange and related physical market and OTC derivatives activities, when needed, on an aggregated basis. However, a number of affirmative respondents clarified that these arrangements are currently only in place for on-exchange activities, and not for OTC derivatives

activities (although many respondents generally indicated that new laws and/or regulations will be introduced requiring the analysis of OTC activity). Most of the negative respondents (Argentina, Hungary, Malaysia, Mexico, Panama and Romania) indicated that they did not have current plans to institute arrangements that would permit aggregated analysis, although Panama and Malaysia indicated they intended to examine the issue.

A significant majority of respondents indicated that their surveillance programs are adequately resourced to meet the requirements of Principle 7. Among the respondents who indicated they were not sufficiently resourced, a lack of either skilled personnel, or of clarity with respect to organizational structure, was cited as the cause.

Principle 8: Monitoring, Collecting and Analyzing Information – *Market Authorities should develop, employ and maintain methods for monitoring of trading activity on the markets they supervise, collecting needed information and analyzing the information they collect that are efficient and suitable for the type of market being supervised. Effective monitoring of orders and electronic transactions requires real-time monitoring capabilities, supported by automated systems that detect trading anomalies. Monitoring, collection and analysis should also focus on intra-day trading.*

The vast majority of respondents have developed, employed, and maintained methods for i) the monitoring of trading activity on the markets they supervise, ii) the collection of needed information, and iii) the analysis of the information they collect. The two exceptions were Argentina's CNV and Panama, both of which have noted that they are working on steps to improve their monitoring of such markets. However, a number of respondents who answered in the affirmative to the above principle indicated that they are reviewing their current systems in order to implement changes.

Amongst affirmative respondents, there is a spectrum in terms of the type of monitoring, and in terms of the size and sophistication of the markets regulated. The survey indicated that the majority of jurisdictions use methods supported by automated systems to collect and analyze data for trading patterns and trading anomalies. As for those respondents who do not use automated systems, the current systems of review are sufficient in most cases due to the size of the respective markets.

Furthermore, the survey indicated that a significant majority of respondents carry out market surveillance programs that take into account intra-day trading. Once again this type of monitoring of larger and more sophisticated markets is more complete.

Principle 9: Authority to Access information - *Market Authorities should have the authority to access information on a routine and non-routine basis for regulated commodity derivatives markets as well as the power to obtain information on a market participant's positions in related over-the-counter (OTC) commodity derivatives and the underlying physical commodity markets. In particular, Market Authorities should have the power to:*

- i) *access information that allows the reconstruction of all transactions on a regulated commodity derivatives market (audit trail);*
- ii) *access information that permits them to identify large positions (i.e., “large exposures” or “concentrations”) and the composition of the market in question;*
- iii) *access information, if needed, on the size and beneficial ownership of positions held by a market participant in order to aggregate positions held under common ownership and control;*
- iv) *access information about a market participant’s transactions and positions in related OTC and physical commodity markets; and*
- v) *take appropriate action where a commodity derivatives market participant does not make requested market information available to the Market Authority.*

Market Authorities should review the scope of their authority to obtain such information and if necessary to request such power from the relevant legislature or other appropriate governmental bodies.

All respondents in jurisdictions with commodities derivatives markets have authority to require access to relevant information concerning transactions and large position holders, and to sanction non-cooperative parties. Even in some markets that do not currently have commodity derivatives markets these powers would come into effect, under the current framework, as soon as a commodity derivative market is authorized. A mix of approaches are used, without a definitive favorite; some require trade logs to be sent to the regulator, whereas others require that only trade information be sent that could reconstruct the trade within a reasonable period of time. Other respondents delegate such authority to the exchange that is responsible for developing procedures and policies for the reconstruction of audit trails. Many respondents also have the ability to require exchanges to publish position limits or at least identify high concentrations of capital. Some require the submission of reports; whereas others are more passive and require records to be kept that allow an investigation to determine position levels and beneficial ownership. Some respondents lack access to individual participants’ positions and transactions, such as the UAE. In Europe, EMIR will require that Market Authorities have such power. Sanctioning abilities vary widely but nearly all have the ability to fine, imprison, and suspend the licenses of non-cooperative parties.

Principle 10: Collection of Information on On-Exchange Transactions – *In respect to on-exchange commodity derivatives transactions, a Market Authority should collect information on a routine and regular basis on:*

- i) *the pricing of contracts throughout the trading day in real time;*
- ii) *daily transactional information including time and date of trade, commodity contract, delivery month, expiry date, buy/sell, quantity, counterparties to the contract, and price of the contract;*
- iii) *daily reports of end-of-day positions held by market intermediaries (both “whole firm” and by individual trader) and by other market participants, where the size of the position is above a specified level (“large position”). Information*

collected should permit a Market Authority to identify each position holder (by name or code) down to the first customer level, and the size of position, by contract month, for each position holder;

The Market Authority should have the capability to aggregate position holder information promptly in order to identify positions under common ownership or control; and

iv) where appropriate, warehouse stocks or other deliverable supply.

The majority of respondents in jurisdictions with commodities derivatives exchanges (or comparable trading facilities) indicated that a relevant Market Authority has access to information relating to the pricing of contracts. A substantial portion of these respondents indicated that such access is exercised by the exchanges themselves as an element of their trading surveillance functions. Similarly, a large majority indicated that Market Authorities have access to daily transaction data. In most cases, these data are collected by the exchanges and made available to the Market Authorities through the provision of a daily or periodic report, or in response to ad hoc requests. Where respondents provided information with respect to the type of data collected, virtually all indicated that these data referenced time and date of trade, contract, delivery month, expiry date, buy/sell, quantity, and counterparties. In a few cases, the respondents indicated that the collected information would not allow them to provide specific information relating to the ultimate beneficial party to the transaction. A substantial majority also indicated that Market Authorities had access to end-of-day report of positions held by intermediaries. Many respondents indicated that these position reports detail all outstanding positions down to the beneficial holder level, while others could only detect positions to the first customer level. A large majority of respondents indicated that data are available to differentiate proprietary positions from those held for customers. Approximately half of the respondents indicated that they do not receive reports on warehouse stocks or supplies of underlying commodities as their markets did not provide for physical delivery of commodities underlying. However, even those who receive this type of warehouse or underlying information indicated that this information is not available on a routine basis, but is only available to the Market Authority on request. Only one respondent indicated that they collect this information on a routine and regular basis.

Most respondents indicated that the information collected allows Market Authorities to identify position holders down to the first client level. However, about half of the respondents indicated that the information would only be available upon request to the intermediary (exchange, clearing house or participant) collecting this information. Less than half of the respondents indicated that information was available to identify the type of trading conducted in an account. The type of information that is collected by these respondents reveals: (i) whether the account is a proprietary or client account; (ii) whether the account is for commercial or institutional entities or for individuals; and (iii) whether the account is for hedging or speculative purposes. The number of respondents collecting each type of information was roughly equal.

Principle 11: *Collection of OTC Information* – *In respect of OTC commodity derivatives transactions and positions, a Market Authority should consider what information it should collect on a routine basis and what it should collect on an "as needed" basis. A Market*

Authority that has access to a relevant Trade Repository's ('TR') data should take such broader access into account, as well as its statutory obligations with respect to the TR, in constructing its data collection policies.

The majority of respondents collects specifically defined information on a regular basis and will have an obligation to report post-trade data in line with global and local regulatory rule-making.

Canadian securities regulators have been examining what information would be required from a Trade Repository on a continuous and as needed basis. Hong Kong will introduce a mandatory reporting obligation whereby certain specified OTC derivatives transactions (i.e. reportable transactions) must be reported to the trade repository ("TR") that will be set up by Hong Kong's HKMA. The Hong Kong SFC will consider the types of information that should be collected from the TR, and it will discuss this with HKMA. The CFTC passed rules in the second half of 2011 related to the collection of the OTC data, but historically CFTC has only collected OTC information for related markets on an as needed basis through its "special call". Similarly, the French AMF currently has the ability to request any OTC information on an "as needed" basis.

As there is currently no commodity derivatives market in Saudi Arabia, there is only limited transaction reporting for OTC transactions. In Switzerland OTC reporting to trade repositories will be adopted within the coming months in line with many other jurisdictions.

Principle 12: Large Positions – *Market Authorities should require the reporting of large trader positions for the relevant on-exchange commodity derivatives contracts. The Market Authority should have the ability to aggregate positions owned by, or beneficially controlled on behalf of, a common owner.*

The vast majority of respondents that have a regulated commodity market in their jurisdiction note that they have the means to identify large trader positions for the relevant on-exchange commodity derivatives contracts.

Within the majority, there were some respondents that specifically require in their exchange rules and/or laws large trader position reports, such as the Hong Kong SFC, the U.K. FSA (regarding ICE Futures Europe and LIFFE), Japan's MAFF and METI, China's CSRC, and Dubai's DFSA. There were also other jurisdictions where there is no specific requirement for large trader positions reports, but where, by virtue of other reporting obligations, large trader positions could be identified. For example, Brazil and Romania both require the reporting of all trades and positions, as does Australia's ASIC. Canada (Alberta)'s market surveillance staff monitors the large traders' activities through the exchange's daily reports on member positions and transactions.

India's FMC and a large number of European Union countries are in the process of implementing these provisions, but are either in discussion with the exchanges, or are completing reviews of legislation. The remaining small minority of respondents either did not have a regulated commodity derivatives market or did not express an intention to implement this Principle.

A vast majority of respondents have the ability to aggregate positions owned by, or beneficially controlled on behalf of, a common owner. However, the extent and means by which each Market Authority has this ability varies by respondent.

Australia's ASIC, Brazil's CVM, Hong Kong's SFC, Singapore's MAS, South Africa's FSB Canada (Alberta) and Canada (Québec) all have systems or database analysis tools in place to allow them to group positions. Other jurisdictions can request beneficial ownership information from the respondents or the exchange and would be able to aggregate positions based on this information. In Japan, both MAFF and METI can aggregate positions based on the information submitted under Commodity Derivatives Act (CDA) to commodity exchanges, or they can request the information from the Commodity Exchange. Further examples can be seen in the U.K., where the FSA can request this information from the Recognised Investment Exchanges (RIEs).

India's FMC and Saudi Arabia's CMA both have the ability to aggregate positions based on beneficial owner information, and based on external parameters such as tax authority identifier numbers or prior knowledge of national corporate structures. Both the Netherlands AFM and Panama are intending to adopt regulations that would enable the Market Authority to identify beneficial control and aggregate related positions.

Principles to Address Disorderly Commodity Derivatives Markets

Principle 13: *Intervention Powers in the Market* - Market Authorities should have, and use, effective powers to intervene in commodity derivatives markets to prevent or address disorderly markets and to ensure the efficiency of the markets. These powers should include the following:

- i) *Position Management Powers, Including the Power to Set Position Limits* - Market Authorities should have and use formal position management powers, including the power to set ex-ante position limits, particularly in the delivery month.

These should necessarily include position management powers that:

- a) *Establish a trader's automatic consent to follow an order of the Market Authority when that trader's position reaches a defined threshold size or any size, which the Market Authority considers prejudicial to orderly market functioning, taking into account all relevant circumstances. They should also require such a trader to comply with the Market Authority's order, either not to increase a position or to decrease a position; and*
- b) *Authorize a Market Authority to place ex-ante restrictions on the size of a position a market participant can take in a commodity derivatives contract (i.e., position limits).*

- ii) *Other Discretionary Powers - Market Authorities should also have the powers to employ any of the following measures, as appropriate, to address market disruption or the perceived threat of such disruption or to assist market surveillance efforts:*
- a) *the imposition of price movement limits;*
 - b) *calling for additional margin, either from customers or from clearing members on behalf of their clients;*
 - c) *ordering the liquidation or transfer of open positions;*
 - d) *suspending or curtailing trading on the market (e.g., trading halts and circuit breakers);*
 - e) *altering the delivery terms or conditions;*
 - f) *cancelling trades;*
 - g) *requiring owners of positions to specify delivery intentions; and*
 - h) *requiring traders to disclose related OTC derivatives or large physical market positions.*

The vast majority of respondents answered that Market Authorities do have the power to set ex-ante position limits. In most cases, this power was held by the exchange within each jurisdiction. For example, in Hong Kong, both the HKFE and HKMEx rules provide authority for setting position limits. Other examples include the case of the U.K. and the three main derivatives exchange (ICE Futures Europe, LIFFE and LME), and in Japan where, under the CDA, a commodity exchange is responsible for the detailed regulations on matters relating to trade and contracts. In France, the power to place position limits is with the clearing house.

In some jurisdictions, the regulators have the authority to set position limits. In the U.S., under the Dodd Frank Act, the CFTC is required to design and enforce a revised series of position limits and has issued final rules for this. In Malaysia, the SC Malaysia has the power to impose a limit on the positions that are held or controlled in any one contract. In Hong Kong, the SFC has the power to set statutory position limits. In India, the position limits are prescribed by the governmental regulator.

A number of respondents mentioned that they had approval powers or powers to influence the rules of the exchange. These respondents include the Singapore MAS, which requires the exchanges to request approval for changes to their framework for setting, varying, or removing any position limited on the commodity futures contracts traded in their market. FINMA in Switzerland can influence the exchange to amend rules. For those respondents who did not have formal position management powers for commodity derivatives, this was either due to their not

having a commodity derivatives market (e.g. Mexico, Saudi Arabia) or due to there not being any explicit legislation (e.g. Norway). Panama did not have any powers in place but is currently reviewing the implementation of this power.

A majority of the respondents have powers that permit various measures of intervention, either at the Market Authority level or at that of exchanges and clearing houses.

In the U.K., margins are not managed by the Market Authorities, but by the clearing house regulated by the FSA under the Recognition Requirements. In the U.K., all other powers mentioned are vested with the three RIEs. However, regarding sub-question (h), there is no requirement to disclose, but the information is available to the RIEs on request. Similarly in Argentina, where all the mentioned powers are vested with the self-regulated markets, there are no regulations requiring traders to disclose OTC transactions that are not registered or formalized.

Many respondents have powers shared with market operators and clearing houses. In Canada, the Canadian Derivatives Clearing Corporation can make margin calls if it deems necessary, and otherwise, all other powers are vested with the regulatory authority or the exchange. In the U.S., the CFTC and the market operators both have the power to suspend and halt trading, set margin, price limits, and circuit breakers, or otherwise intervene in the market. In Romania, these powers are also shared among the market operators, the clearing houses, and the regulator.

Japan's MAFF and METI both have direct powers under CDA for these intervention powers; in addition Commodity Exchanges have similar powers under their own market rules. India's FMC, Hong Kong's SFC and Dubai's DFSA are examples of jurisdictions where the respondents have stated that they are able to exercise all these powers under broader provisions in their regulations.

The majority of respondents have used intervention powers in their markets. The situation that warranted the use of these powers has varied by jurisdiction, albeit with common elements among all jurisdictions.

Most Market Authorities exercise powers to call for additional margin, as part of their risk management procedures. For example, in South Africa, clearing members often call for additional margin when they view their clients' and relevant positions as risky. India's FMC also utilizes additional margin calls when mitigating uni-directional price movements and Norway's FSAN cited that additional margin calls from the clearing houses are common. China's CSRC used the power to call for additional margin in the early phase of development in China's futures market.

In times of high volatility, the Market Authorities exercise the powers of setting price limits, for example, Germany's BaFin, or intra-day margins as introduced by ASX 24 during the global financial crisis.

A large number of Market Authorities invoke such powers, either in times of economic and financial crisis (for example, Argentina and Australia) or when dealing with a specific incident of market abuse, such as MF Global. U.S. CFTC used their powers when responding to the MF Global issue, which is one of only four instances where the CFTC has invoked these powers

since 1980. Dubai's DFSA, Hong Kong's HKMEX and Germany's BaFin also used the power of cancelling trading privileges when responding to MF Global.

There are, however, some Market Authorities that have not used these powers, either because market intervention measures are entirely delegated to market operators and there is no need for the Market Authorities to be involved (Canada (Alberta)), or because no need has yet arisen.

Principle 14: *Review of Evolving Practices* - Market Authorities should have or contribute to a process to review the perimeter of regulation to ensure that they have the power to address evolving trading practices that might result in a disorderly market. Exchanges and self-regulatory organizations play a critical and complementary role with governmental regulators in identifying such practices.

All respondents except three stated that they either contribute to or have a process to enable them to review the perimeter of regulation in their jurisdiction. Many Market Authorities have a rolling review system in place to ensure that recent and current trade practice issues are within their regulatory perimeter. The SC Malaysia, for example, follows a dual cycle process, whereby longer-term structural issues follow a ten year cycle and shorter-term issues follow a twelve month cycle. In addition to these regular assessment cycles, the SC Malaysia also identifies issues as they arise on an ad hoc basis. The DFSA also conducts a rolling review of their Rulebook Modules, and the South Africa FSB also has a five year review cycle in place for all legislation falling under their regulatory responsibilities.

A number of Market Authorities have specific advisory bodies tasked with policymaking, such as the Companies and Markets Advisory Committee (CAMAC) and the Council of Financial Regulators (CFR) in Australia, the Risk Identification Committee (CIR) in Brazil, the Securities Council (Wertpapierrat der BaFin) in Germany and the Canadian Securities Administrators (CSA) in Canada. The CSA in Canada is currently finalizing a new rule that was deemed necessary to ensure that the risks associated with electronic trading were managed efficiently.

The role of reviewing the perimeter of regulation is often viewed as a shared or delegated responsibility between the market authority and the market operators. The U.K. FSA and the RIEs both have responsibilities and obligations to ensure that regulation is adapted to the needs and risks in the market. Similarly in the U.S., the CFTC has the responsibility to issue new rule makings and to recommend changes in law to address evolving trading practices that might result in a disorderly market. However, the Designated Contract Markets ("DCMs") are required to have continual capacity and responsibility to ensure that their rules and resources are adequate to efficiently regulate their markets.

Principles for Enforcement and Information Sharing

Principle 15: *Rules and Compliance Programs* - Market Authorities should have rules, compliance programs, sanctioning policies and powers to prohibit, detect, prevent and deter abusive practices on their markets, including manipulation or attempted manipulation of the

market. The rules and compliance programs should take account of the whole position of the market participant (i.e., all positions under common ownership and control). There should be clarity as to what constitutes manipulative, abusive conduct or other prohibited conduct.

Specific practices which Market Authorities should seek to detect and prevent include, among others:

- i) causing, or attempting to cause, artificial pricing in the market;*
- ii) creating a false or misleading appearance of active trading;*
- iii) disseminating false or misleading information in respect of the market or conditions that affect the price of any commodity derivatives contract;*
- iv) creating, or attempting to create, a corner or squeeze, in which an abusive controlling position is accumulated in the physical and/or futures or OTC markets, forcing those holding short positions to settle their obligations, by purchase or offset or otherwise, to their detriment;*
- v) abuse relating to customer orders;*
- vi) "wash trades", involving no change of beneficial ownership or economic purpose;*
- vii) collusive trades, which seek improperly to avoid exposure to the pricing mechanism of the market;*
- viii) violation of applicable position limits;*
- ix) concealment of a position holder's identity, and misuse of information.*

Most of the respondents do have legislation in place that determines what constitutes manipulation. The majority of these use a two-tier approach, with laws and statutes defining market abuse and market rules providing further detail as to what constitutes market abuse.

For example, the U.K. FSA's Code of Market Conduct, which represents the FSA's implementation of the Market Abuse Directive (contained in the U.K. Financial Services and Markets Act 2000), governs what is market abuse. The RIEs monitor market abuse types under the relevant exchange rules. The DFSA and SC Malaysia also define prohibited conduct and offences in their primary legislation, whereas the exchanges implement rules, in addition to statutory provisions, through their rule books.

Some respondents cited only statutory provisions. An example is Switzerland, where FINMA regulated entities were bound by the FINMA circular on market conduct rules and where non-FINMA regulated entities were bound by the Criminal Code. This is now changing however, with authority given to FINMA even for non-regulated entities, as long as there is a link to the

regulated market. Similarly, in Saudi Arabia, explicit power has been given to the CMA to combat manipulation, which is done through the Capital Market Law and Market Conduct Regulations.

A small number of respondents did cite exemptions in their jurisdictions which are not subject to market abuse provisions, either at the regulatory or market operator level. For instance, HKMEX allows, in some instances, that members may engage in pre-execution discussions with regard to transactions executed on the exchange, and block trades are also permitted for pre-execution discussion transactions. Japan's MAFF and METI also exclude block traders from the main provisions surrounding market abuse, but with the caveat that certain conditions are met for block traders, according to the exchange rules.

In Mexico, the rules that govern derivative exchanges only require that the exchanges oversee correct price formation and they do not govern market manipulation. Panama does not have these provisions in place for commodity derivatives. In India, the FMC is in the process of formulating comprehensive guidelines prescribing what constitutes manipulation, abuse, or other prohibited conduct.

Most jurisdictions where statutes and rules prohibit manipulation also cover attempted manipulation by virtue of the terminologies used in the definitions. For example, "attempt to use or employ" (CFTC), "intends" (Argentina CNV), "attempt" (Australia ASIC / Danish FSA / India FMC) "aiming at" (Brazil) or "which may result" or "is likely to" (DFSA). In Germany, the definition states that a practice is abusive if it has the intention to influence.

However, there were some jurisdictions where attempted manipulation was not covered. In the U.K., under EU Legislation, the authorities only have the power to sanction for actual manipulation due to the fact that the burden of proof is that the market impact has to be evidenced. The current revision of the Market Abuse Directive and resulting new Directive proposes to address this by providing the power to sanction attempted manipulation. The same is the case in Norway, Romania and France, although, under the rules of France AMF, prohibition of transactions or orders with regard to manipulation does include those that are likely to give false or misleading signals.

In Brazil, attempted manipulation is not governed by the Market Authorities' rules or regulations, but is punishable under criminal law. Similarly, in the Netherlands, although attempted manipulation is not captured under administrative law, the Public Prosecutor is able to investigate market manipulation as a felony and as an economic criminal offence, and these powers do extend to attempted manipulation.

Almost all respondents affirmed that their Market Authorities have a compliance program with the required powers in place to detect, deter, and refer any prohibited conduct, and sanction any prohibited conduct. However, where these powers, responsibilities, and obligations lie varies across jurisdictions.

For example, in the U.K. all exchanges have compliance monitoring plans in place to visit and audit their members, whereas in Australia, ASIC has a timetable for review of individual market

participants to ensure their ongoing compliance. Canada (Manitoba) has a dedicated compliance department which conducts periodic on-sight reviews of exchange and clearing house operations to determine compliance.

Sanctioning powers are often split between Market Authorities and market operators; France AMF can impose administrative sanctions and the U.K. FSA is the sole authority for sanctioning market abuse in the U.K. In China, futures exchanges have the power to impose disciplinary sanctions on self-regulatory violations, but the CSRC will impose administrative penalties on violations of regulations. As part of the overall governance framework of SC Malaysia, a Sanctions Committee was established to deliberate and decide on the appropriate administrative sanctions following breaches detected by its Supervision Division.

The powers to detect and deter prohibited conduct most often seem to lie with the market operators, for example in Alberta, Norway, or Dubai. Malaysia adopts the approach of co-operative regulation in which SC Malaysia and Bursa Malaysia undertake supervision of market participants in detecting breaches of relevant laws, rules and regulations.

The referral for enforcement action also naturally differs, depending on where the detection of market abuse occurs. In the U.K., with the RIEs primarily responsible for the detection of prohibited conduct, the referrals are from the RIEs to the U.K. FSA. In Australia, the situation is similar, with referrals directed to ASICs deterrence team and then potentially on to the Market Disciplinary Panel or Director of Public Prosecutions. In Malaysia, the exchange is required under its rules to refer to the SC those cases where the securities laws have been breached.

Principle 16: Framework for Addressing Multi-Market Abusive Trading - *The overall framework for market surveillance and enforcement within a jurisdiction should be structured to provide for active and coordinated detection and enforcement action against manipulative or abusive schemes that might affect trading on multiple exchange and OTC markets, as well as the underlying physical commodity markets.*

Where there are multiple exchanges in a jurisdiction, the majority of the respondents have a framework in place to share information across exchanges. However, most jurisdictions surveyed have only one derivatives market.

In terms of regulatory jurisdiction over the OTC and physical market, responses were varied. Where a commodity derivatives market exists, the majority of financial regulators have the ability to investigate market abuse in the underlying physical market if the price of the related derivative is deemed to have been affected.

In the case of wholesale electricity and gas markets in the European Union, for example, there is a provision under the REMIT legislation for close cooperation between ACER, ESMA and both national physical market regulators and national financial market regulators.

In terms of the reach of regulation into the OTC markets, many European financial regulators will have greater jurisdiction over these markets when the EMIR legislation on mandatory

reporting of OTC transactions to trade repositories comes into force in early 2013. Similarly, the Canadian Securities Administrators (CSA), which comprises the 13 Canadian securities regulatory authorities, has established the CSA Derivatives Committee to review the state of the OTC derivatives markets in Canada.

Authorities such as the U.S. CFTC, Japan's MAFF and METI, Singapore's MAS and Australia's ASIC have the authority and techniques to investigate trading positions whether listed, OTC, or underlying physical contracts, if those transactions are deemed to have been traded with the intent to fluctuate on-exchange quotations.

Principle 17: Powers and Capacity to Respond to Market Abuse - *Market Authorities should have adequate powers and capacity to investigate and prosecute actual or suspected market abuse, including attempted manipulation. IOSCO members that are responsible for the oversight of commodity derivatives markets should have all of the powers required by the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMOU).*

With very few exceptions, respondents to this question have the power to obtain documents and any information from a market participant in the case of investigations into market abuse.

Not all respondents have the power to initiate criminal proceedings themselves. However, those without direct powers to prosecute have power to refer market abuse cases to the public prosecutor in their respective jurisdictions.

The table below summarizes the 'A' and 'B' signatories to the IOSCO MMOU, which allows for the exchange of information between regulatory authorities.

A Signatory	B Signatory	Not a Signatory
Argentina CNV	Panama	Canada MSC
Australia ASIC		Greece HCMC
Brazil CVM		Gibraltar FSC
Canada AMF		India FMC
Canada ASC		
Canada OSC		
China CSRC		
Denmark DFSA		
Dubai DFSA		
France AMF		
German BaFin		
Greece HCMC		
Hong Kong SFC		
Japan MAFF		
Japan METI		
Korea FSC/FSS		
Luxembourg CSSF		

SC Malaysia		
Mexico CNBV		
Netherlands AFM		
Norway FSAN		
Portugal CMVM		
Saudi Arabia CMA		
Singapore MAS		
Switzerland FINMA		
UAE SCA		
U.K. FSA		
U.S. CFTC		

Principle 18: Disciplinary Sanctions against Market Members - *The relevant Market Authority should have and use effective powers to discipline its members or other authorized market participants if an abusive practice has occurred in the market. There should be clarity as to the types of disciplinary actions which can be taken.*

The responses to this question fall into two categories; first, those jurisdictions where self-regulatory organizations (SROs) are responsible for imposing sanctions directly upon the exchange members; and, second, where financial regulatory authorities impose sanctions themselves. Details of disciplinary procedures and penalties are available to the public (with very few exceptions) via exchange websites or those of the financial regulator.

As stated above, the majority of respondents to this question do not have self-regulatory regimes for their financial markets. In these jurisdictions, derivative exchanges still retain the first-line authority to discipline their members for market abuse. However, financial regulators have formal legal powers to discipline market members through national legislation. Penalties vary, though in the majority of cases, financial regulators have the power to issue public and private warnings and reprimands, impose fines, order disgorgement of illicit gains, or insist on restitution. Regulators can also impose conditions on, and even prohibition of, trading, as well as order suspension or expulsion from membership, and, where appropriate, a criminal referral.

Self-regulated derivatives markets such as Argentina, Canada (Québec) and Norway have SROs that may apply disciplinary sanctions to both members and intermediaries' members who engage in abusive behavior. Each market has established monitoring and control divisions within their derivatives exchanges and, as a result, can dispense penalties through their own disciplinary committees or special committees. These sanctions can range from warnings, fines and suspension to revocation of authorization of an approved person or permit holder, the expulsion of the approved participant, and restitution to any person who has suffered a loss as a result of acts or omissions of a person under the jurisdiction of the exchange.

In Australia a hybrid model of the two above categories exists where the SROs are responsible for imposing sanctions directly upon the exchange members and the financial regulatory authorities impose sanctions themselves.

All Market Authorities make publicly available their disciplinary actions, usually through publication on regulatory or exchange websites.

Principle 19: Disciplinary Sanctions Against Non-Members of the Market

The relevant Market Authority should have power to take action against non-members of regulated commodity derivatives markets or other market participants if they have engaged in abusive or manipulative practices, or are suspected of doing so. Market authorities may require contractual relationships between members and customers that enable action to be taken. It is anticipated that enforcement powers will usually be embedded in statute and would be exercised by a government body, including a public prosecutor or the courts.

In addition, Market Authorities should be able to intervene, or cause the exchange to intervene, in the market to address or to prevent an abuse by non-members, using appropriate measures - through members - such as for example by raising the level of margin, imposing trading limits and liquidating positions, as well as removing trading privileges. Any intervention action should be timely.

Most Market Authorities have the power to take action against non-members of a regulated commodity derivatives market. Generally these actions against non-members are taken by the governmental regulator. In Singapore, if exchanges detect any suspicious activities by non-members, they refer such cases to the regulator, MAS, for further investigation. MAS can undertake civil penalty actions against any person who contravenes market conduct provisions. Additionally, MAS can refer criminal offences for prosecution by the Attorney-General's Chambers.

Nearly all Market Authorities are able to intervene in the market to address or prevent abuse by non-members. This power is often reserved to the governmental regulator. For instance, German Securities Trading Act (Wertpapierhandelsgesetz–WpHG) §4(2)) provides that the regulator, BaFin, may issue all orders appropriate and necessary to prevent disorderly trading, including measures that may affect members and non-members alike. In Luxembourg, the CSSF may order the cessation of any practice contrary to the law on market abuse or suspend trading of the financial instruments concerned under Article 29 of MAD.

Principle 20: Information Sharing - *Market Authorities should cooperate with one another, both domestically and outside their jurisdiction, to share information for surveillance and disciplinary purposes. In particular Market Authorities should have arrangements that allow them to share information on large exposures in linked markets and on supplies relative to these markets. These arrangements should take account of (as applicable):*

- i) The Exchange International Information Sharing Memorandum of Understanding*

and Agreement (Exchange International MOU)² and the Declaration on Cooperation and Supervision of International Futures Exchanges and Clearing Organizations (Declaration),³ which facilitate the identification of large exposures by firms that could have a potentially adverse effect on multiple markets;

ii) The IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMOU); and

iii) Guidance issued by IOSCO in respect to information sharing, such as IOSCO's Principles Regarding Cross-Border Supervisory Cooperation,⁴ Report on Multi-jurisdictional Information Sharing for Market Oversight,⁵ and Guidance on Information Sharing.⁶

² The development of the *Exchange International MOU* was one of the achievements that resulted from the FIA sponsored Global Task Force on Financial Integrity, which was convened to address the cross-border issues that were identified in connection with the failure of Barings Plc.

³ The *Declaration* was developed through discussions at the CFTC's international regulators conference, and was motivated by work recommendations issued from the Windsor Conference and Tokyo Conference, which were convened by the CFTC, the U.K. FSA and Japanese regulators (Ministry of International Trade and Industry (MITI) and the Ministry of Agriculture, Forestry and Fisheries (MAFF)) to respond to the cross-border issues raised by the failure of Barings Plc. The *Declaration* was developed to address instances in which an exchange would not be able to share information directly with another exchange under the *Exchange International MOU*.

⁴ See *Principles Regarding Cross-Border Supervisory Cooperation*, Final Report of the Technical Committee of IOSCO, May 2010, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD322.pdf>.

⁵ See p.11 *Multi-jurisdictional Information Sharing for Market Oversight*, Final Report of the Technical Committee of IOSCO, April 2007, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD248.pdf> Among the information cited as possibly being useful is: transaction information e.g., details of trader's positions, large positions, and related underlying market positions and inventory levels and locations of delivery stocks and details of related warehouse information.

⁶ *Guidance on Information Sharing* (IOSCO 1997) – Internal Document. The Guidance provides that in dealing with unusual price movements or market volatility, markets and regulators should be prepared to share the following information: i) firms/customers controlling or owning the largest long/short positions in relevant securities or derivatives; (ii) concentration and composition of positions in the relevant securities or derivatives, including Firm positions or Customer positions, both on organized markets and in the OTC markets; and (iii) characteristics of related instruments, such as terms of the underlying physical market instrument or physical commodity, procedures for delivery or cash settlement, and deliverable supply of the relevant physical market instrument or physical commodity.

See also *Principles of Memoranda of Understanding*, Report of the Technical Committee of IOSCO, September 1991, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD17.pdf>

Mechanisms to Enhance Open and Timely Communication Between Market Authorities of Related Cash and Derivative Markets During Periods of Market Disruption, Report of the Technical Committee of IOSCO, October 1993, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD29.pdf>.

Report on Cooperation Between Market Authorities and Default Procedures, Report of the Technical Committee of IOSCO, March 1996 available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD49.pdf>.

Nearly all respondents have the ability to cooperate with one another both domestically and internationally. Domestic regulatory cooperation varies based on the scope of the derivatives regulator relative to other authorities in the jurisdiction. Internationally, most regulators share information through Memoranda of Understanding. Most commonly regulators mentioned the IOSCO Multilateral Memorandum of Understanding (“MMOU”) as the agreement used for information sharing with foreign regulators in the context of derivatives.

Most jurisdictions do not have linked contracts that would require arrangements to share information in linked markets. The U.S. CFTC and U.K. FSA notably have an MOU which covers information sharing in contracts that are linked on U.K. RIEs and U.S. DCMs. These agreements are particularly relevant since there are linked energy contracts that trade on both ICE Futures Europe (in London) and NYMEX (in New York). Other authorities, such as the DFSA for the DME also put agreements in place to share this information ahead of developing volumes.

As a restriction on information sharing, twelve jurisdictions cited blocking laws or other restrictions on information sharing. For example, China stated that under the Regulation for Information Disclosure, the CSRC can decline to respond to any request for regulatory information that may harm futures market operations, legitimate interests of investors, national security, public security, economic security, or social stability. However, some jurisdictions are proposing to amend their rules to allow for more expansive information sharing with regulators. Argentine CNV has proposed to amend the Public Offering Securities Law No. 17,811, which would disable bank secrecy rules relating to information sharing.

Principle for Enhancing Price Discovery on Commodity Derivatives Markets

Principle 21: Commodity Derivatives Market Transparency. *Market Authorities should publish the aggregate exposures of different classes of large traders, especially commercial and non-commercial participants, within the bounds of maintaining trader confidence.*

Aggregate public reporting of positions by class of trader is currently only undertaken in Brazil, Japan, Chinese Taipei, U.K. and U.S. However, the European Union has plans to adopt this type of reporting.

The U.S. CFTC publishes a weekly report, known as the Commitment of Traders (the “COT Report”), which provides the public with the aggregate long and short exposures for different classes of traders in commodities where there are twenty or more large traders. The COT Report provides insight into whether end-users, such as producers and merchants, or dealers and managed funds, make up the bulk of the open interest in a given commodity.

Japanese commodity exchanges publish similar reports and disaggregate holdings into two or seven categories of traders. Taifex in Taipei publishes the aggregated top five and top ten largest buy side and sell side positions in each contract.

In the U.K. the LIFFE and ICE Futures Europe exchanges have adopted COT Reports that are in a compatible standard to the one used by the CFTC. LME currently does not publish COT Reports, but notes that this type of public reporting will be mandatory throughout the European Union under article 60 of MiFID II. Article 60 would require regulated listed markets, Multilateral Trading Facilities and Organized Trading Facilities that admit trading of commodity derivatives to publish a weekly report showing aggregate positions held by different categories of traders for the different financial instruments traded on their platforms.

In China, the futures exchanges publish their members' open interests and trading volumes, and CSRC is considering the feasibility of introducing CFTC COT reports.

Other regulators who responded expressed an interest in examining this Principle to see how it could be implemented in their jurisdiction.

	ARGENTINA: CNV	AUSTRALIA: ASIC	BRAZIL: CVM	CANADA: AMF	CANADA: OSC	CANADA, MANITOBA: MSC	CANADA ALBERTA: ASC	CHINA: CSRC	CHINESE TAPEI	DENMARK: DSFA	DUBAI: DFSA	FRANCE: AMF	GERMANY: BaFin	GREECE: HCMC	GIBRAL TAR: FSC	HONG KONG SFC	HUNGARY	INDIA: FMC	JAPAN: METI	JAPAN: MAFF	KOREA	LUXEMBOURG	MALAYSIA	MEXICO: CNBV	NETHERLANDS:AFM	NORWAY: FSN	PANAMA	PORTUGAL: CNVM	ROMANIA	SAUDI ARABIA: CMA	SINGAPORE - MAS	SOUTH AFRICA FSB	SWITZERLAND: FINMA	Turkey CMB	UAE: SCA	UK: FSA	US: CFTC	
SECTION																																						
Principle 1: Accountability																																						
1a) Is there a clear set of regulations, policy statements and/or guidelines, which in their totality, establish the framework that governs the design and/or review of commodity derivatives contracts in your jurisdiction?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	* See Footnote 1	**See Footnote 2	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	****n/a See Footnote 4	Yes	Yes	Yes	No	No	Yes	Yes
Are there statutes, rules or other policies that impose a legal obligation on the relevant Market Authority to comply with relevant contract design standards on a continuing basis?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	No	Yes	Yes	
2a) Does the Market Authority have powers to address contract provisions which produce, or are deemed likely to produce, manipulative or disorderly conditions including, at a minimum, the power to vary contract provisions or suspend or even to terminate trading in a contract based on market integrity concerns?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
3a) How does the Market Authority that is responsible for analyzing commodity derivatives products monitor commercial practices in the physical commodity market that underlies a commodity derivatives contract?	No	Yes	Yes	No	n/a	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes			Yes	No	No	Yes	Yes	No	Yes	Yes	*** See Footnote 3 n/a	Yes	Yes	No	no	No	n/a****	Yes	Yes	No	Yes	No	Yes	Yes	
b) Are there rules, guidelines or policies concerning the circumstances that will trigger a reevaluation of a commodity derivatives contract’s terms and conditions?	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	No	Yes			Yes	No	Yes	Yes	Yes	Yes	No	No	***n/a	No	Yes	No	No	No	n/a****	Yes	Yes	No	No	No	No	Yes	
(c) Do the relevant Market Authorities have a procedure by which the concerns of commercial participants in the commodity derivatives contract are dealt with?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes			Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes	No	No	Yes	Yes	
Principle 2: Economic Utility																																						
Does the relevant Market Authority have: i) investigative and compulsory powers to obtain documents and information (including proprietary systems and software), take statements and/or question persons involved in suspected market abuse?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes			Yes	No	N/a	Yes	Yes	Yes	No	Yes	No	Yes	Yes	No	No	Yes	n/a****	Yes	Yes	Yes	Yes	No	Yes	Yes	
ii)Is the relevant governmental regulator informed of the type of products to be traded on an exchange or trading system and does the regulator review and/or approve the rules governing the admission to and trading of the product?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Principle 3: Correlation with Physical Market																																						
1) Does the exchange design futures contracts to conform to prevailing physical market commercial practices, including commodity grade and quality specifications, to avoid impediments to delivery and reduce the likelihood of Non-convergence of physical and commodity derivatives prices, manipulation or a disorderly market? What role, if any, does the government regulator play with respect to the review of contracts?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes			Yes	No	Yes	Yes	Yes	Yes	No	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Principle 4: Promotion of Price Convergence through Settlement Reliability																																						
1. Is the relevant Market Authority responsible for contract design required to demonstrate that the price series or index that is referenced as a settlement price in a physical commodity derivatives contract is a reliable indicator of transactions in the underlying physical market, publicly available and timely?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	N/A	Yes			Yes	No	Yes	Yes	Yes	Yes	No	No	***n/a	Yes	Yes	No	No	Yes	n/a****	Yes	No	Yes	No	Yes	Yes	Yes	
Principle 5: Responsiveness																																						
1. Do relevant Market Authorities take into account the views of potential contract users on matters including contract specifications when designing commodity contracts?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	No	Yes	Yes	Yes	Yes	No	Yes	***n/a	Yes	Yes	No	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	Yes	Yes	

	Argentina: CNV	Australia: ASIC	Brazil: CVM	CANADA: AMF	CANADA: OSC	CANADA, MANITOBA: MSC	CANADA, ALBERTA: ASC	CHINA:CSRC	CHINESE TAPEI	DENMARK: DSFA	DUBAI: DFSA	FRANCE AMF	GERMANY: BaFin	GREECE: HCMC	GIBALTAR: FSC	HONG KONG SFC	HUNGARY	INDIA: FMC	JAPAN: METI	JAPAN: MAFF	KOREA	LUXEMBOURG	MALAYSIA	MEXICO: CNBV	NETHERLANDS: AFM	NORWAY: FSAN	PANAMA	PORTUGAL: CMVM	ROMANIA	SAUDI ARABIA: CMA	SINGAPORE - MAS	SOUTH AFRICA	SWITZERLAND: FINMA	TURKEY	UAE:SCA	UK: FSA	US: CFTC	
Principle 6: Transparency																																						
1) Is information concerning a commodity derivatives contract's terms and conditions, as well as other relevant information concerning delivery and pricing readily available to the regulators with respect to commodity derivatives transactions within their jurisdiction and to market participants in commodity derivatives markets? Are margin and clearing arrangements transparent to market participants?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2. When commodity derivatives markets operate incentive schemes or their incentive arrangements promote trading in a contract, is the existence of such programs and their main features made available to the public and to market participants, and are such incentive programs subject to regulatory oversight?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	No	No	Yes	Yes	Yes	Yes	Yes	***n/a	Yes	n/a	No	Yes	Yes	n/a****	No	Yes	Yes	Yes	Yes	No	Yes	Yes
Principle 7: Framework for Undertaking Market Surveillance																																						
1) Does a clear and robust framework exist for conducting market surveillance and monitoring compliance with applicable laws, regulations and rules?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
2) Does the program include monitoring the day-to-day, real-time trading activity in the markets (both real time as well as post-trade)?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
3. Does the program include monitoring the conduct of market intermediaries through examination of business operations and collecting and analyzing trading information, typically analyzed on a T+1 basis?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	
4. Are arrangements in place to permit Market Authorities to analyze on-exchange and related physical market and OTC derivatives activities, when needed, on an aggregated basis (i.e., these arrangements permit the identification of positions under common ownership and control and to identify such aggregate exposures)?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes	Yes			Yes	No	Yes	Yes	Yes	Yes	Yes	No	***n/a	No	Yes	No	Yes	No	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes
5. Are the relevant surveillance programs adequately resourced to achieve the above goals, having adequately skilled staff and information techNology taking into account the size, structure and complexity of a jurisdiction's markets?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	***n/a	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	Yes	Yes
Principle 8: Monitoring, Collecting and Analyzing Information																																						
1. Do relevant Market Authorities employ methods for monitoring, collecting and analyzing information that are suitable for the type of market trading platform and the amount of data to be monitored (e.g., for electronic markets, monitoring in real-time using techNology that is commensurate with the speed and volumes of the electronic platform supervised)?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2. Are such methods supported by automated systems which collect and analyze data for trading patterns and trading aNomalies?	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes	Yes	Yes	No	Yes	Yes	No	Yes	Yes	Yes
3. Does the market surveillance program take into account intra-day trading?	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a	No	Yes
Principle 9: Authority to Access information																																						
i) access information that allows the reconstruction of all transactions on a regulated commodity derivatives market (audit trail)?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	n/a	Yes	Yes
ii) access information that permits them to identify large positions (i.e., "large exposures" or "concentrations") and the composition of the market in question?;	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
iii) access information, if needed, on the size and beneficial ownership of positions held by a market participant in order to aggregate positions held under common ownership and control?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
iv) access information about a market participant's transactions and positions in related OTC and physical commodity markets?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	No	No	No	Yes	Yes
v) take appropriate action where a commodity derivatives market participant does Not make requested market information available to the Market Authority?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	No	No	No	Yes

	ARGENTINA: CNV	AUSTRALIA: ASIC	BRAZIL: CVM	CANADA: AMF	CANADA: OSC	CANADA, MANITOBA: MSC	CANADA ALBERTA: ASC	CHINA: CSRC	CHINESE TAPEI	DENMARK: DSFA	DUBAI: DFSA	FRANCE: AMF	GERMANY: BaFin	GREECE: HCMC	GIBALTAR: FSC	HONG KONG SFC	HUNGARY	INDIA: FMC	JAPAN: METI	JAPAN: MAFF	KOREA	LUXEMBOURG	MALAYSIA	MEXICO: CNBV	NETHERLANDS:AFM	NORWAY: FSAN	PANAMA	PORTUGAL: CMVM	ROMANIA	SAUDI ARABIA: CMA	SINGAPORE - MAS	SOUTH AFRICA FSB	SWITZERLAND: FINMA	Turkey CMB	UAE: SCA	UK: FSA	US: CFTC		
SECTION																																							
Principle 10: Collection of Information on On-Exchange Transactions																																							
1. In respect to on-exchange commodity derivatives transactions, does the relevant Market Authority collect information on a routine and regular basis on: i) pricing of contracts throughout the trading day in real time	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	***n/a	Yes	Yes	No	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	No	Yes	Yes	
ii) daily transactional information including time and date of trade, commodity contract, delivery month, expiry date, buy/sell, quantity, counterparties to the contract, and price of the contract;	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	***n/a	*No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	
iii) daily reports or end-of-day positions filed by market intermediaries (both "whole firm" and by individual trader) and by other market participants, where the size of the position is above a specified level ("large position"). Do you clearly identify the type of trading on that true	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	***n/a	*No	Yes	No	Yes	No	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	
iv) where appropriate, underlying warehouse stocks or other deliverable supply	No	Yes	Yes	Yes	n/a	Yes	Yes	Yes	n/a	n/a	Yes	Yes	Yes			Yes	No	Yes	Yes	Yes	No	No	Yes	***n/a	*No	n/a	No	n/a	No	n/a****	Yes	Yes	n/a	No	No	Yes	Yes		
2. Does the information collected permit a Market Authority to identify each position holder (by name or code) down to the first customer level, and the size of position, by contract month, for each position holder?	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	***n/a	*No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
3. Does information identify the type of trading (e.g. commercial, Non-commercial)?	No	Yes	Yes	Yes	n/a	Yes	Yes	Yes	No	n/a	Yes	No	Yes			Yes	No	No	Yes	Yes	No	No	Yes	***n/a	*No	No	No	No	No	Yes	Yes	No	No	Yes	No	Yes	Yes		
Principle 11: Collection of OTC Information																																							
1. Has the relevant Market Authority considered what information it should collect on a routine basis and what it should collect on an "as needed" basis?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	No	No	Yes	Yes	Yes	No	No	No	No	No	Yes	No	No	No	No	n/a****	Yes	No	No	No	No	Yes	Yes
Principle 12: Large Positions																																							
1. Do Market Authorities require the reporting of large trader positions for relevant on-exchange commodity derivatives contracts?	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes	Yes	n/a	Yes	No	No			Yes	Yes	No	Yes	Yes	Yes	No	No	***n/a	No	No	No	No	Yes	n/a****	Yes	Yes	Yes	No	No	No	Yes	Yes	
2. Does the Market Authority have the ability to aggregate positions owned by, or beneficially controlled on behalf of, a common owner?	No	Yes	Yes	Yes	n/a	Yes	Yes	Yes	Yes	n/a	Yes	No	No			Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes		
Principle 13: Intervention Powers in the Market																																							
1. (a) Do Market Authorities have formal position management powers, including the power to set ex-ante position limits, particularly in the delivery month, which include powers that: a) Market participants must comply with the Market Authority's order, either not to increase a position or to decrease a position; and b) Authorize a Market Authority to place ex-ante restrictions on the size of a position a market participant can take in a commodity derivatives contract (i.e., position limits).	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	NO	Yes	Yes	Yes	Yes	Yes	Yes	***n/a	Yes	No	No	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	No	Yes	Yes		
2. Do Market Authorities also have the following powers that permit: a) the imposition of price movement limits;	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	NO	Yes	Yes	Yes	Yes	No	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
b. calling for additional margin, either from customers or from clearing members on behalf of their clients;	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
c. ordering the liquidation or transfer of open positions;	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
d. suspending or curtailing trading on the market (e.g., trading halts and circuit breakers);	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
e. altering the delivery terms or conditions;	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
f. cancelling trades;	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes		
g. requiring owners of positions to specify delivery intentions; and	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	No	No	***n/a	Yes	Yes	Yes	Yes	No	n/a****	Yes	Yes	Yes	Yes	No	Yes	Yes		
h. requiring traders to disclose related OTC derivatives or large physical market positions.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	No	No	***n/a	Yes	Yes	Yes	Yes	Yes	n/a****	Yes	Yes	Yes	No	No	Yes	Yes		
3. Have Market Authorities demonstrated actual use of these powers, listed in 2(b)?	Yes	Yes	Yes	Yes	n/a	Yes	No	Yes	Yes	No	Yes	Yes	Yes			Yes	No	Yes	Yes	Yes	No	No	Yes	***n/a	Yes	Yes	Yes	Yes	No	n/a****	Yes	Yes	Yes	Yes	No	Yes	Yes		

	ARGENTINA: CNV	AUSTRALIA: ASIC	BRAZIL: CVM	CANADA: AMF	CANADA: OSC	CANADA, MANITOBA: MSC	CANADA ALBERTA: ASC	CHINA: CSRC	CHINESE TAPEI	DENMARK: DSFA	DUBAI: DFSA	FRANCE: AMF	GERMANY: BaFin	GREECE: HCMC	GIBRALTAR: FSC	HONG KONG SFC	HUNGARY	INDIA: FMC	JAPAN: METI	JAPAN: MAFF	KOREA	LUXEMBOURG	MALAYSIA	MEXICO: CNBV	NETHERLANDS:AFM	NORWAY: FSAN	PANAMA	PORTUGAL: CMVM	ROMANIA	SAUDI ARABIA: CMA	SINGAPORE - MAS	SOUTH AFRICA FSB	SWITZERLAND: FINMA	Turkey CMB	UAE: SCA	UK: FSA	US: CFTC	
SECTION																																						
Principle 14: Review of Evolving Practices																																						
1. Does the governmental regulator have or contribute to a process to review the perimeter of regulation to ensure that they have the power to address evolving trading practices that might result in a disorderly market? Does the Regulator review the perimeter of regulation on a regular basis to ensure that they have the proper power to address trade practice issues?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	
Principle 15: Rules and Compliance Programs																																						
1. Do the relevant Market Authorities provide through law or applicable market rules, statutes and regulations which determine what constitutes manipulative, abusive or other prohibited conduct? Please detail any permitted exclusions, e.g. "block trades".	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
2. Do such statutes or rules prohibit manipulation and attempted manipulation?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes
3. Do the relevant Market Authorities have a compliance program, sanctioning policies and powers to detect, deter and refer for enforcement action any such prohibited conduct?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Principle 16: Framework for Addressing Multi-Market Abusive Trading																																						
1. Does a framework exist for market surveillance and enforcement within a jurisdiction that provides for active and coordinated detection and enforcement action against manipulative or abusive schemes that might affect trading. i) on multiple exchanges in a single jurisdiction;	No	No	Yes	No	n/a	n/a	Yes	Yes	n/a	Yes	Yes	n/a	Yes			Yes	No	Yes	Yes	Yes	No	No	n/a	***n/a	No	Yes	Yes	n/a	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes	Yes
ii) OTC markets;	No	No	Yes	No	No	No	Yes	No	n/a	Yes	No	No	No			No	Yes	No	Yes	Yes	Yes	Yes	n/a	***n/a	No	Yes	Yes	Yes	No	Yes	Yes	No	Yes	No	No	No	No	Yes
iii) the underlying physical commodity markets?	No	Yes	Yes	No	n/a	No	Yes	Yes	n/a	n/a	No	No	Yes			No	No	No	Yes	Yes	No	No	Yes	***n/a	No	No	No	No	No	No	Yes	No	Yes	No	No	No	Yes	Yes
2. Do procedures exist in this context for identifying and taking action with regard to manipulation or abuse schemes that involve a foreign market?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes	Yes			Yes	Yes	No	Yes	Yes	No	Yes	No	***n/a	Yes	Yes	No	No	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes	Yes
Principle 17: Powers and Capacity to Respond to Market Abuse																														17								
Does the relevant Market Authority have: i) investigative and compulsory powers to obtain documents and information (including proprietary systems and software), take statements and/or question persons involved in suspected market abuse?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
ii) the power to initiate or to refer appropriate matters for criminal prosecution?	No	Yes	Yes	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	n/a	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Is the governmental regulator a signatory to the IOSCO MMOU? If „Yes“. How does it qualify as „A“ or „B“ signatory?	No	Yes	Yes	Yes	Yes	No	Yes	Yes	n/a	Yes	Yes	Yes	Yes			Yes	Yes	No	Yes	Yes	Yes	Yes	n/a	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Principle 18: Disciplinary Sanctions Against Market Members																																						
1. Do relevant Market Authorities (i.e. exchanges and SROs) have and use powers to discipline members or other market participants if an abusive practice has occurred in the market?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2. the types of disciplinary actions that can be taken identified and accessible to market participants?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	n/a	Yes	Yes
Principle 19: Disciplinary Sanctions Against Non-Members of the Market																																						
1. Does a relevant Market Authority have power to take action against Non-members of regulated commodity derivatives markets or other market participants if they have engaged in abusive or manipulative practices, or are suspected of doing so?	Yes	Yes	Yes	Yes	Yes	Yes	no	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	***n/a	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	n/a	Yes	Yes	
2. Are relevant Market Authorities able to intervene, or cause the exchange to intervene, in the market to address or to prevent an abuse by Non-members, using appropriate measures - through members - such as for example by raising the level of margin, imposing trading limits and liquidating positions, as well as removing trading privileges?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	n/a	Yes	Yes	

SECTION	ARGENTINA: CNV	AUSTRALIA: ASIC	BRAZIL: CVM	CANADA: AMF	CANADA: OSC	CANADA, MANITOBA: MSC	CANADA ALBERTA: ASC	CHINA: CSRC	CHINESE TAPEI	DENMARK: DSFA	DUBAI: DFSA	FRANCE: AMF	GERMANY: BaFin	GREECE: HCMC	GIBALTAR: FSC	HONG KONG SFC	HUNGARY	INDIA: FMC	JAPAN: METI	JAPAN: MAFF	KOREA	LUXEMBOURG	MALAYSIA	MEXICO: CNBV	NETHERLANDS:AFM	NORWAY: FSAN	PANAMA	PORTUGAL : CMVM	ROMANIA	SAUDI ARABIA: CMA	SINGAPORE - MAS	SOUTH AFRICA FSB	SWITZERLAND: FINMA	Turkey CMB	UAE: SCA	UK: FSA	US: CFTC	
Principle 20: Information Sharing																																						
1. Are Market Authorities able to cooperate with one aNother, both domestically, including spot market regulators, and outside the jurisdiction, to share information for surveillance and enforcement purposes?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	n/a	Yes	Yes	
2. Do Market Authorities have arrangements that allow them to share information on large exposures in linked markets ¹⁴ and on supplies relative to these markets?	n/a	Yes	n/a	Yes	n/a	n/a	Yes	n/a	n/a	n/a	Yes	n/a	Yes			n/a	n/a	No	n/a	n/a	n/a	Yes	n/a	***n/a	Yes	Yes	n/a	Yes	n/a	n/a****	Yes	n/a	n/a	n/a	n/a	n/a	Yes	Yes
3. Please indicate if there are any blocking laws or other restrictions or conditions on the sharing of information. If Yes, please explain.	Yes	Yes	No	Yes	No	Yes	No	Yes	n/a	No	No	Yes	No			No	Yes	No	n/a	n/a	No	No	No	Yes	Yes	No	No	No	No	No	No	No	No	Yes	No	n/a	No	No
Principle 21: Commodity Derivatives Market Transparency																																						
1. Do Market Authorities publish the aggregate positions of different classes of large traders, especially commercial and Non-commercial participants, within the bounds of maintaining confidentiality?	No	No	Yes	No	n/a	No	No	No	Yes	No	No	No	No			No	No	No	Yes	Yes	No	No	No	No	No	No	No	No	No	n/a***	No	No	No	No	No	No	Yes	Yes
Principle 22: OTC transparency																																						
None - IOSCO Task Force defers to the ongoing efforts by the Financial Stability Board to measure international progress on implementation of the G20 OTC derivatives recommendations																																						
Key																																						
Yes *	*Except Q20, 3 where a 'yes' answer is shown in red																																					
No																																						
N/a Not applicable																																						

***Footnote 1** Although the HCMC in Greece did respond to the survey most of the questions are not applicable to the HCMC, since exchange traded futures contracts, options on futures contracts and options for which the underlying reference interest is a physical commodity or physical commodity index or price series and which may settle in cash or by physically delivery are not traded on the Athens Exchange.”

****Footnote 2** There is no financial market in Gibraltar although they remain a member of IOSCO.

*****Footnote 3** Mexico does not have commodity derivatives markets but Mexican authorities do have the tools and powers to “access information on a routine and non-routine basis for regulated [commodity] derivatives markets as well as the power to obtain information on a market participant’s positions in related over-the-counter (OTC) [commodity] derivatives...” Both the Central bank and the CNBV have powers to obtain that information in respect of all derivatives, and if a determined transaction is performed by a Mexican financial entity (including a commodity), the authorities have also powers to require information on that transaction.

******Footnote 4** There are no associations or exchanges in the KSA acting as SROs. There is currently no commodities derivatives market in the KSA. The responses to the survey refer to listed and OTC commodity derivatives markets in the context of powers granted to the CMA under the CML and its Implementing Regulations for the regulation of Securities. Therefore, a significant number of the principles are denoted as n/a but this does not mean that the CMA would be without these powers if a commodity derivatives market were to develop.

*******Footnote 5** There is only one regulated commodity Derivatives Market currently functioning in Spain which is the futures market in Olive Oi. Spanish financial firms are active in the OTC derivatives market in energy derivatives who are members of the OMIP which is regulated and supervised by the Portuguese CMVM.

Principle 1: Accountability – Market Authorities should establish a clear framework as to design and review criteria or procedures for commodity derivatives contracts. Market Authorities should be accountable for compliance with statutory and/or self-regulatory standards on a continuing basis and should retain powers to address the provisions of existing contracts which produce manipulative or disorderly conditions. At a minimum a statutory Market Authority should have legal powers to address and where necessary to vary contract provisions which produce, or are deemed likely to produce, manipulative or disorderly conditions.

Question 1	a) Is there a clear set of regulations, policy statements and/or guidelines, which in their totality, establish the framework that governs the design and/or review of commodity derivatives contracts in your jurisdiction?	b) Are there statutes, rules or other policies that impose a legal obligation on the relevant Market Authority to comply with relevant contract design standards on a continuing basis?
Argentina CNV	Yes - The regulatory framework is composed of law 17,811, which aims to ensure the transparency of securities markets and the correct formation of prices in them, along with the protection of investors. Decree 677 of 2001 complements Law 17,811, setting a "regime of transparency for the public offer" which applies to the forward markets.	Yes - All applicable rules and regulations that the self-regulated exchanges dictate regarding contract design for commodity derivatives products are under the control of the National Securities Commission (CNV). All regulations that the market dictates must be approved by the CNV, as required by CNV rules in the chapter on "futures and options" (Chapter 24).
Australia ASIC	Yes - The Corporations Act (s793A and regulation 7.2.07) requires that the operating rules of licensed markets deal with the classes of financial products to be traded on the market including classes of derivatives. ASIC's Regulatory Guide provides that market's rules and processes should minimise the risk of price manipulation or other abusive trading conduct (RG172.12). ASIC has provided the relevant market operators with guidance in relation to the lodgement of rules for new commodity derivatives contracts, including guidance addressing the design of those contracts. Review of the terms of commodity derivatives contracts (see also ASIC (s793D).	Yes - Achieved through the operation of disallowance process as well as the market operator's overall obligation to ensure its market remains fair, orderly and transparent. Should a market operator not follow the contract design standards, ASIC could advise the Minister to disallow the rule change. The Minister has the legal power to do so under s793E of the Australian Corporations Act. ASX 24 Operating Rule 2230 gives the market operator the right to make adjustments to the terms of a contract series. Should action under this clause lead ASX 24 to contravene the contract design standards, ASIC could consider taking corrective action.
Brazil CVM	Yes - CVM 467/08 sets out the framework for the design and review of all derivatives contracts. All exchange traded derivative contracts are subject to prior approval by CVM as well as any subsequent modifications to those contracts. Article 4 requires all approval procedures to be clearly defined and publicized by the entities that oversee the organized markets.	Yes – CVM 467/08 Art.2 imposes a legal obligation on the market authority to comply with relevant contract design standards on a continuing basis. Contract modifications must be pre-approved by CVM. Article 10, II requires CVM to cancel any contract that ceases to hold the characteristics present at approval.
Canada AMF	Yes - the Bourse de Montréal/Montreal Exchange as an SRO develops contracts and follows its own set of criteria but its contracts must be reviewed by the AMF. AMF uses a methodology that considers the characteristics of the underlying commodity to establish economic and public interest and safeguards imposed to prevent manipulation.	Yes – Québec Derivatives Act R.S.Q. Chapter I-14.01 contains the Policy Statement Respecting Self-Certification Derivatives Act, Appendix A which covers this.
Canada ASC	Yes - Section 106 of the Securities Act (Alberta) prohibits a person or company	Yes - Criterion 10 (Contracts Not Readily Subject to

	from trading in an exchange contract on an exchange in Alberta unless the form of an exchange-traded derivative (proposed) has been accepted by the ASC. Although there are currently no published requirements or guidelines for acceptance of a derivatives contract, a derivatives exchange is required to submit the rules setting forth the terms and conditions, a description of the cash market for the commodity on which the contract is based, and a demonstration will result in a deliverable supply. The contract will not be conducive to price manipulation or distortion.	Manipulation) of the Criteria for Recognition, and Maintaining Recognition, as a Derivatives Exchange requires that contracts are not readily susceptible to manipulation on an initial and continuing basis. Paragraph 2 (Prevention of Market Disruption) of the Conditions for Maintaining Recognition as a Derivatives Exchange, which is set out in its entirety in response to Question B.1(a).
Canada OSC	Yes - Under CFA Section 15 and 34(4c) & (4d) futures SRO responsibilities include that trading practices are fair and adequate and prevent manipulation and excessive speculation. CFA Section 36 grants OSC authority to only accept contracts if satisfied that conditions are met.	Yes – Under Section 37 of the CFA, exchanges are required to file contract terms and conditions with the Commission. The Commission will only accept these contracts if they meet Section 36 requirements.
Canada MSC	Yes - Part 6 of the CFA (Manitoba) as well as ICE Rule 3.09 establishes clear and robust guidelines for the design and review of commodity derivatives contracts.	Yes – Section 38(1)(b) specifically requires that the Director of the Commission consider whether a proposed contract conforms to current commercial practices in the industry, including delivery and storage of the commodity. ICE Rule 3.09 requires the Contract Committee to review all contracts, at least annually, and determine whether or not they conform to relevant contract design standards.
China CSRC	Yes - In accordance with the Regulations, the CSRC is responsible for approval of listing, halting, delisting or resuming of futures products, as well as approval of contracts and rules as well as their modification and termination. The CSRC should solicit opinions from the physical commodity market authorities under the State Council before approving the listing of a new futures product. The CSRC outlines the guidance to the futures exchange on research, development and listing of new products with specific requirements. The futures exchanges formulate their internal procedures for research, development and listing of a product, including product selection, contract design, risk control measures, and etc.	Yes - The CSRC developed guidance on contract and rule modification, market surveillance, market function evaluation, etc. The CSRC instructs the futures exchanges to constantly review the operations of the physical market and the functions of futures market and modify and improve the futures contract accordingly.
Chinese Taipei	Yes - A futures trading contract shall not be traded on the futures exchange without prior approval from the FSC. The futures trading that a futures commission merchant may be mandated to engage in shall be confined to those futures categories and at those exchanges as announced by the FSC.(FTA §5,10)	Yes - An approved futures trading contract may be voided by the FSC if one of the following events occurs: (1) The contract has lost its economic value; (2) The contract is not consistent with the public interest; (3) Upon the petition filed by the futures exchange. (FTA 11)
Denmark DSFA	No. As Denmark currently does not have any commodities markets there is no specific legislation in this matter but the legislation on prospectuses, the MAD law, the MiFID law and the rules and regulations of the Danish Stock Exchanges are applicable. A more detailed and robust legislation related to commodities derivatives markets is expected with the new EC regulation on OTC derivative	No. Please refer to the answer to question 1 (a).

	transactions, central counterparties and trade repositories (“EMIR”)	
Dubai DFSA	<p>Yes - The licensing requirements for an Authorized Market Institution (AMI) include the requirement for the maintenance of 'Proper Markets' as set out under AMI Rule 7.2. DFSA approval is required for all types of securities to be traded on an AMI. DFSA approval is required for any rules which govern such admission (AMI Chapter 9) and any subsequent changes to any rules or any waivers granted to any rules. DFSA takes product design, trading and clearing and settlement conditions into account in order to approve the admission to trading of any security. This is defined in the AMI under 10.8.1, 10.8.2 and 7.2.3. AMI 10.8.1 & 10.8.2: Provides for mandatory notification to DFSA by the AMI with regard to admission or removal from trading of Investments.</p>	<p>Yes - With reference to the DFSA’s AMI Module 7.2.3 and relevant to a commodity derivatives exchange, an AMI must have systems, policies and procedures which ensure that only Investments in which there is a proper market are admitted to trading. DFSA provides further Guidance to this rule that before admitting to trading, any type of Investment such as a derivative product, the Exchange should consider liquidity, open interest, sufficient information regarding the contract and how it is accessed and for adequate settlement and delivery procedures.</p>
France AMF	<p>Yes - The framework comprises three levels: the MiFID implementing regulation (Article 37), French and market rules and procedures issued by the markets themselves.</p> <p>Article 37 of the MiFID implementing regulation, which is directly applicable in all Member States, with respect to derivatives (Sections C(4) to (10) of Annex I defines derivatives generally, while Sections C(5), (6), (7) and (10) of Annex I define commodity derivatives).</p> <p>Article L. 421-14-III of the French Monetary and Financial Code requires regulated markets to establish rules ensuring that the design of their derivatives contracts allows for orderly pricing as well as effective settlement conditions. The AMF is responsible for overseeing that these rules meet the requirements but does not approve all the specifications of the contracts.</p> <p>Euronext LIFFE Paris rules and notices govern the design of commodity derivatives contracts (the same is true for Powernext gas futures). In particular, Rules 5103/1 and 5103/3 of the Euronext harmonized Rulebook</p> <p>With respect to MTFs, market rules must comply with the statutory obligation stated in Article L. 424-2 of the Monetary and Financial Code.</p>	Yes – see previous response.
Germany BaFin	Yes - The German Exchange Act (Börsengesetz) is the foundation of the framework with state legislation stipulating regulatory details. Exchange Councils are elected to participate in respective exchanges and establish rules and regulations for the exchange.	Yes - see response to 1(a).
Greece HCMC	Although the HCMC in Greece did respond to the survey most of the questions are not applicable to the HCMC, since exchange traded futures contracts, options on futures contracts and options for which the underlying reference interest is a physical commodity or physical commodity index or price series and which may settle in cash or by physically delivery are not traded on the Athens Exchange.”	N/A.
Gibraltar FSC	There is no financial market in Gibraltar although they remain a member of IOSCO.	N/A.

Hong Kong SFC	Yes - Section 21 of SFO provides that the Hong Kong Futures Exchange (HKFE) is required to ensure that there is an orderly, informed and fair market. Section 24 of the SFO provides that rules of HKFE and any amendment to the rules (including for the launch of any new products and any change to existing products) will not be effective unless it is approved by the SFC. All contract specifications are part of the rules of HKFE. In the Guidelines for the Regulation of Automated Trading Services (ATS) it is stated that the SFC may impose regulatory conditions for an ATS authorization. Under its ATS authorization, the Hong Kong Mercantile Exchange (HKMEx) must ensure that every futures contract belongs to a class that is approved in writing by SFC.	Yes – See answer to Question 1(a). SFC would impose on HKFE and HKMEx certain market surveillance requirements such as open position reporting and position limit in the contract specification.
Hungary	Yes - Regulations of the Budapest Stock Exchange for listing, continued trading and disclosure; Product ListCode of trading of BSE Product design is always initiated by market participants. The relevant Articles of the Act on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities and http://client.bse.hu/data/cms61385/01___ListingReg_21102011_EN.pdf http://client.bse.hu/data/cms61409/Termeklista_szab_eng_101201.pdf	No.
India FMC	Yes - Set of regulation as per the FCRA 1952, policy statements, circulars and/ or guidelines issued from time to time by the Commission and the Bye-laws of the Exchanges which governs the design and review for the commodity derivative contract.	Yes - Section 11, Section 15, Section 16, Section 19 of FCRA 1952 and Policy Statements, Regulations and Bye-Laws of the Exchanges impose such obligations. Exchanges are liable to abide by the contract design standards.
Japan METI	Yes - METI has authority under Articles 15, 80, 155 and 156 of CDA to provide a clear framework that governs the design review criteria for derivative contracts.	Yes - Under Article 159(ii) of CDA, METI may rescind the license of Commodity Exchange if the Minister finds it necessary and appropriate for ensuring the public interest or the fair and equitable principles of transactions.
Japan MAFF	Yes - MAFF has authority under Articles 15, 80, 155 and 156 of CDA to provide a clear framework that governs the design review criteria for derivative contracts.	Yes - Under Article 159(ii) of CDA, MAFF may rescind the license of Commodity Exchange if the Minister finds it necessary and appropriate for ensuring the public interest or the fair and equitable principles of transactions.
Korea	Yes - FSCMA Art.393, the KRX sets rules on products, procedures, for exchange-traded derivatives in Derivatives Market Business Regulation. According to FSCMA Art.412, for the KRX to have a new commodity derivative product traded in its market, it needs to amend its rules and gain prior approval from the FSC. FSCMA Art.393 sets out the information which must be provided by the Derivatives Market Business Regulation.	Yes - As noted above, pursuant to FSCMA Art.412, for the KRX to have a new legislation, amend or repeal its current rules, it must have approval by the FSC.
Luxembourg	No - There is no specific legislation in this matter and the legislation on prospectuses, the MAD law, the MiFID law and the rules and regulations of the	No - See answer to key question 1 (a) principle 1

	Luxembourg Stock Exchange are applicable. However a more detailed and robust legislation relating to commodities derivatives markets is expected to come into force for the EC regulation on OTC derivative transactions, central counterparties and trade repositories (“EMIR”)	
Malaysia	Yes - There is a regulatory framework that governs the design and review of commodity derivatives contracts. The SC’s jurisdiction over the derivatives market does not segregate according to asset class i.e. financial, commodity or equity derivatives in the framework. Thus, the design of a commodity derivatives contract (or any other derivatives contract) by Bursa Malaysia Derivatives Bhd (BMD) will be subject to Rules approval as required by section 9 of the Capital Markets and Services Act 2007 (CMSA). The rules review and approval process requires BMD, as part of the submission for approval by the SC, to undertake appropriate consultation and feedback process from the industry players in terms of the applicability of the contract, potential of the underlying commodity as well as risks and benefits to the market; and benchmarking with relevant jurisdictions. The submission by BMD must at least include contract specifications, justification for the product, risk management functions, industry’s comments, description of the underlying market and investor education proposal, where appropriate.	Yes - BMD is required to perform continuous review of its products to ensure adherence of the above as part of the Rule approval process. Hence, it is required to benchmark as well as seek industry feedback on its products on a regular basis.
Mexico CNBV	No.	No.
Netherlands AFM	Yes - The Financial Supervision Act stipulates that a commodity derivatives contract, in principle, qualifies as a financial instrument. Provisions from the Markets in Financial Instruments Directive are embedded in the FSA. Exchanges must acquire recognition status by meeting the recognition requirements. The Financial Supervision Act requires the market operator to demonstrate that it complies with provisions with regard to the rules on the admission of financial instruments to trading on the regulated market. The same goes for operators of a Multilateral Trading Facility.	Yes - As regards Regulated Markets section 5:32a of the Financial Supervision Act requires the market operator to demonstrate that it complies with provisions with regard to the rules on the admission of financial instruments to trading on the regulated market. Applies also to MTF (Multilateral Trading Facility): section 4:91 of the Financial Supervision Act. The AFM has to formally approve new rules or amended rules (section 4 of the Decree on Regulated Markets as regards RM and section 41 sub 1 under (p) of the Decree on Market Access of Financial Enterprises pursuant to the Financial Supervision Act in combination with section 2:99 sub 3 of the Financial Supervision Act and section 4:26 of the FSA as regards MTF).
Norway FSAN	Yes- the Norwegian Stock Exchange Act and Norwegian Securities Trading Act are the regulatory framework for commodity derivatives contracts. Regulated markets must have exchange rules regulating the markets where they list commodity derivatives. The exchange rules will be approved by Financial Supervisory Authority of Norway (FSAN) as part of the licensing of a regulated market. Changes in exchange rules must be reported to the Financial Supervisory Authority of Norway (FSAN) , which may refuse these changes.	Yes – Regulations in answer 1(a) govern this. Contract design is part of the exchange rules and must be approved as part of the licensing of a regulated market and MTF. Listing of new commodity derivatives must be reported to FSAN, which may refuse these.

Panama	No.	No.
Portugal CMVM	<p>Yes – Although there is no specific framework that governs the design of the commodity derivatives contracts, the legal framework that applies to financial derivatives contract is applicable to commodity derivatives contracts.</p> <p>According to the Portuguese Securities Code (Article 207) covers transactions on financial derivatives carried out in accordance with the standard contractual clauses - (amount, transaction period, frequency of adjustments to profits and losses, and the type of settlement) drawn up by the management entity and subject to prior notification to the CMVM.</p> <p>CMVM Regulation 3/2007 (rules applied to Regulated Markets and Multilateral Trading Facilities (Article 17)) establishes the minimum information of the standard contractual clauses of derivatives contracts.</p> <p>Also (Article 2/paragraph 4), establishes that the information concerning each financial derivative contract and each series shall be published in the market infrastructure's bulletin.</p>	<p>Yes - Although not addressed specifically, for commodity derivatives contracts, the rules related to financial derivative contracts are applicable.</p> <p>The standard contractual clauses for each contract, and the respective amendment, defined by the market operator are subject to prior notification to the CMVM.</p> <p>The CMVM imposes the necessary change to ensure full compliance with the legislation and full and clear understanding of the standard contractual clauses.</p>
Romania	<p>Yes - According to the provisions of the CNVM Instruction no 3/2006 with subsequent modifications, all financial derivative instruments, including commodities are registered with CNVM before being traded on a regulated market. Only financial instruments registered with CNVM are traded on regulated markets. Provisions regarding financial instruments characteristics are included in the CNVM Regulation 2/2006 (Art. 40), in the CE Regulation no. 1287/2006 and also in the exchanges regulations where these instruments are traded.</p> <p>(see Survey for more details of regulations).</p>	<p>Yes - Art. 41 (3) of the CNVM Regulation no. 2/2006, requires market operators establish the necessary arrangements for regular review of compliance to admission requirements of financial instruments.</p> <p>CNVM Instruction no. 3/2006, has all derivative financial instruments, including those having commodities as underlying assets, needing to fulfil conditions in order to be registered with CNVM. Only those instruments registered with CNVM can be admitted to trading a regulated market.</p>
Saudi Arabia CMA	No - because no KSA commodity derivatives market at present.	No – Because no KSA commodity derivatives market at present.
Singapore MAS	Yes - Approved Exchanges (AEs) have design guidelines and risk frameworks to ensure contracts do not produce manipulative conditions. SFA Section 16 requires AEs to ensure that they operate fair, orderly and transparent markets. SFA Section 29 requires MAS approval prior to listing, delisting or trading of any contracts.	Yes - key contract specifications form part of the business rules of AEs. If AEs fail to comply with their business rules, under SFA Section 25, market participants may apply to the Singapore High Court to order observance of the business rules.
South Africa	<p>Yes - The Securities Services Act, 2004 governs the overall framework of the financial markets in South Africa. The JSE Derivative Rules govern the operations and policy of the derivative markets on the JSE.</p> <p>The Directives of the Exchange define elements that change on a more regular basis.</p> <p>Detailed agricultural contract specifications define the operational controls in place including documenting the physical delivery process. Cash-settled contract specifications summarize the cash-settled products:</p>	Yes - The Exchange's derivative rules; sections, 1 and 13 particularly.

Switzerland FINMA	Yes - Article 5 SESTA instructs exchanges to establish rules in order to guarantee the organization of an efficient and transparent market. Article 8 requires the exchange to adopt regulations which define the admission of new securities for trading.	Yes - SESTA Article 8 delegates admission of new securities to the exchange and Article 6 mandates that the exchange set up a market surveillance framework to detect misbehavior.
Turkey	No - There is no such clear set of regulations or policy statements and/or guidelines determining criteria for designing the contracts, as described. However, the Regulation on the Turkish Derivatives Exchange (TurkDEX) enumerates minimum elements for a contract to be designed and as stated in the Regulation on the Turkish Derivatives Exchange, minimum contract specifications are determined according to the nature of underlying asset and contract type by the TurkDEX. TurkDEX's Board of Directors and approved by the CMB. The Exchange conveys the minimum contract specifications to the CMB, and the CMB approves or denies the contract recommended or request amendment in the specifications. The Exchange lists the contracts after the approval of the CMB and after applying any amendment requested by the CMB.	Yes - The Exchange is responsible for the listing of the contracts with the specifications approved by the CMB. In order to comply with the specifications approved, the Exchange amends the related contract specifications if deemed necessary. (For example, the Exchange amends the margin of the contracts due to price fluctuations in order to meet the minimum margin rate approved by the CMB).
United Arab Emirates SCA	No - Reference may possibly be drawn to Part Five of the SCA Decision no. (157/R) for "Listing of Commodities and Commodities Futures Contracts".	
U.K. FSA	Yes- Exchanges must acquire recognition (RIE) status by meeting recognition requirements. Requirement 2.12 states that all contracts for derivatives "are designed so as to allow for their orderly pricing as well as for the existence of effective settlement conditions." MiFID Article 40(1) says that regulated markets shall take into account whether the terms of the security are clear and unambiguous and... that the price or other value measure of the underlying is reliable and publicly available.	Yes - REC 2.12.2A(7) states that the UK RIE "must maintain arrangements to regularly review whether the financial instruments admitted to trade on a regulated market comply with the admission requirements for the instrument."
U.S. CFTC	Yes - Regulation Part 40.2 and Part 38 Appendix C provide a clear guideline that governs the design and review of commodity derivatives.	Yes – Core Principle 3 established in Section 5(d) of the CEA and Part 38 requires that contracts are not readily susceptible to manipulation on an initial a continuing basis.

Question 2	a) Does the Market Authority have powers to address contract provisions which produce, or are deemed likely to produce, manipulative or disorderly conditions including, at a minimum, the power to vary contract provisions or suspend or even to terminate trading in a contract based on market integrity concerns?	
Argentina CNV	Yes - Authorized self-regulated markets and CNV, have together the powers to regulate contract provisions. The CNV also has regulatory powers that must be followed by self-regulated markets, which include "the power to vary contract provisions or suspend or even terminate trading in a contract based on market integrity concerns".	
Australia ASIC	Yes - ASIC may recommend that the Minister disallow operating rule changes if it considers that proposed contract provisions are likely to produce manipulative or disorderly market conditions. If ASIC is of the opinion that it is necessary, or in the public interest, to protect people dealing in a financial product or class of financial products under S794D of the Act it can <u>suspend dealings in the financial product</u> or class of financial products; or give some other direction in relation to those dealings. ASX 24 Operating Rule 2230 gives the market operator the right to make adjustments to the terms of a contract series. Under ASX 24 Operating Rule 3100 the market operator may take any action it considers	

	necessary to ensure that a market for one or more products is fair, orderly and transparent.
Brazil CVM	Yes – The Market Authority may reject contract provisions that are deemed likely to produce manipulative or disorderly contracts. During trading CVM 461/07 Article 118 grants the Market Authority power to cancel trades, suspend the enforceability of rules and temporarily shut down markets. Also, CVM 467/08 states derivatives contract approval must ensure the Market Authority or SRO are able to identify and restrain violations of the law or rules.
Canada AMF	Yes – Québec Derivatives Act R.S.Q. Chapter I-14.01 contains the Policy Statement Respecting Self-Certification Derivatives Act, Appendix A which covers this.
Canada ASC	Yes - See response to Question B.1(b) above. All contracts must comply with Criterion 10 on an initial and continuing basis. Criterion 2 (Rules of the Exchange) of the Criteria for Recognition, and Maintaining Recognition, as a Derivatives Exchange deals with the monitoring and compliance with the rules of derivative exchanges. Criterion 9 (Prevention of Market Disruption) of the Criteria for Recognition, and Maintaining Recognition, as a Derivatives Exchange, covers the prevention of manipulation and price distortion by exchanges. Criterion 12 (Emergency Authority) of the Criteria for Recognition, and Maintaining Recognition, as a Derivatives Exchange, allows for emergency authority to liquidate, suspend or require special margin requirements. The ASC may, after giving a recognized exchange an opportunity to be heard, suspend or cancel its recognition as a recognized exchange, (section 63(1) of the Securities Act (Alberta)). See also (section 63(2) of the Securities Act (Alberta)).
Canada OSC	Yes - Exchange SRO responsibilities under CFA Section 15, 34(4c) and (4d) are to ensure that trading practice are fair and adequate and provision have been taken to prevent manipulation and excessive speculation. The Commission has the power to suspend or revoke a trading contract per Section 2.2 (3)(b). Also, under the Section 36, the Commission would not accept a contract that was likely to produce manipulative or disorderly conditions.
Canada MSC	Yes – Section 39(1) and (2) allows the Director to revoke his approval of a contract or place terms and conditions on trading that contract if it is in the public interest to do so.
China CSRC	Yes - According to the Regulations, when abnormal conditions occur in futures market, for instance, market manipulation, the futures exchanges can, in line with the powers and procedures prescribed in their bylaws and rules, decide to take emergency measures, such as modifying the contracts and rules, raising margins, adjusting price limits, imposing position limits on their members or customers, as well as suspension of trading, while immediately reporting to the CSRC. According to the Regulations for the Administration of Futures Exchanges (hereinafter referred to as the Futures Exchanges Regulations) , the CSRC can take measures such as postponing market opening, suspending trading and warning the senior management of the futures exchanges when necessary. Generally, the CSRC urges the futures exchanges to take risk control measures, and the exchanges will execute the instructions of the CSRC.
Chinese Taipei	Yes - The FSC shall establish market surveillance guidelines to protect public interest and maintain market order. A futures exchange, in the execution of market surveillance, may publicize trading information where abnormalities are detected. Measures such as the adjustment of margin level; the restriction of trading volumes for the whole or partial portion of futures commission merchants; the restriction of trading volumes and/or open positions; suspension or termination of the said futures trade; any other necessary measure for the maintenance of the market order or for the protection of futures traders. (FTA 95, 16) special powers (FTA 96) FSC power to amend rules of exchanges, clearing houses and the futures association (FTA102).
Denmark DSFA	Yes - The rules are laid down in the Danish Securities Trading, etc. Act and orders issued under this Act.
Dubai DFSA	Yes - The Markets Law Part 2 Art. 9 Supervision of Authorised Market Institutions provides the DFSA with broad powers in relation to requiring compliance with any duty, requirement, prohibition, obligation or responsibility applicable to an AMI. This includes the power to Art. 2c) 'suspend transactions in Investments conducted on the market or through the facilities operated by an AMI, d) 'prohibit trading in

	Investments conducted on the market or through the facilities operated by an AMI. With regard to contract provisions, it should be noted that all commodity derivatives contract traded on an AMI in the DIFC form part of the AMI's Business Rules. As set out in the AMI Module Rule 7.2.15 the maintenance of clear, fair and legally enforceable Business Rules forms part of the initial and ongoing licensing requirement of an AMI. Chapter 9 states that any amendment to the Business Rules are subject to the approval of the DFSA.
France AMF	<p>Yes - The AMF has the power to ask the market operator to change contract provisions if it considers that they are not compliant with the legal framework (Articles L. 421-14-III. and L. 424-2 of the Monetary and Financial Code).</p> <p>Euronext LIFFE Paris contracts amended from time to time by Euronext Paris but the market operator will not amend open positions except in exceptional circumstances and/or in the interests of maintaining a fair and orderly market (above-mentioned Rule 5103/3 of NYSE Euronext harmonized Rulebook).</p> <p>Euronext LIFFE Paris may also suspend, limit the availability for trading of a derivative contract, delist a derivative contract, or take any other measure it deems necessary in the interests of maintaining an orderly and proper market.</p> <p>The AMF has the power to demand suspension or removal of an instrument from trading whether on a regulated market (Article L. 421-15-III of the Monetary and Financial Code) or on an MTF (Article L. 424-5-II of the same Code).</p>
Germany BaFin	Yes – As approving authority the Exchange Council can establish and change contract provision according to Section 12(2) of the German Exchange Act. The Management Board of the Exchange can cancel trades or order to ensure proper trading or safeguard settlement of exchange transactions. Under German Securities Trading Act Section 4(2) the BaFin and exchange supervisory authority may issue orders necessary for enforcement of rules within their competency. See response to Principle 1, Question 1.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes - HKFE designs its own contract specifications and has an obligation to ensure that the market is operated in an orderly, informed and fair manner. Rules 629-633 permit HKFE to impose position limit or trading limit. Rule 901 permits HKFE to suspend trading in limited circumstances. Rule 903 covers short suspension of the relevant market. HKMEx contracts have to be pre-approved by the SFC, once approved the contract spec become part of HKMEx rules and any variation to the rules must be approved by SFC.
Hungary	No.
India FMC	Yes - Under section 21(e) of FCRA 1952 ⁴ , the Commission is authorized to penalize any person indulged in fraudulent and unfair trade practice relating to forward contracts. Sub-sections (i), (ii) and (iii) of section 21(d) of FCRA 1952 authorize the Commission to penalize insider trading. Excessive/unhealthy speculation will result in stern measures by the Commission with revocation of trading the permissions possible.
Japan METI	Yes - Under Article 118 of CDA, if the competent minister finds it necessary to maintain the order of the commodity market and protect the public interest, he may order member restriction with regard to transactions or accepting consignment of such transactions or take measure to limit the fluctuation in the quotations or position on a commodity exchange. Article 158(1) gives METI the authority to order an exchange to change its Articles of incorporation, rules, business methods or other measures.
Japan MAFF	Yes - Under Article 118 of CDA, if the competent minister finds it necessary to maintain the order of the commodity market and protect the public interest, he may order member restriction with regard to transactions or accepting consignment of such transactions or take measure to limit the fluctuation in the quotations or position on a commodity exchange. Article 158(1) gives MAFF the authority to order an exchange to change its articles of incorporation, rules, business methods or other measures.
Korea	Yes - Same as Question 1.
Luxembourg	Yes - Article 29 (1) of the MAD law states that the CSSF has the right to order the cessation of any practice contrary to said law and to suspend

	trading of the financial instruments concerned. See also Article 31 of the MiFID law. Article 9 of the MiFID law states that without prejudice to the right of the Commission (i.e. CSSF) to demand the suspension or removal of a financial instrument from trading, pursuant to Article 31. Chapter 8 of the rules and regulations of the Luxembourg Stock Exchange the exchange may suspend or withdraw from trading any security that no longer complies with, or whose issuer no longer conforms to, the provisions of Part I.
Malaysia	Yes - Under section 9(9) of the CMSA, the SC has the power to request BMD to amend or supplement its rules through written notice from time to time. In addition, if BMD fails to take necessary actions that the SC deems appropriate, the SC has the power to order the BMD to take actions specified by the SC under section 28(1) of the CMSA. The SC can take the necessary action to suspend trading, liquidate, limit trading range, modify hours, alter delivery conditions and fix liquidation settlement prices.
Mexico CNBV	No.
Netherlands AFM	Yes - In principle, operators of an MTF or Regulated Market shall adopt transparent, non-discretionary rules and procedures that guarantee fair and orderly trading, and shall lay down objective criteria for the efficient execution of orders. In addition, operators of an MTF or Regulated Market operators shall, without delay, follow an instruction issued by the Authority for the Financial Markets to suspend, interrupt or cancel trading in particular financial instruments or to exclude a financial instrument from trading. Reference is made to section 4:91a, sub 9 Financial Supervision Act and section 5:32h Financial Supervision Act.
Norway FSAN	Yes – Contract provisions are part of exchange rules and any changes must be submitted to FSAN for approval. The exchange rules at the regulated market gives the regulated market the power to suspend or terminate trading a contract based on market integrity concerns.
Panama	Yes - The Superintend of Securities has sufficient powers to verify whether transactions contract threaten the integrity of the market. Such threats are a prohibited activity under Article 252 of the Securities Market Law.
Portugal CMVM	Yes - (see above). In addition, according to the Portuguese Code (Article 214), the CMVM may order the market operator of the regulated market or the MTF to suspend the financial instruments, order the market operator of the regulated market or the MTF to exclude the financial instruments from trading when breach of applicable laws or regulations is proven. and extend the suspension or exclusion to all the regulated markets and MTFs where financial instruments of the same class are traded. The market operator may also suspend or exclude financial instruments from trading, unless such measure is susceptible of causing serious damage to investors' interests or to the regular functioning of the market. According to the OMIP rules, contracts admitted for trading or registration may be suspended or excluded whenever it is deemed convenient for the protection of market interests. These are general powers which refer to all regulated markets and multilateral trading facilities, and financial instruments such as commodity derivatives contracts.
Romania	Yes - The Capital Market Law no. 297/2004 stipulates at Art. 137 the C.N.V.M. power to suspend part or all the operations involving financial instruments if it acknowledges the failure to comply with the legal provisions and/or it estimates that the maintaining of an organized market is impossible, and investors' interests could be affected. Also, in accordance with the provisions of the Instruction 3/2006 (Art. 3 and 4), CNVM verifies the characteristics of all financial derivatives instruments before register them and before the approval of their trading. Where CNVM suspects possible market abuses, including the cases involving commodities derivatives, it uses the powers and instruments it has for this purpose, in line with the EU legislation on market abuse.
Saudi Arabia CMA	No – There is no KSA commodity derivatives market. However, CML Article 6 grants CMA full powers to carry out this authority with respect to securities. The power to vary derivative contract conditions falls within the broad scope of the CML.
Singapore MAS	Yes – SFA Section 34 gives MAS powers to direct AEs to take actions it considers necessary to maintain orderly trading, such as suspending or limiting trading. SGX DT Rule 7.3 and SMX Rule 5.16 gives the exchanges certain powers to limit or suspend trading of a contract.
South Africa	Yes - The exchange's derivative rules: section 1, 3, 7, 9, 10, 16 and 17.
Switzerland	Yes – The contract provisions, which are publicly available, can be amended by the exchange in consultation with FINMA. Also, FINMA has

FINMA	the ability to intervene.
Turkey	Yes - Even though the CMB has no direct power as such described above, the CMB, with respect to its general supervision powers, may address contract provisions or require any exchange to suspend or terminate trading in any contract. The Exchange has the power to amend the contract provisions with the approval of the CMB and to suspend/terminate trading on the related contract. The related provision is stated in the Regulation on Turkish Derivatives Exchange (TurkDEX). Also, as defined in the TurkDEX circulars of the contracts, under the section “Extra Ordinary Circumstances and Amendments”, in order to ensure the execution of trades in integrity and orderliness, the Exchange has broad authority.
United Arab Emirates SCA	Yes. SCA has approved DGCX By-Laws (D.8.3) which permits the Exchange Market to suspend or amend a Contract pursuant to deemed undesirable situations or practices.
U.K. FSA	Yes – Under Requirement 2.12.2E, FSA obliges all RIEs to have contracts with clear terms and a correlation between the financial instrument and the underlying product. The FSA in conjunction with the Exchange could issue a notice to suspend trading if it was deemed that market conditions were too disruptive to enable fair and orderly markets. The RIEs contract must be approved by the regulatory authority and the RIE must consult with market participants. MiFID Section 37.2.b stipulates that the regulated market must ensure that appropriate supervisory arrangements are in place to monitor trading and settlement of the financial instruments.
U.S. CFTC	Yes – All contracts must comply with Core Principle 3 (see above). If an exchange fails to take actions that CFTC deems appropriate, CFTC has broad emergency powers where it can order the exchange to take actions, such as limit positions, liquidate positions or close a market.

Question 3	a) How does the Market Authority that is responsible for analyzing commodity derivatives products monitor commercial practices in the physical commodity market that underlies a commodity derivatives contract?	b) Are there rules, guidelines or policies concerning the circumstances that will trigger a reevaluation of a commodity derivatives contract’s terms and conditions?	c) Do the relevant Market Authorities have a procedure by which the concerns of commercial participants in the commodity derivatives contract are dealt with?
Argentina CNV	No - Commercial practices in the physical commodity market are regulated by the Secretary of Agriculture, Livestock and Fisheries.	No - There is an informal process of reevaluation by the self-regulated markets that operates with an “on demand” basis.	Concerns are handled informally.
Australia ASIC	Yes - The monitoring of commodity derivatives products is undertaken by ASIC as the frontline supervisor, and by the operator of the (ASX 24) in ensuring it provides a fair, orderly and transparent market for their products. In relation to the monitoring of commercial practices in the physical commodity market, ASIC undertakes such enquiries on an ad hoc basis during the course of individual investigations into potential market misconduct	Yes - ASIC has no rules or guidelines specifically concerning the circumstances that will trigger a reevaluation of a contract's terms and conditions. Ordinarily, triggers of revaluation would be: Stakeholders (participants, competitors) raising concerns with ASIC or the Government. Detection of issues with the contract during ASIC's ongoing surveillance. Commodity derivatives contract terms and conditions are determined by the market operator itself - ASX 24 Operating Rule 2230 gives the operator the right to amend the terms of the	Yes - ASIC's rule lodgment template document contains guidance for exchanges on engaging industry in the design phase. If ASIC is not satisfied about the way in which industry concerns are addressed in the contract terms it may request that the market operators amend those terms. If the issues are not addressed satisfactorily ASIC may recommend that the Minister disallow. ASIC also may consult directly with industry on the specifications of a new product proposal. ASIC also has a complaints procedure by which all

		contract as required or under particular events. Any such changes are referred to ASIC for review.	complaints or concerns by participants are logged, reviewed and actioned.
Brazil CVM	Yes - CVM 467 Art.7 II requires derivatives contracts submitted for approval to include a description of the underlying asset and where it is traded. Commercial practices in the physical commodity market are monitored by the Exchange. Reference spot prices that underlie agricultural commodity derivatives are calculated by the Exchange, in connection with the CEPEA at Sao Paulo University. CEPEA performs ongoing reviews of these prices and standards.	Yes – Whenever necessary formal reevaluation of terms and conditions of a derivatives contract will be initiated by the exchange and submitted to CVM for approval.	Yes – The exchange performs periodic consultations with participants of each commodity market through consultative committees held quarterly to monitor market practices and evolving industry concerns.
Canada AMF	No – There is no division or group within the AMF tasked with oversight of the physical markets that underlie the derivatives traded within its jurisdiction.	Yes -Bourse de Montréal/Montreal Exchange as SRO has internal procedures to determine a reevaluation. These are based on changes in market conditions, liquidity or changes in the characteristics of the underlying commodity.	Yes - Rule proposals of regulated entities are published for comment for 30 days. A regulated entity must communicate other changes to its procedures to its members, consult membership and maintain a complaints process. Appeals to the regulator are allowed and appeals of regulatory decisions can be to the independent BDR.
Canada ASC	Yes - Although the Securities Act (Alberta) does not give the ASC jurisdiction over the physical commodity market that underlies a commodity derivatives contract, the ASC does maintain a market surveillance program responsible for monitoring and analyzing activity in these markets for their potential to impact the derivatives markets. The ASC also requires every recognized exchange and clearing agency, as well as all reporting issuers and officers, directors, promoters and transfer agents thereof, to maintain proper books and records, and to deliver any such books and records that the ASC may require (section 60.1(2) of the Securities Act (Alberta)).	No.	Yes - Derivatives exchanges generally consult potential users when designing new derivatives products. ASC staff reviews the derivatives exchange's due diligence review of new derivatives products.
Canada OSC	N/A	Yes - Under Section 60.(1) of the CFA the Commission may, without notice or a hearing, make an order under this section	Yes – These concerns would be addressed under the exchange SRO's requirements under CFA Section

		that the acceptance of a form of contract be revoked or that all trading on any registered commodity futures exchange or otherwise be suspended if the contract is deemed not to be in the public interest.	15(4)(b) and 34(1)(b) requiring trading practices to be in the public interest.
Canada MSC	Yes – Canadian Grain Commission regulates commercial practices for product grades, deliveries and other industry aspects. ICE is obligated under 3.09 to have a Contracts Committee that monitors and analyzes commercial practices and reports on them as part of their annual review of each contract.	Yes – A reevaluation of a commodity derivatives contract's terms can be triggered by the Director if he believes it is in the public interest. Also, ICE Rule 3.09 requires that the Contract Committee review the terms of every contract annually	Yes – The Commission is in regular contact with industry through the Securities Advisory Committee. Both the Commission and ICE (Rule10C.01) have defined complaint procedures for participants to voice their concerns.
China CSRC	Yes - The CSRC instructs the futures exchanges to deepen their understanding of the physical market and modify and improve the futures contracts and rules accordingly. The CSRC established the guidance on market functions evaluation and instructs the futures exchanges to regularly review the operations of the physical market. The futures exchanges designate staff to review the contracts and rules and provide modification recommendations.	No - The CSRC has established the guidelines on contracts and rules modification and on market function evaluation, and instructs the futures exchanges to continuously review the operations of the physical and futures market. The CSRC or the futures exchanges can modify and improve the contracts and rules when deemed necessary. There is no specific condition to trigger a reevaluation.	Yes - According to the Regulations, the CSRC should solicit opinions from the physical market authorities under the State Council when approving a new futures product. CSRC will approve the new futures product when a consensus is reached. The CSRC will conduct research on the physical market, and host meetings with industry associations for physical market as well as manufacturing, consumption, trading, storage and quality inspection firms, etc., to seek advice and suggestions.
Chinese Taipei	No - The Taifex has three commodity derivatives products: Gold Futures, NT Dollar Gold Futures and Gold Options. All of them are cash-settled, and the final settlement price is based upon the London Gold AM Fixing as released by the London Gold Market Fixing Limited on the last trading day. There is no physical commodity exchange in Taiwan.	Yes - Taifex trading rules.	No.
Denmark DSFA	Yes. DFSA and The Danish Stock Exchanges supervise commodity derivative products traded on their regulated markets on an ongoing basis. Currently DFSA and the Danish Stock Exchanges have no supervisory and enforcement power in the physical commodity market that underlies a commodity derivatives contract.	No.	No.
Dubai DFSA	Yes - The Oman Crude Oil Futures Contract (OQD) traded on DME is physically backed by Oman crude	Yes - The Licence Requirement for an AMI listed prior and in particular rule AMI	Yes - As discussed above. In addition, if the 'concern' of Members to the DME

	<p>oil. The Oman Investment Fund (OIF) is a core shareholder of the DME. OIF appoints a Liaison Officer, an employee of the DME whose role includes monitoring the delivery chain and liaise with participants in the chain. Chapter 10 of the DME Rulebook sets out details in relation to the terms and condition of the OQD .</p> <p>DME engages with the industry and market players through outreach events to obtain feedback in relation to the contract's terms and conditions.</p>	7.2.3 should be complied with at the application stage as well as any thereafter.	takes the form of a complaint DME has a complaints procedure including escalation to the DFSA (pursuant to Chapter 14 of the AMI Module). Concerns/complaints made by clients from Members (DME rules 4.20) need to be addressed by a Member's internal procedures.
France AMF	<p>Yes - In accordance with the provisions of Article 37 of Commission Regulation 1287/2206/EC of 10 August 2006, Euronext Paris is responsible for verifying that the terms of the exchange contract establishing the financial instruments are clear and unambiguous, and enable a correlation between the price of the financial instrument and the price or other value measure of the underlying.</p> <p>At the exchange, each contract has a product manager who reviews the contract regularly, including its aptitude for hedging purposes. Each such product manager is responsible for recommending any necessary revisions and amendments.</p>	No - There is an informal process for reevaluating the terms and conditions of Euronext Liffe Paris contracts.	Yes - Euronext Paris has advisory groups for each product class. These advisory groups comprise both exchange members and players in the physical markets. The Exchange also conducts regular meetings with its members and physical market players that use the Exchange.
Germany BaFin	<p>Yes – The trading surveillance office applies a continuous bottom up analysis of the derivatives and spot market on a forward-looking basis. Trading surveillance is analyzing contracts concerning abnormal member behavior, price deviation or other irregularities according to section 7 of the Exchange Act.</p>	Yes – In Germany, the legal requirements set out in sections 3, 23 Exchange Act apply. In addition, Article 37 of European Regulation EG/1287/2006 is immediately applicable.	Yes – There is an involvement of the Exchange Council and thus, with participation of members, who form part of this body. Moreover, there are working committees for the asset classes established at Eurex. Within these committees there is an ongoing dialog between market participants and Eurex.
Greece HCMC	See response to Principle 1, Question 1.	See response to Principle 1, Question 1.	See response to Principle 1, Question 1
Gibraltar FSC	See response to Principle 1, Question 1.	See response to Principle 1, Question 1.	See response to Principle 1, Question 1
Hong Kong SFC	<p>Yes - HKFE studies commercial practices in the underlying physical commodity markets before deciding on the contract standard. HKMEx's product team conducts research on and analysis of the underlying physical commodity markets when designing new products.</p>	<p>Yes - HKFE Rule 903 provides for circumstances in which HKFE may vary contract terms. HKMEx is a market operator and monitors the market regularly. Where circumstances suggest specs should be revised, HKMEx will</p>	<p>Yes - HKFE uses direct contact (day-to-day), market consultation and through HKEx Clearing Consultation Panel to ascertain the concerns of commercial participants. HKMEx takes into account needs and concerns of commercial</p>

		consider on a case-by-case basis and revise the contract terms subject to SFC approval.	participants.
Hungary	No.	No.	No.
India FMC	No - The existing FCRA 1952 does not empower the Commission to monitor the commercial practices commodity derivatives products in the physical commodity market.	Yes - As per the provision made under sub sections (a) and (b) of section 16 of FCRA 1952 every forward contract shall be deemed to be closed out consequent upon contravention of section 15 of FCRA 1952.	Yes - As per the provisions u/s 20, 21, 21(A), 21(B), 21(C), 21(D), 21(E), 21(F), 21(G) and 21(H), FCRA 1952 ⁴ , the Commission is authorized to take penal action.
Japan METI	Yes – Using a Market Surveillance System, METI has conducted market performance analyses based on underlying market condition, e.g. demand, supply, and stock, and keeps regular contact with commercial users.	Yes - Pursuant to Article 158 of CDA, when MAFF and/or METI finds it necessary and appropriate for ensuring the fair and equitable principles of transactions or for protecting customers, METI is authorized to order a commodity exchange to (1) change its articles of incorporation or other rules, (2) change its business methods or (3) take any other necessary measures for improving the operation of its business.	Yes - Commodity exchanges discuss new contract designs and a review of existing contract terms at the Market Management Advisory Committee consisting of market participants.
Japan MAFF	Yes – Using a Market Surveillance System, MAFF has conducted market performance analyses based on underlying market condition, eg. demand, supply, and stock, and keeps regular contact with commercial users.	Yes – Pursuant to Article 158 of CDA, when MAFF and/or METI finds it necessary and appropriate for ensuring the fair and equitable principles of transactions or for protecting customers, MAFF is authorized to order a commodity exchange to (1) change its articles of incorporation or other rules, (2) change its business methods or (3) take any other necessary measures for improving the operation of its business.	Yes - Commodity exchanges discuss new contract designs and a review of existing contract terms at the Market Management Advisory Committee consisting of market participants.
Korea	No - If the KRX wishes to have a new commodity derivatives product traded in its market, it needs to amend the Derivatives Market Business Regulation. In such cases, KRX reviews the commodity market that underlies the commodity derivatives product in question.	Yes - Pursuant to FSCMA Art.412, to have a new legislation, amend or repeal the current rules, KRX must receive approval by the FSC.	Yes - In order to list a new derivatives product, KRX consults with stakeholders.
Luxembourg	Yes- The CSSF and the Luxembourg Stock Exchange supervise commodity derivative products and the financial market in Luxembourg on an ongoing and daily basis in the remit of their	No.	No.

	competencies. See answer to key question ii) of Principle 17. The CSSF and the Luxembourg Stock Exchange have no supervisory and enforcement powers towards commercial practices in the physical commodity market that underlies a commodity derivatives contract.		
Malaysia	Yes - Currently, the available commodity contracts on BMD, i.e. Crude Palm Oil Futures, Palm Kernel Oil Futures and USD Crude Palm Oil Futures, are based on the crude palm oil as the underlying. BMD, which is the front line regulator for the above commodity derivative products in Malaysia is constantly in consultation with industry participants and will, in the event of a material change in commercial practices in the physical market, recommend appropriate revisions to the contract.	No - There aren't specific rules/guidelines concerning the circumstances that will trigger a reevaluation of a commodity derivatives contract's terms and conditions. BMD is required to perform continuous reviews of its products as part of the rule approval process.	Yes - BMD will generally consult the industry players when designing new derivatives products. In addition, the SC will also seek feedback from the brokers and potential players through focus group consultations. The objective being to ensure that the introduction of any new product does not pose unnecessary risk to the market and has the potential to serve the industry.
Mexico CNBV	No.	No.	No.
Netherlands AFM	Yes - The exchange (APX-ENDEX) is responsible for monitoring on screen trading and collecting external fundamental physical data in relation to underlying commodities of the future contracts. The exchange's Risk & Compliance department prevents and or detects manipulative or disorderly conduct, and are responsible for obtaining appropriate approvals from the AFM.	No - The exchange (APX-ENDEX) has an informal process in place. Market surveillance activities and or the output of expert groups mentioned under a. above might result in reevaluation of product specifications.	Yes – The exchange (APX-ENDEX) will deal with any raised concerns in compliance with the incident and or complaints procedure on an ad hoc basis. Gas & Power Development Boards, but also specific round tables are organized in which members can raise any issues they want to discuss. Furthermore, there is an official complaint procedure defined in its Market Rules with the possibility to call for arbitrage at the Dutch Securities Institute (DSI) ¹
Norway FSAN	Yes – Where relevant, FSAN cooperates with the underlying physical market regulator, competition authority and regulated market surveillance. Market surveillance at the regulated market (financial instruments) does have a close cooperation with the corresponding market surveillance at the underlying	Yes – Under Norwegian legislation all products must reflect the product value. Thus re-evaluations have occurred when market conditions relating to the underlying have changed influencing the market value of derivatives. In these cases	Yes – In instances described in 3b, when there are suggested changes to a contract, exchange rules mandate that these issues will be submitted to exchange members and then submitted to FSAN for approval.

¹ DSI: a self regulatory organization aimed at screening and registration of employees in the financial services industry. It can also act as a mediator in case of conflict between market participants

	spot market (physical products). The supervisory model is that the regulated market will monitor the market for listed commodities derivatives products, including the underlying market where relevant, and FSAN will be able to collect relevant data for the corresponding OTC-market if the regulated market is not able to get data, including trades in the physical market (in cooperation with the regulator for the underlying physical market).	the regulated market suggests changes in trading rules to solve the problem.	
Panama	No.	No. The Superintendency of Securities under the powers conferred by law is to have the right to request an amendment or change in service contracts offered by entities to their clients by principle of protecting the interests of investors. Usually regulated entities proceed to change the recommended changes.	No.
Portugal CMVM	No - See description above on the OMIP derivatives market. The monitoring of the physical commodity market (in this case, electricity) is carried out through the MIBEL Regulators Council. The regulation and supervision of the OMIP derivatives market is carried out jointly with the Energy Regulators from Portugal and Spain and with the CNMV. The underlying asset of the derivatives contract admitted to trade on the OMIP is directly supervised by the Energy Regulators from Portugal (ERSE) and Spain (CNE).	No - Although there are no such specific rules, the CMVM has the power to promote amendments to the standard contractual clauses, where deemed necessary.	Yes - OMIP, the market operator has set a Trading and Products Committee as an advisory body to its activity as market managing entity. OMIClear, the clearing house and settlement management entity, has set a Clearing and Settlement Committee. These committees are consulted prior to the design of a new derivatives contract.
Romania	No - Although CNVM does not have competencies over commodities cash or forward markets, it will cooperate with the relevant public authorities empowered with the supervision of the respective spot market based on the provisions of its Statute (Art. 5 and Art. 6) - CNVM Statute stipulates that CNVM collaborates with the National Bank of Romania, the Insurance Supervising Commission, the Competition Council, the court authorities and other public institutions and public authorities for the purpose of fulfilling its basic objectives (...) Art. 6 provides that CNVM may, on a reciprocity basis,	No - CNVM Regulation no. 2/2006 stipulates that market operators shall establish the necessary arrangements to review regularly the compliance with the admission requirements of financial instruments admitted to trading on their regulated markets pursuant to regulation in force. (Art. 41(3)).Also, when the underlying support does not exist anymore, the respective derivative financial instruments should be withdrawn of trading (Art. 6 of the CNVM Instruction	No - There are no written procedures in places but the characteristics of each derivative contract are published on the exchange website. The participants and their clients may address to CNVM complaints or proposals.

	provide assistance to foreign regulators who need help such assistance.	no. 3/2006).	
Saudi Arabia CMA	No – because there is currently no commodity derivatives market. However, under CML Art. 5 CMA has the power to carry out inspections of the records to determine whether a person has violated or is about to violate the CML or CMA rules.	No – Because there is currently no commodity derivatives market.	Yes – Both CMA and the Saudi Stock Exchange have procedures in place for discussion with stakeholders and market participants.
Singapore MAS	Yes – the Commodity Unit (CU) in SGX-DT is responsible for monitoring commercial practices in the physical commodity market that underly a commodity derivatives contract. SMX has a product development team that looks at commercial practices in the physical market and recommend changes if commercial practices are believed to vary from the initial contract terms.	Yes – CU at SGX-DT monitors underlying commodity markets and highlights observations which may trigger a re-evaluation of a contract. SMX uses lack of trading interest, lack of deliverable product and lack of reasonable price convergence on expiry to trigger re-evaluation of a contract.	Yes – All SGX-DT contracts are subject to public consultation. SMX has a Product Advisory Committee comprised of industry participants which is instrumental in reviewing and finalizing the initial contract specifications. Any subsequent concerns are directed to the Products Dept. for review.
South Africa	Yes - Exchange staff pay close attention to physical stock levels in the country as published by the South African Grain Information Services (SAGIS). Attention is paid to crop forecasts as published by the Crop Estimates Committee, a Government function, by considering physical stock levels compared with open interest. Staff can recommend appropriate action in terms of the derivative contracts.	Yes - As published via market notice, contract position limits for products where there is limited supply in the country, i.e. sunflower seeds, overall position limits specific to the delivery month are adjusted annually based on the forecasted crop size. The Exchange's derivative rules; section 7.170, 8 and 10. Agricultural contract specifications: sections 3 and 5.	Yes - Via a published market notice from the exchange these limits will be updated annually and in the case of speculative position limits as and when required.
Switzerland FINMA	No – SESTA does not give FINMA authority of physical commodities markets even though it contains a basis for the regulation of electricity markets.	No	Yes – SESTA Art. 6 requires that issuers and investors are represented in the exchanges' committee that is responsible for the admission of new securities.
Turkey	Yes - The Exchange follows developments in the underlying market (changes in commercial practices, related laws and taxes) and amends the contract provisions if deemed necessary. If the specifications to be amended are among the minimum contract specifications, the Exchange conveys the amendment to the CMB for the approval.	No. However, the complaints of the investors, the suggestions of the Market Oversight Department of the Exchange or the changes in the underlying market may lead to amendments in the contract provisions if deemed necessary.	No. The concerns of the commercial participants of the market are dealt with the same procedure as the complaints of the investors.
United Arab Emirates SCA	N/A.	N/A.	N/A.
U.K. FSA	Yes – RIEs must ensure that contracts remain appropriately calibrated to the underlying market. REC 2.12.2B and MiFID 35.6(d) require regulated	No – There are no formal triggers for reevaluating terms and conditions of commodity derivatives contracts.	Yes – Issues raised in member consultation within all of the RIEs are progressed as is appropriate by the

	markets to take into account whether the settlement price properly reflects the price of the value of the underlying.	However, market events or market conditions can lead to a reevaluation of contract terms.	exchange executive and escalated within exchange governance on a case-by-case basis.
U.S. CFTC	Yes - CFTC maintains a large trader reporting program (LTRS) which requires that all traders holding positions above a CFTC specified level have those positions reported on a daily basis. This includes an obligation for large traders to keep books and records showing all positions and transactions in the cash commodity, its byproducts and all commercial activities that the trader hedges in a futures or options contract where the trader is reportable.	Yes - CFTC Regulation 40.2 requires a registered entity to provide any additional evidence, information or data that demonstrate that the contract meets, on a continuing basis, the requirements of the Commodity Exchange Act or the Commission's regulations or policies thereunder. The CFTC Division of Market Oversight will re-evaluate a contract's terms and conditions in response to external complaints from traders or producers, including complaints or concerns voiced within the Commission's Agricultural Advisory Committee. Additionally, the Surveillance staff within the Division of Market Oversight regularly reviews market behavior and refers issues or anomalies to Product Review staff.	Yes- DCMs generally consult potential users when designing new derivatives products. Also, all contract filings are posted on the CFTC's website for public comment which CFTC staff reviews.

Principle 2: Economic Utility - Contracts should meet the risk management needs of potential users and promote price discovery of the underlying commodity.

The design and/or review of commodity derivatives contracts should include a determination that the contract can meet the risk management needs of potential users of the contract and/or promote price discovery of the underlying commodity. The determination of economic utility may be supported by surveys of potential contract users or may be implied - for example, from an analysis of the physical market.

The regulator should, as a minimum requirement, be informed of the type of products to be traded on an exchange or trading system and should review and/or approve the rules governing the trading of the product.

Question 1	Does the relevant design or review process for commodity derivatives contracts include a determination that the contract can meet the risk management needs of potential users of the contract and promote price discovery of the underlying commodity?
Argentina CNV	Yes -The review of contracts is done by the market that designed it. If the contract is well designed will be useful and will succeed.

Australia ASIC	Yes - ASIC's rule lodgement template indirectly addresses the risk management needs of potential users by requiring market operators to consult with industry before introducing new contracts. In designing a commodity derivatives contract, consultation with the users and understanding their requirements (including their risk management needs) is a commercial imperative for the market operator. The more accurately the commodity derivatives contract specifications reflect the operation of the underlying physical market, the more likely the commodity derivative will be an effective economic tool for hedging and price discovery.
Brazil CVM	Yes - All features of the commodity derivatives contract are defined in order to make it a useful instrument of risk management for the final/commercial user: specific aspects of quality grade of the commodity, delivery location, etc.. Instruction CVM 467, Art. 7, sets forth the prerequisites that must be included when submitting derivatives contracts models to the Market Authority for approval.
Canada AMF	Yes- Risk management and price discovery are of fundamental importance and the AMF is responsible for assessing any new derivative submitted for its review. The Quebec Derivatives Act obliges that any derivative serve an economic and public interest as well as having a “reliable reference price”. A contract’s design must demonstrate compliance to CPSS-IOSCO’s FMI principles (3.6.4-3.6.5).
Canada ASC	Yes - Paragraph 2 (Prevention of Market Disruption) of the Conditions for Maintaining Recognition as a Derivatives Exchange, which is set forth in response to Question B.1(a), helps to ensure that the design of a commodity contract accurately reflects the operation of the cash market in question and does not contain factors which may inhibit or bias the delivery process.
Canada OSC	Yes - Registered or recognized commodity future exchanges are required to ensure fair and orderly trading and to prevent excessive speculation. Acceptable forms of contracts that would be accepted by the OSC, under Section 36. (1c), would need to ensure that terms and conditions are in conformity with normal commercial practices of the trade in the commodity. Price discovery is promoted by Section 15 (1)(b) which require members to be subject to rules and regulations to maintain orderly trading in its markets.
Canada MSC	Yes - The Director of the Commission is required to consider the risk management needs of potential users, as well as a contract’s ability to promote price discovery, through the approval process in s. 38(1) of the Act. The ICE contract committee would also consider these factors in their annual review (ICE Rule 3.09).
China CSRC	Yes - According to the CSRC’s guideline on development and listing of new futures products, a contract must serve the functions of price discovery and hedging. The judgment can be supported by market research and data analysis from the physical market authorities, associations and firms, etc.
Chinese Taipei	No.
Denmark DSFA	No.
Dubai DFSA	Yes - Continuous DME outreach is used to develop potential contracts and obtain industry feedback. Contracts must include criteria for economic purpose, anticipated liquidity and fungibility with OTC traded contracts. Contract design is drafted as a new Chapter of the Business Rules and published on the DME website and public comment. The DME completes a review of comments received before finalising the proposed contract design. Final implementation of the contract (design) as described in the DME rules is subject to DFSA approval.
France AMF	Yes - Euronext Paris reviews the following elements: i) availability of prices in the relevant market, including their frequency and means of publication; ii) volatility of prices in the relevant market; iii) tools used by market participants to manage the relevant risk; iv) impact of price movements on market participants.
Germany BaFin	Yes - Cooperation between participants and potential users is close. EEX (European Energy Exchange) risk management needs are met in that transactions on the Derivatives Markets of EEX are only concluded between ECC AG and an institution which holds a clearing license. Transactions are concluded only by means of the clearing member, via whom the participant settles his transactions on EEX.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.

Hong Kong SFC	Yes - HKFE conducts feasibility studies and collects input and comments from market participants on potential or new markets/products as to meet the market demand. Relevant parties input on issues and solutions, including risk assessments and/or risk management measures, relating to their respective areas and the markets/products under study.
Hungary	No.
India FMC	N/A
Japan METI	Yes - The Indian commodity market is still nascent. The participation of banks as well as awareness among real and potential participants is needed for the development of an integrated market. Efforts are being made by the Commission to this effect. The use of futures for hedging remains limited for now.
Japan MAFF	Yes -The criteria for permission, license or approval of a new commodity market that are set forth in Article 15, 80, 155 or 156 of CDA include assessment whether the contract can meet the risk management needs of potential users of the contract and promote price discovery of the underlying commodity.
Korea	Yes - Whether the derivatives products adequately reflect the demand and needs of market participants are taken into consideration.
Luxembourg	No.
Malaysia	Yes – BMD designs the derivative contracts with the needs of the potential users in mind and will seek comments on the product specifications to ensure they are consistent with the physical specifications, and suitability of the contracts as a hedging tool for the physical market or for the related positions. Practices prevalent in the physical or cash market are generally adopted unless better practices are available.
Mexico CNBV	No.
Netherlands AFM	Yes - Exchange operator liaises with market participants as regards design and specifications of contracts that will be admitted to trading. The AFM has to give prior approval before contract will be admitted. In its assessment the AFM will take into account whether principles of fair and orderly trading will be met.
Norway FSAN	Yes - All commodities derivatives products traded at a regulated market (MTF) and cleared in Norway have financial cash settlement and will be clearable. Products are priced on a forward curve known by the market participants and keeping the volume risk and the price risk separated. Price risk is addressed in the derivatives markets, volume risk addressed in the physical market. A new market design must be done as changes in exchange rules that will be evaluated by FSAN (or the Ministry of Finance if it is an exchange that requires a new license in Norway).
Panama	No.
Portugal CMVM	No - While no such determination exists, technical specifications are required during notification as well as justification for the contract; description of the underlying asset's market. The determination of the reference price of the derivative contract, and underlying asset is thoroughly examined.
Romania	Yes - Art. 4 of CNVM Instruction no. 3/2006 provides for the minimum characteristics of a derivative contract. As regards the price, CNVM Regulation no 2/2006 on regulated markets (Art. 40) provides the minimum conditions for the admission to trading on a regulated market of a derivative contract. Exchange regulations referring to monitoring the spot market for the underlying asset (Art. 32 of Sibex Regulation no. 4).
Saudi Arabia CMA	No - There is currently no KSA commodity derivatives market. Risk management enhancement and the promotion of price discovery have been key aims in KSA market development under the aegis of the CMA and Tadawul.
Singapore MAS	Yes - To facilitate the product review process MAS requests that all AEs submit contractual details for new commodity derivatives contracts seeking approval for listing. MAS takes into account economic benefits, features of the underlying market, the contract's terms and conditions, settlement and delivery procedures and other social economical factors (economic purpose, promotion of price discovery and risk management).
South Africa	Yes - This process is undertaken through an open and transparent consultation process with both the buy- and sell-side market participants. The process seeks to ensure that there is an easy and efficient manner in which to process physical deliveries.
Switzerland	Yes - There are no physically settled contracts traded on EUREX. Contracts are designed according to market needs. FINMA Circular 08/38

FINMA	requires securities transactions to be founded on an economic basis.
Turkey	Yes - The specifications of the contracts are determined by the Exchange which creates the most efficient and useful risk management instrument for the potential users. For this reason, several hedging examples are evaluated by the Exchange in the design process of the contract with the market participants of the underlying market.
United Arab Emirates SCA	DGCX produces a full business case proposal to the SCA that underscores the price risk-management features afforded to end-users of proposed new contract listings, which are carefully considered by the Authority before listing approval may be forthcoming. Possible reference may again be made to SCA Decision no. (157/R) of 2005 Article 5-1-1.
U.K. FSA	Yes - Under recognition requirement 3.14 (2 -7) where a UK RIE proposes to admit a specified instrument to trading it must give the FSA notice. If the product is a derivative, the proposed terms and the name of any Recognised Clearing House providing clearing services must be communicated to the regulator. The same applies to any proposed amendments to the standard terms of any derivative. Full contract specifications including their relation to the physical are reviewed by the FSA prior to approval being given for the contract to trade on the RIE as per REC 2.12.
U.S. CFTC	Yes - The use of Guideline No. 1 in the contract design phase helps to ensure that the design of a commodity contract accurately reflects the operation of the cash market in question and does not contain factors which may inhibit or bias the delivery process.

Question 2	Is the relevant governmental regulator informed of the type of products to be traded on an exchange or trading system and does the regulator review and/or approve the rules governing the admission to and trading of the product?
Argentina CNV	Yes -The regulator (CNV) has the power to approve the adoption of any new contract once the SRO has reported on the characteristics of the spot market on which the derivative contract is created.
Australia ASIC	Yes - Contract specifications must be part of the market operating rules. For a class of derivative in particular, the Corporations Act (s793A and regulation 7.2.07) requires that the operating rules include,(A) the standard terms of the arrangement that constitutes the derivative; and (B) a description of the underlying commodity. Under the Act market operators must lodge with ASIC written notice of changes to operating rules as soon as practicable after a change is made (s793D). New products must submit to a review process where ASIC raises any issues/concerns with the market operator. Once all issues have been resolved, ASIC invites the market operator to formally lodge the rule change. When the change is formally lodged with ASIC, ASIC must (s793E) in turn notify the Minister for approval.
Brazil CVM	Yes - Instruction CVM 467/08, Article 7, covers submission of the derivative to the governmental regulator (CVM) for prior approval. OTC-registered derivatives are exempt from prior approval by the (CVM); nevertheless, the contracts must be admitted for registration by the self-regulatory body (SRO) of the entity that oversees the respective OTC organized market (Instruction CVM 467/08, Article 3.) Contract terms and provisions in OTC-registered derivatives are covered in Rule 3,505/07, of the National Monetary Council (CMN), regarding underlying reference prices. Art.3, II, b ensures reference price discovery of underlying assets. Art. 4 covers reference prices from foreign jurisdictions, Rule CMN 3,505/07.
Canada AMF	Yes - The AMF must review every listed product on exchanges and trading systems operating within its jurisdiction. It must also review the rules concerning admission and the trading of the products. Exchange regulations must also guard against market manipulation, as well as discretionary trading before being approved.
Canada ASC	Yes -Section 106 of the Securities Act (Alberta) prohibits a person or company from trading in an exchange contract on an exchange in Alberta unless the form of exchange contract has been accepted by the ASC. A derivatives exchange is required to submit the rules regarding a derivatives contract and a description of the underlying market, assurances as to deliverable supply and assurances against manipulation or distortion. Paragraph 2 (Prevention of Market Disruption) of the Conditions for Maintaining Recognition as a Derivatives Exchange, set out below, helps to ensure that the design of a commodity contract accurately reflects the operation of the cash market in question and does not

	contain factors which may inhibit or bias the delivery process.
Canada OSC	Yes - Registered commodity futures exchanges are required under Section 15 (6) of the CFA to file by-laws, rules, regulations, policies, procedures, interpretations and practices as soon as practicable and in any event within five days with the OSC. Section 37(2) of the CFA commodity futures exchanges are required to file copies of amendments or additions to contract terms and conditions with the OSC.
Canada MSC	Yes - The MSC is informed of each type of product to be traded and reviews the rules governing the admission to and trading of the product. Further, under S. 14(4) of the Act gives the MSC a decision in respect of an internal regulation of the SRO or decision made under an internal regulation of the organization. S. 38(3) of the Act, states the Director's approval is required any form of contract that is to be traded as well as amendments. ICE Rule 3, requires the exchange to form committees charged with reviewing the specifics of each product and how that product is traded.
China CSRC	Yes - According to the Regulations, the CSRC takes charge of approving futures product listing, therefore, futures exchanges must file with the CSRC before getting an approval to list a product.
Chinese Taipei	Yes - FTA §5,10 See also principle 1.1(a).
Denmark DSFA	No.
Dubai DFSA	Yes - Admissions of an Investment by an AMI subject to DFSA approval (AMI 10.8.1.) If the Investment is a derivative contract, it must include the proposed terms of that contract. The DME includes all contracts as part of its Rulebook. Any addition of a new contract or amendment to an existing contract is subject to DFSA approval (AMI Chapter 9 Amendments to Business Rules)
France AMF	<p>Yes - The Euronext LIFFE Paris rulebook, which includes the main rules governing the admission and trading of each product, is approved by the AMF, as well as any amendments. Draft rules for this regulated market are sent to the AMF for consideration, along with a cover letter supporting their introduction. They are approved if the AMF considers that they are transparent and non-discretionary (Article L. 421-10 of the Monetary and Financial Code) and that the design of the derivatives contracts allows for orderly pricing as well as for the existence of effective settlement conditions (Article L. 421-14 of the same Code).</p> <p>With respect to Powernext which is an MTF, the AMF provides a non-objection to draft rules governing the admission to and trading of the products if it considers that the rules are transparent and establish objective criteria for the efficient execution of orders (Articles L. 424-2 and L. 424-5 of the Monetary and Financial Code).</p> <p>In addition to these main rules, more detailed implementing rules and their amendments are also reviewed by the AMF.</p> <p>New contract specifications are also reviewed by the AMF, regardless of whether the contracts are to be traded on Euronext LIFFE Paris or Powernext. The AMF verifies that the conditions set out in Articles L. 421-14-III and L. 424-2 of the Monetary and Financial Code are satisfied. The AMF, however, is not responsible for the approval of all the characteristics of the products.</p>
Germany BaFin	Yes - The exchange supervisory authority is informed about the types of products to be traded on the exchange and can review and reject them, if they affected orderly trading (§ 3 (5) Sentence 2 of the German Exchange Act). Also, BaFin by means of transaction reporting, is informed about the types of products traded on the exchange, § 9 (1) German Securities Trading Act.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hungary	Yes - Exchanges Rules in consultation with HFSA (the Code of Trading and listing rules are approved by the HFSA).
Hong Kong SFC	Yes –Section 24 of the SFO provides that the rules of HKFE and any amendment to the rules be approved by the SFC. The ATS Authorization requires that HKMEx ensure that futures contracts traded through its trading services belong to a class that is approved in writing by the SFC. This includes the SFC's reviewing and approving of the rules governing the admission to and trading of the futures contract.

India FMC	Yes - Exchange approval is sought from the Commission for futures contracts conditions and specs as well as the feasibility of the underlying, see u/s 15 of the FCRA 19524. Approval is subject to Rules, Bye-laws and Regulations and also contract specifications of the commodity as approved by the Commission. Any contract modifications are subject to Commission approval. Excessive or unhealthy speculation is monitored and sanctioned by the Commission.
Japan METI	Yes - Pursuant to Article 9, 78, 155 or 156 of CDA, any person who intends to open a commodity market shall obtain permission, license or approval from a relevant competent minister, METI and/or Ministry of Agriculture, Forestry and Fisheries (MAFF).
Japan MAFF	Yes - Pursuant to Article 9, 78, 155 or 156 of CDA, any person who intends to open a commodity market shall obtain permission, license or approval from a relevant competent minister, MAFF and/or METI.
Korea	Yes- Pursuant to FSCMA Art.412, to list a new derivatives product, the KRX must reflect this in the Derivatives Market Business Rules, which require prior approval by the FSC. During this approval process, the FSC acquires information on the new derivatives products and reviews the Derivatives Market Business Regulation which would also include rules/information relevant to the new products.
Luxembourg	
Malaysia	Yes – BMD is required to submit applications for new products to the SC and notify the SC of any modification to existing products. Under section 9(1) & (2) of the CMSA, BMD submit an application to the SC for any amendments to the Rules of BMD. The SC has six weeks to review the application and revert in writing to the exchange. In addition, under section 9(4) of the CMSA, the SC is required to consult the Minister responsible in respect of the commodity, where the amendments to the rules of BMD involve a commodity.
Mexico CNBV	Yes - In general terms, the Derivatives Exchanges have powers to design and incorporate, with previous authorization of the CNBV, the BOM and the SHCP, contracts of futures and options to be traded on the exchange (Rules for companies and trusts that intervene in the establishment and operation of the futures and options market, Article 5, f). This rule applies to other derivatives different from commodities.
Netherlands AFM	Yes - The exchange operator liaises with market participants as regards design and specifications of contracts that will be admitted to trading. The AFM has to give prior approval before contract will be admitted. In its assessment the AFM will take into account whether principles of fair and orderly trading will be met. For regulated markets section 5:32a of the Financial Supervision Act requires the market operator demonstrate compliance with rules on the admission of financial instruments to trading on the regulated market. Section 4:91 of the Financial Supervision Act requires operators of an MTF adopt transparent rules regarding criteria used in determining which financial instruments can be traded via its system. The AFM formally approves new rules or amended rules (section 4 of the Decree on Regulated Markets as regards RM and section 41 sub 1 under (p) of the Decree on Market Access of Financial Enterprises pursuant to the Financial Supervision Act in combination with section 2:99 sub 3 of the Financial Supervision Act and section 4:26 of the Financial Supervision Act as regards MTF).
Norway FSAN	Yes - The listed products will be approved as a part of the licensing of a regulated market and MTF. Listing of commodities derivatives in existing regulated markets with new types of underlying must be reported to FSAN. FSAN may refuse listing of new types of products. The evaluation process of new product types are based on requirements in the existing legislation.
Panama	Yes - The authority is informed of the derivative that is under negotiation, is reported by the regulated entity, but usually the negotiation is done privately.
Portugal CMVM	Yes - The CMVM is informed by the market operator of traded products on its platforms. Prior to the admission of the derivatives contracts to the market, notification of the standard contractual clauses of each contract is provided. All the rules governing the trading are subject to registration/notification with the CMVM. The market operator shall approve transparent and non-discriminatory rules, based on objective criteria.
Romania	Yes - Financial instruments have to be registered with CNVM before trading on a regulated market. Sibex Regulation no. 4 Art. 33(1) trading of a derivative instrument is allowed on the regulated market managed by SIBEX only after CNVM issues the registration certificate. CNVM approves the trading rules on a regulated market including admission, maintenance, withdrawal and suspension requirements, as well as trading

	conditions - Capital Market Law no. 297/2004 and Art. 136 (2)
Saudi Arabia CMA	Yes - There is currently no KSA commodity derivatives market. However, CML (Art.5 and 6) and its set of Implementing Regulations (in particular, the Listing Rules) grant the CMA full unilateral authority to authorize, review, and approve the rules governing the admission to and trading of Securities. CML Chapter 5 refers to the rules governing the admission of brokers.
Singapore MAS	Yes - Section 29 of the SFA states that AE seek approval of MAS to list, delist or permit the trading of any contracts. New product design is submitted to MAS for approval based on five criteria (see above). Under section 23 of the SFA, AEs must notify MAS of any changes of rules that govern the trading of the product.
South Africa	Yes – The commodity exchange informs the government regulator of any new commodity products. The regulator signs off and approves all changes - Section 61 of the Securities Services Act, 2004.
Switzerland FINMA	Yes - Contract regulations published on the EUREX website. SESTA delegates market surveillance to the exchange. SESTO requires independence of the market surveillance unit from management. The head of the unit is approved by FINMA. The exchange presents FINMA all new products before launching, which gives FINMA the opportunity to intervene if the economic basis according to Circular 08/38 is lacking.
Turkey	Yes - Provisions of any kind of derivatives contracts to be traded at the derivatives exchange are subject to the authorization of the CMB.
United Arab Emirates SCA	Yes - The specifications of DGCX listed Contracts are encompassed within SCA approved Exchange By-Laws; additions to which must be approved by the SCA. Possible reference may again be made to SCA Decision no. (157/R) of 2005 Article 2-2.
U.K. FSA	Yes - Before a financial instrument is admitted to trading on a regulated market, the RIE must submit a technical specifications document to the market regulator. The document must set out how the new product complies with Article 37 of MiFID Regulation and REC 2.12.E.
U.S. CFTC	Yes - The CFTC is informed by the exchange of the products to be traded and reviews them. DCMs may list new products for trading without prior approval, by filing a written self-certification with the CFTC. Procedures for the self-certification of products are set forth in CFTC Regulations 38.4(b) and 40.2. The CFTC may stay the listing of certain event products to provide the CFTC with a 90-day review period to determine whether or not the event contract falls within the scope of prohibited event products.

Principle 3: Correlation with Physical Market - Contract terms and conditions generally should, to the extent possible, reflect the operation of (*i.e.*, the trading in) the underlying physical market and avoid impediments to delivery.

Question 1	Does the exchange design futures contracts to conform to prevailing physical market commercial practices, including commodity grade and quality specifications, to avoid impediments to delivery and reduce the likelihood of Non-convergence of physical and commodity derivatives prices, manipulation or a disorderly market? What role, if any, does the government regulator play with respect to the review of contracts?
Argentina CNV	Yes - CNV regulations (Article N° 50, Chapter XXIV) require the description and analysis of the underlying physical market. Also, where appropriate, physical deliveries are regulated and related to goods traded on the spot market.
Australia ASIC	Yes - Futures contract design reflects commercial practices in the prevailing physical market. Proposals to introduce a commodity derivatives contract requires market operators to provide ASIC with the following 1) Physical delivery contracts - the terms and conditions that will result in a deliverable supply and not conducive to manipulation; 2) Cash-settled contracts – how the settlement price reflects the underlying cash market, and is not conducive to manipulation and creates a reliable price series. 3) A description of the underlying physical market and who regulates it. ASIC reviews the proposed contract terms and provides advice to the Minister in relation to the exercise of his/her power of disallowance of changes to Operating Rules.

Brazil CVM	Yes - Strict commodity grade and quality specifications are present in each exchange-traded commodities futures contract, promoting price convergence of physical and derivatives prices, and avoiding impediments to delivery. Grade and quality specifics of the underlying required. Physical delivery procedures are set by the Exchange for commodity storage, invoicing, quality control, delivery cash settlement and ownership transfer.
Canada AMF	Yes - The Exchange is obliged to design futures contracts that conform to prevailing physical and commercial practices which include commodity grade and quality specifications. The review of products by the AMF is contingent on meeting further stipulations outlined in answer 1 under the Accountability heading.
Canada ASC	Yes - Currently no published requirements. Derivatives exchanges must submit the rules setting forth the terms and conditions of a derivatives contract, a description of the cash market for the commodity on which the contract is based, and a demonstration that the terms and conditions result in a deliverable supply not conducive to price manipulation or distortion. Deliverable supply is expected to be available to short traders and long traders at market value. ASC recognition requires notification of rule and contract changes. Paragraph 2 (Prevention of Market Disruption) of the Conditions for Maintaining Recognition as a Derivatives Exchange. For physical - Terms and delivery supply (and ownership) are monitored by the exchange. For cash settlement – continued availability of pricing and index methodology issues are required.
Canada OSC	Yes - Registered commodity future exchanges are required to ensure fair and orderly trading and to prevent excessive speculation. Acceptable forms of contracts accepted by the OSC, under Section 36, need to ensure that terms and conditions are in conformity with normal commercial practices of the trade in the commodity. The Commission would also not accept a contract that was prone to manipulation.
Canada MSC	Yes – ICE Contract Committee designs contracts taking into account prevailing physical market commercial practices to avoid impediments to delivery, and maintain an orderly market. ICE is required to provide information addressing each provision of Section 38 of the ACT. Section 38(1)(b) of the Act - the must contract conform to commercial practices in the physical market. Furthermore, ICE Rule 8A.01 defines the terms for any contract to be traded on the exchange. ICE maintains individual Rules specific to each commodity traded outlining contract and trading specifications, deliverable grades and specifications. Contracts are also reviewed annually by the ICE Contracts Committee (ICE Rule 3.09), correlation with the physical market is among factors that are considered.
China CSRC	Yes - According to the CSRC's guideline on development and listing of new futures products, the CSRC and the futures exchanges should adhere to the principle of adopting cash market practices and serving cash market firms when approving and designing futures contracts and rules. State and industrial standards, if available, should be adopted for contract design. Otherwise, the futures exchanges should make relevant standards according to the physical market practices.
Chinese Taipei	No - The Taifex has three commodity derivatives products: Gold Futures, NT Dollar Gold Futures and Gold Options. All of them are Cash settlement, and the final settlement price is based upon the London Gold AM Fixing as released by the London Gold Market Fixing Limited on the last trading day. There is no physical commodity exchange in Taiwan.
Denmark DSFA	No.
Dubai DFSA	Yes - DFSA approves the terms and conditions of the contract design as described in the DME rules. The DFSA will take into account contract terms, address specifications of the commodity grade and quality to avoid impediments to delivery in its assessment. The OQD is backed by the physical delivery of Oman crude oil. The Sultanate of Oman has a stable output of more than 700.000 barrels of oil per day.
France AMF	Yes -The AMF reviews all new contracts and any changes to contract specifications. The Exchange designs contracts in close cooperation with the relevant advisory groups for product class and include members and players in the physical markets.
Germany BaFin	Yes - With respect to Eurex all commodity futures are cash-settled. Concerning EEX the physical settlement of the futures takes place through the European Commodity Clearing Luxembourg S.à r.l (ECC Lux.). The Clearing Conditions of the ECC contain detailed regulations for the physical settlement. These regulations converge with the design of the futures contracts. The

	governmental regulator is informed about the types of products to be traded on the exchange and review and rejects them, if they affect the orderly conduct of the exchange trading.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	<p>Yes – The HKFE conducts feasibility studies and articulating models based on product idea, market opportunity, competitive advantage, key success factors and business risks and collects input and comments from market participants. Conformity of the futures contract to the underlying physical market commercial practices is a key factor of consideration. HKFE submits the contract specifications and relevant rule amendment to the SFC for approval.</p> <p>The HKMEx’s product development team conducts thorough research and analysis in order to ensure marketability and liquidity of the contracts. Commodity grade and quality specifications are considered to avoid delivery impediments and reduce the likelihood of non-convergence of physical and commodity derivatives prices, manipulation or a disorderly market. Contract specifications including the determination of final settlement price must be approved by the SFC.</p>
Hungary	No - There are no explicit guidelines, but product design always reacts to market demands so it conforms to prevailing physical market commercial practices.
India FMC	Yes – The Commission has undertaken comprehensive review of the commodity futures contract design/specifications for calibrated and orderly developed markets with emphasis on prudent risk management to augment and attract wider participation from physical market players and for fair price discovery.
Japan METI	Yes - Pursuant to Article 9, 78, 155 or 156 of CDA, any person who intends to open a commodity market shall obtain permission, license, or approval from a relevant competent minister, and the criteria is based on the reflection of the operation of underlying physical market.
Japan MAFF	Yes - Pursuant to Article 9, 78, 155 or 156 of CDA, any person who intends to open a commodity market shall obtain permission, license, or approval from a relevant competent minister, and the criteria is based on the reflection of the operation of underlying physical market.
Korea	Yes - The FSC approves the amendment or new rules of the Derivatives Market Business Regulation by taking into consideration whether the new product adequately implements market practice and whether or not there is a possibility of unfair trading. The FSCMA regulates market manipulation, including price manipulation and KRX performs market surveillance to regulate unfair trading.
Luxembourg	No.
Malaysia	<p>Yes – BMD designs the derivatives contracts with the needs of the potential users in mind and seeks comments on product specifications to ensure consistency with the physical specification, and suitability of the contracts as a hedging tool for the physical market or for other related positions. Practices prevalent in the physical or cash market are generally adopted unless better practices are available.</p> <p>BMD is required to submit application for new products to the SC and notify the SC of any modification to any existing products. Under section 9(1) & (2) of the CMSA, BMD is also required to submit application to the SC for any amendments to the rules of BMD. The SC has a period of six weeks to review the application and revert in writing to BMD.</p>
Mexico CNBV	BMD is required to submit application for new products to the SC under section 9(1) & (2) of the CMSA, as well as any amendments to the Rules of BMD.
Netherlands AFM	Yes - The exchange (APX-ENDEX) designs future contracts in consultation with the exchange Members and relevant stakeholders. The Power and Gas Futures traded on the exchange are physically settled, rather than cash-settled, therefore product specifications of the financial instrument are aligned with the physical product. Prior to the launch of new products by the exchange, approval is sought from the AFM.
Norway FSAN	Yes - At the moment all commodities derivatives markets in Norway have financial settlement (cash settlement) against the underlying spot market (monopoly market) or one common index. Relevant non-convergence has not been observed. This is regulated in the exchange rules.
Panama	Yes - The authority which oversees the contracts is clear; there is clarity and understanding between the rights and duties of each of the parties,

	which does not violate the rights of information and any other rights important for investor protection and fair treatment customers.
Portugal CMVM	Yes - The underlying asset of contracts admitted to trading on the OMIP derivatives market is electric energy. During the delivery period, the underlying asset is evaluated according to the Spanish (SPEL) or Portuguese (PTEL) Electricity Index, which is based on hour marginal prices formed on the daily market managed by OMIE (see answer above). The physical delivery of positions is not guaranteed, neither by clearing members neither by OMIClear. The delivery is made in the spot market, according to the rules established by its operator (OMIE).
Romania	Yes - The EC regulation no 1287/2006 (Art. 37) provides requirements when admitting financial derivatives to trading on a regulated market. The determination of contract settlement price must properly reflect the value of the underlying asset. The Sibex Exchange Regulation no. 4 (Art. 32, paragraph 2) sets minimum requirements for admission to trading of a derivative financial instrument.
Saudi Arabia CMA	No - For the reason that there is currently no KSA commodity derivatives market.
Singapore MAS	Yes - AEs design commodity contracts to reflect the operation of the underlying physical markets. Proposed delivery mechanism of physically delivered commodity contracts is discussed with market participants to avoid impediments to delivery and to meet their needs. During MAS's product review process, consideration is given to AEs' submissions on characteristics of the underlying physical market, roles and obligations of the clearing house and participants and physical delivery procedures.
South Africa	Yes - The physical delivery process has been designed to accommodate and process physical deliveries across the grain producing areas. In addition to the rules, the detailed agricultural contract specifications clearly define all processes in place. In addition to the five main hedging months, the Exchange in 1999 introduced "constant month" contracts which in essence allows for a continuous series of physical delivery months so as to assist the cash market with price discovery on a continuous basis. This was also assisted through the accessibility and ease of making physical delivery via warehouse receipt issued via approved storage operators.
Switzerland FINMA	Yes - There are no physical settled contracts traded on EUREX. EUREX designs products according to the needs of the market. EUREX only launches new products after presenting them to FINMA even though there is no formal approval requirement. FINMA Circular 08/38 requires securities transactions to be founded on an economic basis
Turkey	Yes - The specifications of the contracts are determined by the Exchange to create the most efficient and useful risk management instrument for the potential users. For this reason, the contract specifications reflect the commercial practices in the related market. Also, to avoid manipulation and other market disorders, the recommendations of the Exchange's Market Oversight Department about contract specifications (calculation method of the last settlement price, position limits.) are taken into account in the design of the contract.
United Arab Emirates SCA	Yes - The Exchange's currently active contracts comprise financially settled contracts and only in the case of its precious metals class of contracts, gold and silver that may be physically settled. All contracts mirror price-wise (in terms of intra-day pricing and settlement price on last trading day or expiry of front-month financially settled contracts) similar contracts traded on other international exchanges and equally, there is convergence between the commodity futures traded internationally and the physical commodities traded locally. Hence the exchange does, de facto, "design futures contracts to conform to prevailing physical market commercial practices". Also, reference may possibly again be made to SCA Decision no. (157/R) of 2005 Article 5-1-1
U.K. FSA	Yes - Full contract specifications and admission to trading/proper market analysis of how products will be priced, margined, settled and cleared must be submitted to the FSA for approval before instruments are admitted to trading on the RIE (and cleared within the RCH) as described in Principle 2 above.
U.S. CFTC	Yes - CFTC adopted Guideline No. 1 in Appendix A to Part 40, which requires DCMs to submit information that describes the underlying cash market. Additionally, DCMs must demonstrate that the terms and conditions will result in a contract that is not conducive to price manipulation and will be available to short traders and salable by long traders in normal cash marketing channels. Guideline No. 1 provides that for physical delivery futures contracts and cash-settled futures contracts.

Principle 4: Promotion of Price Convergence through Settlement Reliability - Settlement and delivery procedures should reflect the underlying physical market and promote reliable pricing relationships and price convergence and should be regularly evaluated to ensure that they meet this standard. Settlement and delivery terms should be specified and made available to market participants.

Question 1	Is the relevant Market Authority responsible for contract design required to demonstrate that the price series or index that is referenced as a settlement price in a physical commodity derivatives contract is a reliable indicator of transactions in the underlying physical market, publicly available and timely?
Argentina CNV	Yes - It is the responsibility of self-regulated markets to offer all sorts of information related to derivative contracts that are traded in their exchanges. The closing price, opening price, volume, settlement price, expiration date, open interest is reported every day. The spot price is freely available and made public on a daily basis. Delivery procedures, governed by self-regulated markets, are related to the cash market practices.
Australia ASIC	Yes - When proposing a new derivatives contract, an exchange is required to demonstrate to ASIC that for cash-settled futures contracts the cash settlement of the contract is at a price reflecting the underlying cash market, will not be subject to manipulation or distortion, and is based on a cash price series that is reliable, acceptable, publicly available and timely.
Brazil CVM	Yes - This requirement is addressed in the contract approval phase, during which the Exchange must demonstrate that the price series or index is a reliable indicator of transactions in the underlying physical market. Price collation is carried out in conjunction with CEPEA/ESALQ, and must be a reliable indicator of transactions in the underlying physical market in order to be approved by the Market Authority. Contract terms and provisions in OTC-registered derivatives must comply with the prerequisites set forth in Rule 3,505/07, issued by the National Monetary Council (CMN), regarding reference prices for underlying assets, and this responsibility falls upon the SRO of the organized OTC market Art.3, II, b Alternatively, Art. 4
Canada AMF	Yes - The price series or index referenced in the settlement price of a commodity derivative must be publicly available and timely. The AMF is responsible for reviewing the contract design submitted to it by the Montreal Exchange. If either of these conditions is not deemed to be sufficiently met the Exchange will be asked to revise its design to meet them.
Canada ASC	Yes - Paragraph 2 (Prevention of Market Disruption) of the Conditions for Maintaining Recognition as a Derivatives Exchange, set out below, helps to ensure that the design of a commodity contract accurately reflects the operation of the cash market in question and does not contain factors which may inhibit or bias the delivery process. Criterion 14 (Availability of General Information) of the Criteria for the Recognition, and Maintaining Recognition, as a Derivatives Exchange, requires a derivatives exchange to make available to market authorities, market participants, and the public information concerning: (a) the terms and conditions of the contracts of the derivatives exchange.
Canada OSC	Yes - Section 36(1)(b) of the CFA states that one of the factors the OSC is to consider in determining whether or not to approve a contract is whether the contract conforms with normal commercial practices of the trade in the commodity.
Canada MSC	Data concerning the current value of all underlying commodities are available publicly from a variety of sources. ICE Rule 8B12 deals with settlement prices for contracts and monitors the effectiveness of contracts in tracking the underlying agricultural commodities. Section 38(1)(b) of the Act explicitly states that one of the factors the Director is to consider in determining whether or not to approve a contract is whether the contract conforms to commercial practices in the physical market.
China CSRC	No - Since all listed futures products in China are settled by physical delivery, there is no such problem and need in this regard. The CSRC will issue cash-settled futures product guidelines when needed.

Chinese Taipei	Yes - FTA §10 and Taifex Operating Rules §28. The FSC reviews contract design including the mechanism of settlement price before Taifex launches a new product, and the price series that is referenced as a settlement price in a physical commodity derivatives contract should be a reliable indicator of publicly available and timely transactions in the underlying physical market.
Denmark DSFA	No.
Dubai DFSA	Yes - The introduction of new contracts, the removal of contract and amending existing contracts is the responsibility of the AMI, i.e. DME. This is a requirement for the AMI pursuant to AMI 7.2.3 - Proper Markets. Investments must serve an economic purpose (AMI 7.2.3 (2)(b) and that there must be a sufficiently liquid underlying cash market (AMI 7.2.3 (2)(d).
France AMF	N/A – No such price series are used either at NYSE Euronext LIFFE Paris or Powernext. All contracts settled on these markets give rise to physical deliveries.
Germany BaFin	Yes - Article 37 of Regulation EG 1287-2006 directly applies to exchanges. This includes the legal framework for the design of the derivative contracts. It sets standards with regard to reliability and availability of information. The Exchange Supervisory Authority has the power to enforce the compliance with these rules. Both European and German law require exchanges to ensure the reliable settlement of platform-traded derivatives. These provisions are enforced by the competent exchange supervisory authority. Exchanges are also required to publish any underlying price series or indices.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes - HKFE - For HKFE's gold futures contract, the design on final settlement price is based on the London Bullion Market Association gold fixing, which is a common reference in the physical gold market. <u>HKMEx</u> - It is stated in the ATS Authorization that HKMEx must ensure that the futures contracts traded through its services belong to a class that is approved in writing by the SFC for such purpose. As part of the approval process, the SFC will enquire about the reliability of the price series/index as an indicator of transactions in the underlying physical market.
Hungary	No - But exchange settlement price is based on exchange transactions. Contracts on the underlying physical market often use the exchange price as a benchmark.
India FMC	Yes - The Commission ensures that the Exchange displays spot prices, futures prices and settlement prices on their website well in time. The methodology for arriving at settlement price for the commodity is also indicated in the contract specification 7 permitted by the Commission. However, so far there is no provision to check and ensure the credibility and reliability of the spot prices disseminated by the Exchanges.
Japan METI	Yes - In the case of a cash-settled contract, the criteria for permission, license or approval also include the existence of reliable price series or index for a settlement price. Before submitting an application to a competent minister, an applicant statistically analyses the reliability of potential price series or index, takes into account the views of potential contract users on the matters, and decides price series or index for a settlement price. After opening new Commodity Market, METI is, pursuant to Article 158 of CDA, authorized to order a commodity exchange to (1) change its articles of incorporation or other rules, (2) change its business methods or (3) take any other necessary measures for improving the operation of its business.
Japan MAFF	Yes - In the case of a cash-settled contract, the criteria for permission, license or approval also include the existence of reliable price series or index for a settlement price. Before submitting an application to a competent minister, an applicant statistically analyses the reliability of potential price series or index, takes into account the views of potential contract users on the matters, and decides price series or index for a settlement price. After opening new commodity market, MAFF is, pursuant to Article 158 of CDA, authorized to order a commodity exchange to (1) change its Articles of incorporation or other rules, (2) change its business methods or (3) take any other necessary measures for improving the operation of its business.
Korea	Yes- The Derivatives Market Business Regulation provides rules for the determination of derivatives product's underlying assets. Also, to

	amend the pricing rule(s), the KRX is required to submit information on whether the underlying asset prices are adequately reflected in the derivatives products as well as the price calculation method to the FSC for approval.
Luxembourg	No.
Malaysia	No - BMD will generally seek comments from the market to ensure that the derivatives contracts can serve as a reliable indicator. There is, however, no official requirement for it to be demonstrated.
Mexico CNBV	No.
Netherlands AFM	Yes - APX-ENDEX: Overall the exchange is responsible for operating a fair, orderly and transparent market, which includes publication of reliable reference prices in a timely and transparent manner.
Norway FSAN	Yes - FSAN do have primary focus on market failures and price discovery when the regulated markets suggest listing of new product types.
Panama	No.
Portugal CMVM	No – The underlying asset of the contracts admitted to trading in OMIP derivatives market is electric energy. The physical delivery of positions is not guaranteed, neither by clearing members neither by OMIClear. The delivery is made in the spot market, according to the rules established by its operator (OMIE).
Romania	Yes - According to the EC Regulation no 1287/2006 (Art. 37) directly applicable in all EU member states the price or other value measure of the underlying must be reliable and publicly available. CNVM Regulation no. 32/2006 on regulated markets (art 2), CNVM Instruction no. 3/2006 (art 4.2) and exchanges regulations (Art. 32(2) of the Sibex Regulation no. 4) - financial derivative instruments can be admitted to trading if the underlying asset traded on a regulated market or calculated by a competent authority such as CNVM or the National Bank on a regular basis and made public.
Saudi Arabia CMA	No - For the reason that there is currently no KSA commodity derivatives market.
Singapore MAS	Yes - AEs design commodity contracts to reflect the operation of the underlying physical markets. Proposed delivery mechanism of physically delivered commodity contract is discussed with market participants to avoid impediments to delivery and to meet their needs. During MAS's product review process, MAS takes into consideration the AEs' submissions on characteristics of the underlying physical market, roles and obligations of the clearing house and participants and physical delivery procedures.
South Africa	No - The market authority has not been required, however that said, from time to time many masters studies have undertaken this to confirm the relationship between the futures market and physical market. The National Agricultural Marketing Council (NAMC) has also undertaken and published a number of reports to confirm the relationship and functioning of the grains market in South Africa.
Switzerland FINMA	Yes – See Principle 3
Turkey	No - There has been no discussion or proposal to institute such requirement. However, for all contracts, the settlement price is the spot price as the contracts are cash-settled and there has not been a need to demonstrate that the settlement prices are reliable indicators of underlying market.
United Arab Emirates SCA	Yes - A possible response is that the Exchange is in full adherence in this respect to SCA Decision no. (157/R) of 2005 Article (2-18) relating to Daily Price Bulletins i.e. The Market shall prepare a daily price bulletin on the trading, including the following particulars: 2-18-1 The Commodities and Commodities Contracts traded; 2-18-2 The highest and lowest daily prices at which transactions were effected; 2-18-3 The settlement price of Listed Commodities even if there was no dealing therein; 2-18-4 A comparison of the day's settlement prices with the settlement prices of the immediately preceding working day. These data are available in the public domain
U.K. FSA	Yes - Submissions to the market regulator to launch new products should make reference to the provisions in Article 37 of MiFID. REC 2.12.e 1

	and 2 which stipulate that regulated markets (in this case RIEs) verify that “settlement of the derivative requires or provides for the possibility of the delivery of an underlying security or asset rather than cash settlement, there must be adequate arrangements to enable market participants to obtain relevant information about that underlying as well as adequate settlement and delivery procedures for the underlying.”
U.S. CFTC	Yes - CFTC adopted Part 38 Appendix C, requires DCMs to submit information that describes the underlying cash market and the cash settlement price series. The CFTC monitors cash-settled contracts for the integrity of the cash price series used to settle the futures contract.

Principle 5: Responsiveness - The views of potential contract users should be taken into account in designing commodity contracts.

Question 1	Do relevant Market Authorities take into account the views of potential contract users on matters including contract specifications when designing commodity contracts?
Argentina CNV	Yes - Contracts are designed by self-regulated markets. They often informally receive inquiries or requests by potential users. Once the contract is designed, exchanges ask for approval of its terms and conditions by CNV. After approval by the CNV contracts can begin to be negotiated. Chapter XXIV regulates all requirements to be met by self-regulated markets for the approval of futures contracts and options.
Australia ASIC	Yes - ASIC has a procedure in place by which the concerns of commercial participants in the commodity derivatives contract are considered in designing commodity contracts. A market operator must inform ASIC about its consultation with participants, listed entities, regulatory agencies, government authorities, industry bodies, other parties and research/academia, as applicable.
Brazil CVM	Yes - As can be derived from Instruction CVM 467/08, Article 7, approval requests for new derivatives contracts must be submitted by the entity overseeing the organized market in which the contract will be traded. In this sense, CVM does not initiate the specification or design of new contracts on its own. The process is always originated at the entities overseeing the organized markets, according to the specific needs manifested by the final users of such commodity derivatives contracts. Once the iteration process reaches a final format, the contract is subjected to the Market Authority for approval, in a bottom-up approach.
Canada AMF	Yes - There must be a demand from industry for any given derivative product. The Exchange must demonstrate to the AMF that a potential contract user will obtain an economic benefit from the contract and moreover, that a public interest is being served. These requirements are also mandated by the Québec Derivatives Act Appendix A.
Canada ASC	Yes - A derivatives exchange will list new products based on interests and inquiries from current users, as well as conduct research with market participants on potential products. The primary points on which a derivatives exchange will focus are numbers of competing counterparties, their commercial connection to the physical markets, traded volume, storage capacity, and availability of deliverable supply.
Canada OSC	Yes - It is expected that a commodities futures exchange would want to design contracts that users would use. Also under Section 36 (1) of the CFA the commission takes into account if the contract is made for hedgers when deciding to accept a contract for trading.
Canada MSC	Yes - The Contract Committee of ICE consults with and is comprised of different industry stakeholders and users of the potential contracts. In particular, the committee has committee members representing end-users, grain companies, grain brokers, futures commission merchants, academics, speculators and exchange staff. The Commission is in regular contact with members of industry through the Securities Advisory Committee, which consults on matters relevant to both the commodities industry and securities Activities. Staff of the Commission meet regularly with representatives of ICE and industry representatives and are kept apprised of any current industry issues.
China CSRC	Yes - According to the Regulations, the CSRC should solicit opinions from the physical market authorities of the State Council when approving a new futures product. Generally, CSRC will approve the new futures product when a consensus is reached.
Chinese Taipei	Yes - In practice, Taifex will include the views of potential contract users via phone interviews, questionnaire, and public hearing in designing new commodity contracts.

Denmark DSFA	No - The contractual specifications are seen as something for the market participants to decide upon.
Dubai DFSA	Yes - The contract specification form part of the business rule of the AMI, i.e. DME. Any changes to the AMI's Rules are subject to prior approval by the DFSA and changes are subject to a public consultation process.
France AMF	Yes - The exchange focuses above all on the following points: grade/quality; delivery requirements and procedures; delivery points. For each product class the Exchange has established an advisory group comprising both exchange members and players in the physical markets.
Germany BaFin	Yes - There is no formalized process. Contracts are designed with due regard to (prospective) customers. Relevant departments within the exchange interview customers for their needs or consider proposals by the market participants. The main focus lies on adequate risk protection opportunities and ability of the product to be a hedge instrument.
Greece HCMC	See response to Principle 1, Question 1
Gibraltar FSC	See response to Principle 1, Question 1
Hong Kong SFC	Yes - HKFE conducts feasibility study and collects input and comments from market participants on potential or new markets/products as to meet the market demand. HKMEX conducts consultation (through meetings, seminars and visits) with Members and market users, including through its product advisory committees which comprise market participants such as brokerage firms, to get their views on details, e.g. contract specifications, about proposed new products.
Hungary	Yes - The creating of contract specifications including contract size, price settings, price interval, method of settlement etc. belongs to Budapest Stock Exchange and are defined in response to market needs.
India FMC	Yes - The Commission seeks views of potential contract users while examining the contract specifications of the commodity.
Japan METI	Yes - The criteria for permission, license or approval of a new Commodity Market that are set forth in Article 15, 80, 155 or 156 of CDA include that the total number of market participants that intend to carry out transactions on the Commodity Market (20+) and persons so engaged in the business of the underlying commodity for 13+ years on a continuous basis. This criterion secures taking the views of potential contract users into account in designing commodity contracts. Pursuant to the provisions of Article 9, 78, 155 or 156 of CDA, a competent minister shall publicly notify in an official gazette the matters. It helps gathering wider views of potential contract users.
Japan MAFF	Yes - The criteria for permission, license or approval of a new Commodity Market that are set forth in Article 15, 80, 155 or 156 of CDA include that the total number of market participants that intend to carry out transactions on the Commodity Market (20+) and persons so engaged in the business of the underlying commodity for 13+ years on a continuous basis. Pursuant to the provisions of Article 9, 78, 155 or 156 of CDA, a competent minister shall publicly notify in an official gazette the matters.
Korea	Yes - KRX consults (i.e., holds a consultation period) with potential contract users with regard to a new derivatives product.
Luxembourg	No.
Malaysia	Yes - In designing commodity contracts, the views of potential contract users are usually sought and taken into account. BMD's Product Development Department engages with potential commercial end users as well as their own intermediaries (brokers) to seek feedback, test acceptance of certain contract specifications as well as to gauge levels of interest in the product. As the regulator, the SC also conducts industry wide consultations with the intermediaries (brokers) prior to approving any new product for listing and trading.
Mexico CNBV	N/A - The Mexican derivatives exchange often designs products that are intended to satisfy the participants needs (for example, recently a swap future), but there is no formalized process or requirement as such.
Netherlands AFM	Yes - APX-ENDEX: New products launched are based on member / market participants feedback received directly from Members and through the Gas & Power Development Board organized by the exchange. An internal assurance process is in place to ensure risks (e.g. ICT technical, commercial, legal) are managed effectively and approval is sought from the AFM.

Norway FSAN	Yes - FSAN does have primary focus on market failures and price discovery when the regulated markets suggest listing of new product types.
Panama	No - No debate or discussion held.
Portugal CMVM	Yes - OMIP, the market operator, has set a Trading and Products Committee as an advisory body to its activity as market managing entity. OMIClear, the clearing house and settlement management entity, has set a Clearing and Settlement Committee. These committees are consulted prior to the designing of a new derivatives contract.
Romania	Yes - Before being approved by the Board of Directors, proposal referring to the admission to trading of new financial instruments are submitted to market participants for getting their opinion as regards the opportunity of launching such new financial instruments (Sibex Regulation no 4 – art 32(5)). The new financial instruments have to be registered with CNVM before trading on a regulated market and trading is allowed after CNVM has issued the registration certificate.
Saudi Arabia CMA	N/A - The CMA, in conjunction with Tadawul, studies the needs of a broad spectrum of market players encompassing local, regional, and international investors and participants. It is standard practice, before a market in a specific asset class is created, to undergo a period of long consultation with potential market participants which may well involve additional analysis and advice given by major consultancy firms.
Singapore MAS	Yes - AEs conduct a consultation on specifications of new contracts to solicit views of potential contract users. A compilation of the consultation comments and the AEs' responses to the comments are submitted to MAS for review, together with the proposed contract specifications of the new contract.
South Africa	Yes - Both sides of the market will be extensively surveyed to reach consensus on the contract design and may include design sessions held at the exchange. Since there are a number of agricultural organizations representing the various constituents in the market, the exchange typically works through these bodies. The exchange also has an Advisory Committee with not only commodity members as participants, but a broad array of industry bodies that will be consulted before any new product is brought to market to ensure the relevance with the contract design.
Switzerland FINMA	Yes - Art. 6 SESTO requires that issuers and investors in securities are duly represented in the exchanges' committee that is responsible for the admission of new securities to trading. With ISE there is an independent arbitrage body which can be called upon by contract users in case of complaints.
Turkey	Yes - The CMB requires the exchange to take into account the views of potential contract users. In the design process of the contract, the Exchange organizes several meetings with the market participants of the underlying market in order to discuss the contract specifications that meet the risk management needs of the market most efficiently.
United Arab Emirates SCA	Yes - The Exchange's Product Development Department "PDD" consults Members to ascertain their views and the views of their customers prior to launching a contract and also participants closely involved in the physical trading of commodities in the region. Possible reference may be made to SCA Decision no. (157/R) of 2005 Article 5-10-1 and 5-10-2.
U.K. FSA	Yes - As part of their submission to the market regulator to trade new financial products, RIEs must evidence that they have consulted with market participants on the suitability of the contract specifications and any other potential requirements or relevant matter. FSA will expect the RIE to consult with potential users before authorizing the product to be admitted to trading on the RIE. On a case-by-case basis market participants are engaged for their views when performing due diligence on the new contracts to be offered.
U.S. CFTC	Yes - DCMs generally consult potential users when designing new derivatives products. Part 38 Appendix C says that "The designated contract market should consult with market users to obtain their views and opinions during the contract design process to ensure the contract's term and conditions reflect the underlying cash market and that the futures contract will perform the intended risk management and/or price discovery function."

Principle 6: Transparency - Information concerning a physical commodity derivatives contract's terms and conditions, as well as other relevant information concerning delivery and pricing, should be readily available to Market Authorities with respect to all derivatives transactions within its jurisdiction and to market participants in organized derivatives markets.

Without limiting the factors that a Market Authority includes in those terms and conditions, market rules should specify, for example:

- i. Minimum price fluctuations (price ticks);
- ii. Maximum price fluctuations (daily price limits), if any;
- iii. Last trading day;
- iv. Settlement and delivery procedures;
- v. Trading months;
- vi. Position limits, if any;
- vii. Reportable levels at end-user level; and
- vii. Trading hours.

Question 1	Is information concerning a commodity derivatives contract's terms and conditions, as well as other relevant information concerning delivery and pricing readily available to the regulators with respect to commodity derivatives transactions within their jurisdiction and to market participants in commodity derivatives markets? Are margin and clearing arrangements transparent to market participants?
Argentina CNV	Yes – Self regulated markets display on screens/computerized systems all relevant information from negotiating round.
Australia ASIC	Yes – Information is readily available to ASIC. Sch 1 of ASX 24 sets out general terms for classes of derivatives. ASX 24 operating rules Sch 1 sets out all terms. Sch. 2D sets out specific terms for specific commodity contracts. Margin/clearing transparent and readily available.
Brazil CVM	<p>Yes – “Commodity derivatives contracts’ terms and conditions, as well as other relevant information concerning delivery and pricing, are available to the Market Authority, SRO and to market participants on the internet (in Portuguese). The Exchange (BM&FBovespa) and Trade Repository/OTC Organized Market (Cetip) both publish daily information on settlement prices, volume, open interest, etc..</p> <p><i>Margin arrangements and position limits are specified in the following internet addresses:</i></p> <ul style="list-style-type: none"> - <i>margin requirements – formulae and numeric example, http://www.bmf.com.br/bmfbovespa/pages/Clearing1/Derivativos/pdf/srisco/OC154-2004-AnexoII.pdf</i> - <i>position limits (item 3 – agricultural futures contracts), http://www.bmfbovespa.com.br/shared/iframeBoletim.aspx?altura=3000&idioma=pt-br&url=www.bmf.com.br/bmfbovespa/pages/boletim1/bd_manual/IndicadoresInformacoesPosicoes1.asp</i> <p><i>At this point in time, clearing arrangements are not applicable in the Brazilian jurisdiction, since the Exchange is vertically integrated. Nevertheless, it should be noted that agricultural commodity derivatives contracts have specific provisions regarding settlement for non-residents. In this specific case, according to Resolution n° 2687/00 enacted by the Brazilian National Monetary Council, the settlement process is done in U.S. dollars in New York, through institutions previously authorized by BM&FBovespa.”</i></p>
Canada AMF	Yes – All information is maintained by Montreal Exchange and is on its website and commercial platforms. Montreal Exchange and CDCC

	publishes margin and clearing requirements. However, agreements between clients and clearinghouses with respect to bankruptcy and portability/segregation are not public.
Canada ASC	Yes – Criterion 14 (Availability of General Information) of the <i>Criteria for Recognition, and Maintaining Recognition, as a Derivatives Exchange</i> requires the exchange to make available the relevant information. Criterion 15 (Daily Publication of Trading Information) requires that information to be made public.
Canada OSC	Yes – No organized derivatives market, but it is reasonable to assume that CFA transparency rules would apply to derivatives markets. Section 36 (1) requires all terms and conditions of a contract be filed with the Commission. Sections 15 (4)(e) requires the exchange to make adequate provisions to record and publish details of trading.
Canada MSC	Yes – Information is published at ICE website. Securities Act (Manitoba) S.15(2)(e) requires the exchange to make adequate provision to record and publish details. ICE’s website also provides details on rules and regulations.
China CSRC	Yes – Futures Exchange Regulations require publication of contract details and rules on the exchange’s website and both must be approved by the CSRC. The Regulations require public release of market information including open interests, members’ open interests, receipts and capacity.
Chinese Taipei	Yes – The Regulations Governing Futures Exchanges s.14 – 19, Taifex Operating Rules s.12, and Taifex Clearing Rules s.18 – 19 require futures exchanges to provide related documents for inspection by the FSC, as well as publicize specified content of trading contracts. Further, exchanges must produce daily, monthly, and annual reports regarding settled of trading in the futures market. Clearing members’ information is also required.
Denmark DSFA	Yes – No regulated commodity derivative markets, but Danish Securities Trading etc. Act has regulations.
Dubai DFSA	Yes – DME contracts are standardized in DME Rulebook. Chapter 10 deals with DME Oman Crude Oil Futures Contract (backed by Oman oil); Chapter 14 deals with DME Oman Crude Oil Financial Contracts; Chapter 18 deals with DME Oman Crude Oil European-style Options. DME Rulebook is equivalent to DFSA licensing requirement under AMI Module. Changes to Rulebook are subject to DFSA approval and available on the Internet.
France AMF	Yes – Relevant information is made available by Euronext Paris. See the LIFFE Paris contracts reporting and publication obligations: Euronext Harmonized Rulebook Rule 5701 Reporting and 5702 Publication. Settlement prices and Contract Specifications and delayed prices are on NYSE Euronext Website.
Germany BaFin	Yes – All relevant contract details are published.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – <u>HKFE</u> : Information is available to the SFC and participants. At launch and on an ongoing basis, circulars are sent to participants that describe margin and clearing requirements. Circulars are also posted on the HKEx website for reference. <u>HKMEx</u> : Information is readily available to regulators and participants on HKMEx’s website and in its rulebook as well as on LCH.Clearnet’s website and in its rules.
Hungary	Yes – Budapest Stock Exchange determines contract specifications in response to market needs. Margin and clearing determined by KELER.
India FMC	Yes – Contract terms are in the contracts themselves. Margin and clearing requirements are under Exchange by-laws. Other specifications, circulars, regulations, and by-laws, are made available on both Forward Markets Commission and Exchange website.
Japan METI	Yes – Commodity Derivatives Act Article 57(1): Member commodity exchange must keep market rules at each office. 93(1): Incorporated commodity exchange must keep market rules at each office. Margin and clearing requirements are at office of Commodity Clearing Organization. So information is readily available. Article 111(1): Exchange must publish quotation and volume promptly; Article 112: quotes

	daily and monthly reporting by member to a competent minister.
Japan MAFF	Yes – Commodity Derivatives Act Article 57(1): Member commodity exchange must keep market rules at each office. 93(1): Incorporated Commodity Exchange must keep market rules at each office. Margin and clearing requirements are at office of Commodity Clearing Organization. So information is readily available. Article 111(1): Exchange must publish quotation and volume promptly; Article 112: quotes daily and monthly reporting by member to a competent minister.
Korea	Yes - Information on the period and terms of commodity derivatives are available to regulators as well as market participants. KRX' s Derivatives Market Business Regulation is disclosed on its website and the rules list the underlying assets of commodity derivative products, trading months, final settlement, purchase price unit, etc. Also, pursuant to FSCMA Art.401, KRX is required to disclose the total trading volume for the day, initial, minimum and maximum trading price.
Luxembourg	Yes - Prospectus Law defines “Securities” and Part II or III of the Prospectus Law outlines requirements to state all pertinent information to enable investors to make informed decisions. Under Part II, issuers are further required to indicate terms and conditions and specific details subject to disclosure requirements in Prospectus Regulation EC 809/2004 (as amended). Similar disclosure requirements exist for Securities under Part III and Part IV of the Prospectus Law.
Malaysia	Yes – Rule 700 of Rules of BMD (Bursa Malaysia Derivatives Bhd) includes provisions for trading in the derivatives market. Rule 613 determines limits on positions held and number of options that can be exercised by any client or participant. Full contract specifications containing terms and conditions of a commodity derivatives contract are stated in Rule 1300 – Crude Palm Oil Futures contracts (Sch. 13A: USD) and Rule 1700: Crude Palm Kernel Oil Futures contracts. These contract specifications and Rules of BMD are publicly available on Bursa Malaysia's website. Contract specifications are also disclosed on product brochures, available in hardcopy and electronic formats (website). BMDC Clearinghouse Rule 613 determines clearing margins and Rule 614 requires that brokers obtain a minimum initial margin from clients and maintain the aMoUnt of minimum margins on all open positions, on top of setting out the forms of margin payment accepted.
Mexico CNBV	N/A.
Netherlands AFM	Yes – APX-ENDEX publishes all information including margining and clearing to members and on its website. However, position limits or maximum daily price limits are not applied.
Norway FSAN	Yes – Regulator has access to relevant information.
Panama	Yes – Regulator has access to all relevant information. The general public does not have access.
Portugal CMVM	Yes – Information is on OMIP's website. Clearing rules of OMIClear are published on OMIClear's website. CMVM has full access to information concerning the market and CCP activity, including daily reports and real-time trading platform information.
Romania	Yes – CNVM Instruction no. 3/2006, Art. 4, lists all required characteristics. Capital Market Law no. 297/2004 (Art. 133, para. 2) stipulates that all regulations and trading quotations/volumes are public and must be made available to the public. Market operator's web pages have trading hours, variation limits, and margins.
Saudi Arabia CMA	No– For the simple reason that there is currently no KSA commodity derivatives market.
Singapore MAS	Yes – Terms of contract are required to be published on the respective exchange's website, under Reg. 13 of Securities and Futures (Markets) Regulations.
South Africa	Yes – Detailed contract specifications are available on Johannesburg Stock Exchange website.
Switzerland FINMA	Yes – Contract Specifications document on EUREX website contains all commodities derivatives contracts' terms and conditions. Clearing Conditions document contains margin and clearing arrangements, subject to approval by FINMA and published on EUREX webpage.
Turkey	Yes – Information is available on Exchange's website. Circulars of all terms and conditions, all Exchange regulations and amendments and contract terms are available on the website of the Exchange and Exchange Bulletin.

United Arab Emirates SCA	Yes – All terms and conditions are on Exchange’s website. Margin and clearing requirements are in Exchange’s by-laws and Clearing Rules, made available to the public on its website. Periodic changes to margins are made public via Notices to Members.
UK FSA	Yes – Contract specifications are publicly available on the RIEs’ websites. New rules may be added and made available to members and participants and further guidance is made in the form of circulars.
US CFTC	Yes – DCM Core Principle 7 requires DCM to make public information concerning terms and conditions of the contract and mechanisms for execution. DCM Core Principle 8, 5(d) requires daily public trading information. App. B of Part 38 provides Guidance re the information required. Regulation s.16.01 provides that markets shall make data readily available no later than the following business day.

Question 2	2. When commodity derivatives markets operate incentive schemes or their incentive arrangements promote trading in a contract, is the existence of such programs and their main features made available to the public and to market participants, and are such incentive programs subject to regulatory oversight?
Argentina CNV	Yes – Incentive programs is available for intermediaries on self-regulated exchanges only, with CNV approval rights.
Australia ASIC	Yes – ASX 24 Incentives only available to market makers, not public, in Renewable Energy Certificate Futures and New Zealand Electricity Futures. Subject to regulatory oversight, incentives are transparent, and prior notice to ASIC of proposals and changes is required.
Brazil CVM	Yes – Exchange (BM&FBovespa) Instruction CVM 384/03, combined with Rule 004 set Market Maker rules, and are available to the public on the Internet. Incentives are for hedgers only (margin requirements are 20% lower). Hedgers declare their status at the time of registration and must provide supporting documentation.
Canada AMF	Yes – Incentive schemes are published on Exchange’s website and subject to AMF oversight.
Canada ASC	Yes – Market maker and incentive programs must be filed with the ASC and published on an exchange’s website. The ASC’s review focuses on compliance with the Criteria for Recognition, i.e. whether the terms are reasonable, whether they will encourage improper trading, and whether proper notice has been given to the public.
Canada OSC	Yes – Incentive arrangements in equities markets are to be made public and are subject to OSC oversight, the same would apply in derivative trading venues if located in Ontario.
Canada MSC	Yes – Incentive schemes are available through ICE website and subject to regulatory oversight under ICE Rule 4C.03, which requires entities registered in preferred categories to file a report with the exchange. Further, ICE issues notices and the MSC has oversight over rules.
China CSRC	Yes – Exchanges provide support and fee rebates which are known to all members and subject to CSDC supervision.
Chinese Taipei	Yes – According to Taifex Operating Rules s.42-1 and Taifex Operational Rules Governing Market Makers, the market maker's price quotation ratio in response to requests for price quotations, cumulative duration of valid price quotations, and market making volume for a given month must meet TAIFEX requirements, and TAIFEX may reduce or waive its payable exchange fees and clearing service fees for that month, or give a reward depending on market conditions.
Denmark DSFA	Yes.
Dubai DFSA	Yes. – Market Maker programs are in the form of incentives such as fee rebates and made public during stakeholder meetings. DME does not disclose names of market makers, but the details are disclosed to the DFSA and subject to DFSA approval.
France AMF	Yes – Euronext LIFFE members are informed via Info Flash. Identities and terms are made available to all members: Euronext Harmonized Rulebook Rule 5105 Liquidity Providers. Information is also on NYSE Euronext website.
Germany BaFin	Yes – No private arrangements, only public. Information is on the Internet at EEX’s Market Making website. S.9 of German Exchange Act provides for oversight.

Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – HKFE: Liquidity providers for Gold futures contracts have bilateral agreements with HKEx (parent co) and their obligations are posted on the HKEx’s website for information of market participants and the public. Scheme is subject to the SFC oversight. HKMEx: Rule 5.18.3 of HKMEx rules provides examples of incentive arrangements, and HKMEx will consider schemes on a case-by-case basis to determine whether to make information available to the public and seek regulatory approval. For example, a market maker program is awaiting approval by the SFC and will be posted on HKMEx’s website.
Hungary	No – No incentive schemes at BSE.
India FMC	No – No incentives to public or participants.
Japan METI	Yes – TOCOM operates discounts but not subject to minister’s approval. Disorderly or Suspicious activity against 116 or 118 of Act (prohibited trading), MAFF may order information i.e. a report, or enter an Exchange’s office to inspect. Article 158: MAFF can order an Exchange to change Articles of incorporation, rules, business practices, or any other means for improving the operation
Japan MAFF	Yes – Tokyo Grain Exchange (SRO) offers discounts but not subject to minister’s approval. Disorderly or Suspicious activity against 116 or 118 of Act (prohibited trading), MAFF may order information i.e. a report, or enter an Exchange’s office to inspect. Article 158: MAFF can order an Exchange to change Articles of incorporation, rules, business practices, or any other means for improving the operation
Korea	Yes - FSCMA Art.83~Art.87 of the Derivatives Market Business Regulation provides rules on market-makers. Those who engage in financial investment business with certain qualifications may contract with the KRX and operate as market-makers. Disclosure of market-maker’s price submission time and method, periodic evaluation results, etc is required.
Luxembourg	Yes – See answer to Principle 6, Question 1.
Malaysia	Yes – Rebates to trading are made known to the marketplace and subject to regulatory oversight. Rule 300 of BMD deals with provisions for Market Makers to participate in the market, granting privileges to market makers and the suspension or termination of the market maker’s services.
Mexico CNBV	N/A.
Netherlands AFM	Yes – APX-ENDEX rules require incentive schemes to be communicated and published on corporate website.
Norway FSAN	N/A.
Panama	No.
Portugal CMVM	Yes – Market operator discloses incentive information on its daily bulletin. Portuguese Securities Code Art. 348 requires a contract between market maker and market operator, communicated in advance to CMVM.
Romania	Yes – Characteristics of derivatives are in CNVM Statute and Capital Market Law; Art. 7 from Law no. 514/2002 stipulates CNVM powers, including to take measure to assure compliance and apply sanctions. Art. 2 of Capital Market Law no. 297/2004 specifies CNVM supervisory activity. CNVM has wide access to marketplace participant information to prevent market abuse.
Saudi Arabia CMA	No – For the simple reason that there is currently no KSA commodity derivatives market.
Singapore MAS	No . All incentive arrangements are subject to the exchange’s obligations under s.16 and s.47 of SFA. Exchanges may only inform participants of arrangements on a need-to-know basis and not subject to regulatory oversight.
South Africa	Yes – All trading fees are published on the webpage. Incentive schemes apply only for market makers for cash-settled commodities. Future incentives will be published via market notice to members and on webpage.
Switzerland	Yes – Eurex Zurich keeps all of its incentive agreement public on it website and has no other private agreements.

FINMA	
Turkey	Yes – Market maker privileges are in the related Exchange Circular which is published on the Exchange’s web site. Circulars are subject to regulatory oversight. No other incentive arrangements are available.
United Arab Emirates SCA	No – However, tender applications for Market-Makers are made public on the Exchange’s website. Tender applications state the details, including incentives.
UK FSA	Yes – LIFFE and ICE Futures Europe operate incentive schemes publicly available on their websites. LME does not operate incentive schemes. Recognition Requirement 2.6.29(4) requires any liquidity supporting arrangements to be transparent, not encourage improper trading, promote reliable and undistorted pricing, and alleviate dealing or other costs. All schemes are reviewed by the FSA and a non-objection is required.
US CFTC	Yes – Market maker and incentive programs are considered rules and must be certified by CFTC. Review focuses on compliance with Core Principles.

Principle 7: Framework for Undertaking Market Surveillance - Market Authorities should have a clear and robust framework for conducting market surveillance, compliance and enforcement activities and there should be oversight of these activities. A market surveillance program should take account of a trader’s related derivatives and physical market positions and transactions. Market surveillance programs should be supported by sufficient resources, access to physical market data and analytical capabilities.

Question 1	Does a clear and robust framework exist for conducting market surveillance and monitoring compliance with applicable laws, regulations and rules?
Argentina CNV	Yes – Along with the powers of control that CNV has on agents, self-regulated market rules allow for transparent and reliable derivatives contract negotiations, through the use of real-time trade monitoring and audits.
Australia ASIC	Yes – Market surveillance for the ASX 24 market is conducted by both ASIC’s Market & Participant Supervision (MPS) team and by ASX 24 as the market operator. Post-trade monitoring is conducted by MPS to ensure compliance with <i>ASIC Market Integrity (ASX 24) Rules</i> .
Brazil CVM	Yes – Art. 4 of Law 6,385/76, establishes market surveillance duties for the CVM; namely, the efficient and seamless functioning of exchange and OTC markets, the prevention of fraud or manipulation, and the enforcement of equitable business practices. The instruments necessary to carry out those duties can be derived from Art. 9 of Law 6,385/76.. The SROs of the DCMs also execute market surveillance and compliance, according to the terms set forth throughout Instruction CVM 461/07, notably in Articles 42, 43 and 60.
Canada AMF	Yes – Te AMF does not conduct surveillance of underlying commodities at this time. Enforcements powers however are not limited to derivatives and can be directed at cash markets should these be used in an attempt to manipulate the futures markets.
Canada ASC	Yes – The Securities Act (Alberta), and specifically sections 63(2), 58(1) of that Act, as well as the Criteria for Recognition, and Maintaining Recognition, as a Derivatives Exchange, set out a clear and robust framework for market surveillance and compliance monitoring. This framework is implemented by, and as a core function of, the ASC.
Canada OSC	Yes – if a commodity futures market were to begin operations in Ontario, the OSC would ensure that sufficient surveillance and monitoring capabilities were in place. Further, Sections 15 (7)(a) & (b) of the CFA empowers the commission to impose such a framework.
Canada MSC	Yes – Market surveillance, including the monitoring of compliance with applicable trading rules and policies, is conducted by ICE Futures Canada, pursuant to The Commodity Futures Act (Manitoba), including in particular Section 15(2) of that Act. In addition, ICE Futures Canada Rule 9.09(b) provides for the creation of a Regulatory Division which is responsible to perform market surveillance.
China CSRC	Yes – the CSRC has established a “pentanity” (five-in-one) regulatory framework integrated of governmental regulation and self-regulation,

	which fits with the market development and regulatory requirements of the Regulations for the Administration of Futures Trading. The futures exchanges perform frontline market surveillance and compliance activities; the CFMMC conducts market-wide monitoring, analysis and compliance; and the China Futures Association undertakes responsibility for its members' conduct.
Chinese Taipei	Yes – The FSC is responsible for establishing market surveillance guidelines under FTA s.95. A futures exchange may publicize trading information when surveillance has detected abnormalities. FTA s.15-16 allow the FSC to adjust margins or collection times, restrict merchants' trading activity and open positions, suspend or vary trades, or any other necessary measure. Under FTA s.96, the FSC may also issue similar orders when there is danger of manipulation, to give effect to Taiwanese government measures, or there is force majeure market fluctuation that impedes the market, trading or underlying assets.
Denmark DSFA	Yes – The DFSA is responsible for surveillance and monitoring compliance with applicable laws, regulations and rules. The TRACE system can easily cover a regulated market for commodity derivatives if and when such a regulated market is established in Denmark.
Dubai DFSA	Yes – The DFSA regulatory regime is designed to deter and detect manipulation and other unfair trading practices. Part 8 of the DIFC Law No. 1 of 2012 addresses the various offences which amount to market abuse. An AMI is required to maintain systems and controls in relation to the supervision and monitoring of transactions on its facilities, must undertake regular reviews of such systems and controls, and must maintain appropriate measures to identify, deter and prevent market misconduct, financial crime and money laundering per AMI 7.2.6(2)(3). The DFSA also approves any new product admitted to trading on an AMI. AMI Rule 7.2.13 requires that an AMI maintain satisfactory arrangement for recording and maintaining records. The Business Rules of the Dubai Mercantile Exchange set out rules in relation to position limits, order handling rules and settlement price rules.
France AMF	Yes – This framework is embedded in the underlying statutory provision relating to the AMF. Although there are no specific rules that mandate market surveillance or prescribe how it should be carried out, the AMF has always considered that effective surveillance is essential to detect and analyze market behavior, to prevent price manipulation or any other disruptions to market integrity, and the AMF has the necessary powers to do so. According to Article L.621-9-2 of the Monetary and Financial Code, the AMF can delegate, under certain conditions, its powers to the Prudential Control Authority (ACP) or to clearing house or to regulated markets. Regarding grain markets, there is no specific sectoral regulatory body, although the Agricultural Ministry does follow closely developments in these markets, whether they be physical or financial. Regarding electricity, carbon emission allowances and natural gas, the mission of the French energy regulator (CRE) covers both spot and derivative markets. Accordingly, the CRE and the AMF signed a MoU in December 2010, which covers electricity, natural gas and CO2 emission allowances. Regulation (EU) No. 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency came into force in December 2011, although implementing rules are in development. Moreover, the French Energy Code (Article L. 131-2) requires the CRE to monitor electricity and natural gas trading. The surveillance process is not conducted exclusively at AMF or CRE. Organized markets conduct and maintain their own surveillance programs on an intra-day and T+1 basis, as part of their self-regulatory responsibilities.
Germany BaFin	Yes – Market surveillance and monitoring compliance occurs in accordance with applicable laws, regulations and rules, executed by the exchange trading office in close cooperation with the Exchange Supervisory Authority, §7 German Exchange Act.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – Under the current MOU between the SFC and HKEx on matters relating to SFC Oversight, Supervision of Exchange Participants and Market Surveillance, SFC is responsible for front-line prudential and conducts regulation of market participants and HKEx is responsible for enforcement of its own trading and clearing houses' rules and to ensure an orderly and fair market. The ATS Authorization provides that HKMEx is responsible for surveillance of activities in the markets operated by it, and frontline prudential and conduct regulation of its members/participants vis-à-vis their activities in HKMEx's markets.
Hungary	Yes – HFSA supervises market surveillance and monitors compliance with applicable laws, with BSE executing certain tasks (monitoring,

	administration of trading rights etc.), in accordance with the Regulation of Section Membership.
India FMC	Yes – The Market Authority (Exchange as the self-regulatory organization) is responsible for monitoring and surveillance and the Forward Markets Commission as the Governmental Regulator ensures compliance.
Japan METI	Yes – Pursuant to Article 112 of the CDA, a Commodity Exchange shall periodically report to a competent minister (i) a Daily Report including daily quotation and volume, audit trail, and large traders' positions, and (ii) a Monthly Report including monthly quotation and volume, and delivery aMoU by member. If a competent minister finds a disorderly or suspicious activity against Article 116 and/or 118 of CDA, which sets out prohibited trading activities and a competent minister's market intervention power, then Article 157 can be used to require a commodity exchange or market participants to authorize an inspection or the provision of further information. Article 5-2 of CDA requires a Commodity Exchange to conduct Self-Regulation Related Services. Article 96-2(1) of CDA authorizes an Incorporated Commodity Exchange to establish a Self-Regulatory Committee
Japan MAFF	Yes – Pursuant to Article 112 of the CDA, a Commodity Exchange shall periodically report to a competent minister (i) a Daily Report including daily quotation and volume, audit trail, and large traders' positions, and (ii) a Monthly Report including monthly quotation and volume, and delivery aMoU by member. If a competent minister finds a disorderly or suspicious activity against Article 116 and/or 118 of CDA, which sets out prohibited trading activities and a competent minister's market intervention power, then Article 157 can be used to require a commodity exchange or market participants to authorize an inspection or the provision of further information. Article 5-2 of CDA requires a Commodity Exchange to conduct Self-Regulation Related Services. Article 96-2(1) of CDA authorizes an Incorporated Commodity Exchange to establish a Self-Regulatory Committee.
Korea	Yes – Pursuant to FSCMA Art.426, the SFC and the Financial Supervisory Service have the authority to investigate unfair trading and issue necessary measures. Pursuant to FSCMA Art.377, the KRX must monitor any unusual trade that has the possibility of being an unfair trading and inspect its members. KRX has a Market Surveillance Committee which monitors the securities market. Pursuant to FSCMA Art.426(6), KRX is required to notify the Financial Services Commission when it becomes aware of a suspected violation of the FSCMA. KRX has established an electronic system to monitor the securities and derivatives market.
Luxembourg	Yes – The Commission de Surveillance du Secteur Financier exercises its supervisory and enforcement powers under the law of 9 May 2006 on market abuse, as amended, and the law of 13 July 2007 on markets in financial instruments. However, there will be a more detailed and robust legislation relating to commodities derivatives markets by the coming into force of (i) EMIR and EMIR implementing legislation and the implementation of the relevant provisions that need transposition into Luxembourg legislation; (ii) the EC directive on financial instruments; and (iii) the relevant provisions that need transposition into Luxembourg legislation of the EC regulation on markets in financial instruments.
Malaysia	Yes – the SC performs oversight of Bursa Malaysia in carrying out its surveillance and monitoring role of the Malaysian derivatives market. The SC periodically assesses and reviews its oversight processes to ensure it fulfills its mission of ensuring a fair and orderly market. BMD's Derivatives Surveillance Department conducts real-time surveillance of the commodities derivatives traded on the exchange. For intermediaries' compliance with the Rules governing the derivatives market, Bursa Malaysia as the front line regulator conducts compliance supervisory programs on the intermediaries, which include on-site inspections and off-site periodic and ad-hoc reporting reviews.
Mexico CNBV	Yes – In general terms, the derivatives market is supervised by the CNBV: supervision of trading platforms, the derivatives exchange, the central clearing counterparty, derivatives dealers, etc. (Ley de la Comisión Nacional Bancaria y de Valores, Article 2). The Central Bank also oversees – mainly for financial stability purposes – the transactions performed in the derivatives market, and authorizes financial entities to enter into such transactions.
Netherlands AFM	Yes – Exchanges are required to implement market surveillance and MAD requirements set out in the Financial Services Act. Any suspicious transactions detected or disorderly conduct are investigated by the exchange internally and escalated to the AFM, if required. Certain (physical) commodities derivative contracts or spot contracts are traded on multiple venues, including OTC, which is complicating oversight for the exchange. With respect to gas and electricity trading, REMIT defines the applicable framework and the National Regulatory Authorities are

	responsible for investigation and enforcement, with ACER having a central monitoring role.
Norway FSAN	Yes – The regulated market/Multilateral Trading Facility must have their own market surveillance. Suspicious cases must be sent to the FSAN. FSAN will investigate and hand over possible offences to the police for prosecution. The police will take the cases to the court. This is all in accordance with Norwegian legislation and the process is well proven.
Panama	No.
Portugal CMVM	Yes – The existing framework refers to market surveillance and monitoring compliance in general, and also applies to commodity derivatives market surveillance. Concerning the OMIP derivatives market, market surveillance takes into account the market participants, the capacity of their intervention in the market, and the respective low trade frequency. Almost all transactions executed on the OMIP derivatives market are only subject to financial settlement. The CMVM monitors the market activity on an ongoing basis; however, the OMIP monitors the trading activity and the activity of the market makers according to the market making arrangements in place, and carries out the supervision of the regular functioning, transparency and adequate price formation on the market, and adopts all measures deemed necessary for detecting or preventing any fraudulent, illicit or wrong action taken by the participants. The OMIP must immediately notify the CMVM about all facts or situations that come to its knowledge and are susceptible of breaching any principle or rule that applies. OMIClear, the clearing house, adopts a similar approach regarding the clearing and settlement systems.
Romania	Yes – The CNVM powers are included in its Statute (Law no. 514/2002) and in the Capital Market Law (Law no. 297/2002). Article 7 from Law no. 514/2002 stipulates the CNVM powers; including the power of the CNVM to take measures in order to assure the compliance with capital market legislation and to apply sanctions as may be required. Article 2 of the Capital Market Law no. 297/2004 specifies the powers of the CNVM for performing its supervisory and compliance activity.
Saudi Arabia CMA	Yes – The CMA, empowered by the CML and its Implementing Regulations, is the single regulator holding the responsibility for conducting market surveillance and monitoring compliance with applicable laws, regulations, and rules. CML Art.5, in particular, sets out the powers accorded to the CMA.
Singapore MAS	Yes – AEs are required to enforce compliance with its business rules under section 16(1)(f) of the SFA. SGX-DT, an AE, monitors the market through real-time electronic surveillance to detect manipulation or abusive trading and for compliance with SGX-DT rules and the SFA through exception reports. SMX, another AE, has a Market Surveillance Team that monitors the trading activities on SMX on a real-time basis, hourly and end of day basis and refers any identified prohibited trading conduct to the Enforcement Team for further investigation.
South Africa	Yes – The JSE has the necessary authority to execute surveillance and compliance within a well-defined framework supported by the Securities Services Act, 2004. The Act requires that the JSE make arrangements for the proper supervision of all transactions effected through the exchange so as to ensure compliance, as well as have the infrastructure necessary for the sustained operation of the exchange. The Act also requires that an exchange must enforce the exchange rules and listing requirements and must supervise compliance by authorized users with this Act and the exchange rules. The Act stipulates that the exchange rules must provide for surveillance of any matter relevant for the purposes of the Act, the exchange rules and the directives.
Switzerland FINMA	Yes – The market surveillance framework is based on the principle of self-regulation. Art. 4 of SESTA requires the exchange to establish an appropriate surveillance unit, the regulations of which are subject to FINMA approval. Art. 5 of SESTA requires the exchange to adopt trade regulations that provide for efficient and transparent trading. Art. 6 of SESTA requires the exchange to supervise the price finding, contracting and settlement processes in a way to effectively uncover any insider trading or price manipulations. FINMA investigates potential breaches of law. SESTA requires the unit for surveillance of the exchange to be independent from the management of the exchange, adequately staffed and equipped with sufficient resources. EUREX has set up Independent Surveillance EUREX (ISE) to meet legal requirements relating to investigations.
Turkey	Yes – Capital Market Law (Law No: 2499) Art. 40 declares the CMB as the competent authority for the monitoring and supervision of the exchanges, markets and other organized markets in the scope of this Article. Market Oversight and Enforcement Division monitors cash and

	derivatives markets for market abuse, manipulation and insider trading. The Exchange also monitors activities in this context. TurkDEX uses a built-in surveillance program called V-Observer for surveillance. The CMB collaborates with the exchange on surveillance and compliance.
United Arab Emirates SCA	No response.
U.K. FSA	Yes – Subject to REC 2.5.8 the UK RIE (market authority) must ensure that the systems and controls used in the performance of its relevant functions are adequate and appropriate for the scale of its business. The FSA may have regard to the RIE’s arrangements surrounding processes through which a transaction is effected, cleared and settled including: (i) the receipt and matching of trades; (ii) trade and transaction reporting and transmission to a settlement system and/or clearing house; and (iii) monitoring and reviewing the operation of these systems and controls. Market surveillance frameworks of the three RIEs exist for each of ICE Futures Europe, NYSE Euronext Liffe, and the London Metal Exchange.
U.S. CFTC	Yes – a clear and robust framework for market surveillance and monitoring compliance exists, embedded in the underlying statute, the CEA. CEA and CFTC regulations do not have specific provisions that mandate or prescribe surveillance. CEA Sections 3(a) and (b) determined the “findings” and defined the “purpose” of the CEA. However, the CFTC has combined DMO’s previously separate market surveillance and trade practice compliance functions into the same branch, Market and Trade Practice Surveillance (MTPS), with the intention of developing a more focused and robust framework. The MTPS framework has two objectives: (i) to develop highly trained, inquisitive and capable staff who are able to identify and discern the meaning behind apparent anomalous trading activities, behaviors or price gyrations; and (ii) to effectively utilize technology to enhance human performance. Getting to this more focused and robust framework will require meeting a significant challenge of cultural transformation. This effort has only just begun. On a daily basis, staff in DMO’s Market and Trade Practice Surveillance Branch reviews details of transactions at each exchange by using the CFTC’s automated surveillance system. Additionally, the DMO staff periodically observes trading activity on the floor of each exchange (for the exchanges that still have open outcry trading) and discusses potential issues of concern with compliance staff at the exchange. It should be noted that the surveillance process is not conducted exclusively at the CFTC. Contract markets conduct and maintain their own surveillance programs as part of their self-regulatory responsibilities.

Question 2	Does the program include monitoring the day-to-day, real-time trading activity in the markets (both real-time as well as post-trade)?
Argentina CNV	Yes – CNV monitors the progress of the trading in real-time, some markets do the calculation of the daily differences also in real-time and ask for margin call in intra-day differences. There is a control on the maximum open interest allowed per customer.
Australia ASIC	Yes – Real-time monitoring of trading activity is conducted by ASX 24 given that the market operator itself is more effectively able to deal with, respond to and resolve situations as they arise in a live market and that the operator has the responsibility to maintain a fair and orderly market for its derivatives contracts.
Brazil CVM	Yes – The Exchange is obliged to maintain both real-time and post-trade monitoring capabilities, in order to prevent manipulation, price distortion and market disruptions. CVM receives a post-trade batch of information containing all trades carried out in the DCMs (Exchange, OTC-traded or OTC-registered). Above all, the final beneficial owner of every trade is provided to CVM, which allows CVM to monitor the detailed activity of every market participant or economic group on an aggregated basis.
Canada AMF	Yes – For equities, IIROC conducts the market surveillance of trading activities in real-time. The Regulatory Division of the Montreal Exchange conducts post-trade surveillance of all Montreal Exchange listed contracts.
Canada ASC	Yes – Derivatives exchanges are required to have both real-time and post-trade monitoring capability, as per Criterion 9 (Prevention of Market Disruption) of the Criteria for Recognition, and Maintaining Recognition, as a Derivatives Exchange.
Canada OSC	Yes - As a registered or recognized SRO the commodity futures exchange is required under Section 15 and 34 (4)(c) to ensure that trading

	practices are properly supervised. This requirement would include monitoring of real-time trading activity.
Canada MSC	Yes – ICE Futures Canada performs day-to-day, real-time trading surveillance using the SMARTS market surveillance system. SMARTS provides real-time monitoring analysis and reporting tools. ICE Futures Canada also conducts post-trade analysis on a daily basis. ICE employs an in-house system to produce post-trade reports.
China CSRC	Yes – The futures exchanges and the China Futures Margin Monitoring Centre conduct market surveillance, both on a real-time and post-trade basis. They also share information on a routine basis and as needed. If an abnormal transaction is found, a report shall be made timely to the CSRC and the futures exchanges shall take appropriate measures at their discretion.
Chinese Taipei	Yes – Under CGOFT, Taiwan Futures Exchange Corporation Regulations Governing Market Trading Surveillance, Taifex Positions Rules
Denmark DSFA	No – If and when a regulated market for commodity derivatives is established in Denmark the experiences show that the market surveillance done by the DSFA will be post-trade. Any real-time market surveillance is expected to be carried out by the regulated market itself as is the case today.
Dubai DFSA	Yes – As set out in the AMI Module, an AMI is required to maintain systems and controls of the supervision and monitoring of transactions on its facilities. As such the DME maintains market surveillance functions and systems which collect and analyze information in relation to trading activity. In addition to this on-site monitoring DME is supported by the monitoring tools and resources of CME Group in the U.S. DME provides the DFSA with a weekly trading report which contains information in relation to (large) open positions at the beneficial client level and any market surveillance issues the monitoring team may have encountered (including inadvertently matched trades).
France AMF	Yes – For both commodity sectors in which the AMF and/or the CRE are involved, i.e. grains and energy, the operator of the relevant market performs real-time monitoring as well as T+1 market surveillance, while the regulators are responsible for T+1 surveillance only.
Germany BaFin	Yes – At Eurex there is real-time monitoring of executed orders (transactions) and unmatched orders takes place. However, at EEX the the program of market surveillance does not support real-time surveillance. Instead, the routines are based on a t+1 surveillance. A real-time surveillance is planned with the introduction of a Business Data Warehouse in 2013.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – HKFE: For the post-trade activities of the HKFE participants that are related to clearing house risk management measures, detailed operational procedures have been put in place to ensure compliance of the relevant clearing rules and procedures. Surveillance process and real-time trade alerts are in place to monitor trading activities of commodity derivatives contracts on a real-time basis. HKMEX uses Scila Surveillance System and other compliance procedures to monitor the day-to-day, real-time trading activity in the markets (both real-time as well as post-trade).
Hungary	Yes – BSE applies manual real-time monitoring. Direct access to order books, real-time transaction data and MiFID I transaction reporting.
India FMC	Yes – Market Surveillance of the Exchange includes monitoring the day-to-day, real-time trading activity in the markets (both real-time as well as post-trade). The purpose of real-time monitoring of electronic trading is to ensure orderly trading and allow market operators to identify and correct any market or system anomalies on a timely basis. Real-time monitoring of trading activity generally does not include data collection. Post-trade surveillance methods, which collect and analyze data typically on a T+1 basis use order, transaction, and position data to detect trade practice abuses.
Japan METI	Yes – TOCOM has conducted real-time market surveillance using its matching system and Nasdaq OMX Smarts. METI has conducted daily-basis market performance analyses which include the analysis of all the audit trails.
Japan MAFF	Yes – TGE has conducted real-time market surveillance using its matching system and Nasdaq OMX Smarts. MAFF has conducted daily-basis market performance analyses which include the analysis of all the audit trails.

Korea	Yes – The KRX can monitor the day-to-day, real trading activity in the markets both in real-time as well as post-trade.
Luxembourg	Yes – The monitoring on a real-time basis of the trading activity is performed by the Luxembourg Stock Exchange. The CSSF monitors daily on an ex-post basis the financial markets. However, there will be a more detailed and robust legislation relating more specifically to commodities derivatives markets by the coming into force of EMIR legislation and of MiFID II and MiFIR legislation.
Malaysia	Yes – The Exchange as the frontline regulator carries out the day-to-day, real-time (and post-trade) surveillance en and monitoring of the derivatives market.
Mexico CNBV	Yes – The CNBV has powers to monitor intraday activities in the interdealer brokers and in the derivatives exchange.
Netherlands AFM	Yes – APX-ENDEX: Market surveillance is embedded in the daily process of the exchange and includes real-time as well as post-trade market surveillance activities. However, certain fundamental data in relation to availability of production sources, activities in neighboring countries are still low due to a general lack of transparency in the physical underlying market, which means that APX-ENDEX primarily relies on the information that is publicly available.
Norway FSAN	Yes – The regulated market/MTF is required to have its own market surveillance and does real-time monitoring. They also have record-keeping requirements.
Panama	No – Not at this time, but there are plans to develop regulations for derivatives.
Portugal CMVM	Yes – Although the CMVM has access in real-time to the trading platform, the analysis is made mainly with post-trade information (transactions executed).
Romania	Yes – CNVM monitors transactions performed on regulated markets, having access to the trading system. Supervision is made and ex-post, off-site based on periodic reports. The market operators have also established specialized supervision departments.
Saudi Arabia CMA	Yes – The CMA has a Market Supervision Department to supervise, investigate, and report suspicious transactions. Nasdaq SMARTS has been installed and is accessed both by the CMA and Tadawul to provide real-time analysis of individual transactions. In addition, there is an Oracle Equator interface with the [Saudi] Securities Depository Centre (SDC). Information from the SDC is analyzed on a T+1 basis.
Singapore MAS	Yes – SGX-DT monitors its futures market through real-time electronic surveillance to detect manipulative or abusive trading activities. It covers monitoring the day-to-day, real-time trading in the market and analysis of trading information on a real-time basis. SMX has segregated surveillance activities based on a real-time, hourly and end of day. The activities such as price movements and daily price ranges are monitored on a real-time basis.
South Africa	Yes – The possibility is available to monitor both real-time and post-trade activity including the ability to replay market conditions. However, generally not every component or product is actively monitored on a day-to-day basis and will rely on reported market instances to initiate an investigation.
Switzerland FINMA	Yes – Market supervision is carried out on a real-time as well as on a post-trade basis by the exchange.
Turkey	Yes – Both TurkDEX and CMB monitor day-to-day real-time trading activity and post-trade monitoring in the exchange.
United Arab Emirates SCA	Yes - The Exchange as SRO has surveillance systems for real-time monitoring of all orders, open positions and margin utilizations.
U.K. FSA	Yes – Real-time and post-trade monitoring is conducted daily for each of ICE Futures Europe, LIFFE and LME.
U.S. CFTC	Yes – DCMs are required to have both real-time and post-trade monitoring capability, per DCM Core Principle 4 – Prevention of Market Manipulation (CEA Section 5(d)(4) of the CEA).

Question 3	Does the program include monitoring the conduct of market intermediaries through examination of business operations and collecting and
-------------------	--

	analyzing trading information, typically analyzed on a T+1 basis?
Argentina CNV	No – There are no plans on this issue at this moment.
Australia ASIC	Yes – ASIC’s Market Participant Supervision (MPS) team monitors and performs surveillance on the ASX 24 market predominantly on a T+1 basis. MPS is responsible for ensuring the ongoing compliance of ASX 24 market participants with the ASX 24 Market Integrity Rules and Part 7 of the <i>Corporations Act 2001 (Cth)</i> . The focus of the ASX 24 Market Integrity Rules with regard to market surveillance is on market abuses, including but not limited to market manipulation, entering f orders with intent to trade and crossing to the exclusion of others. In addition to review and analysis of the T+1 trading data, MPS have a timetable for review of individual market participants (intermediaries) to ensure their ongoing compliance with the ASX 24 Market Integrity Rules and Corporations Act. These reviews incorporate sample testing and audit of trading records and an assessment of the participant’s procedures.
Brazil CVM	Yes – The Exchange is obliged to maintain both real-time and post-trade monitoring capabilities, in order to prevent manipulation, price distortion and market disruptions. CVM receives a post-trade batch of information containing all trades carried out in the DCMs (Exchange, OTC-traded or OTC-registered). Above all, the final beneficial owner of every trade is provided to CVM, which allows CVM to monitor the detailed activity of every market participant or economic group on an aggregated basis.
Canada AMF	Yes – Both IIROC and the Regulatory Division of the Montreal Exchange have audit programs to ensure proper market conduct and have post-trade analysis capabilities. In terms of post-trade analysis, IOIROC and the AMF are in the process of discussing how best to access all the data to ensure proper historical analysis. The aMoUnt of trading data that will require archiving remains extremely large in volume and data warehouses are being contemplated at this time.
Canada ASC	Yes – In accordance with Criterion 9 (Prevention of Market Disruption) of the Criteria for Recognition, and Maintaining Recognition, as a Derivatives Exchange, derivatives exchanges collect daily positions and transactions of each clearing member, and also show, separately for proprietary and customer accounts, if applicable, the aggregate position and trading volume of each clearing member in each futures and option contract. The data are used to identify the firms that clear the largest buy or sell volumes or hold the biggest positions in a particular market. ASC access is T plus 1.
Canada OSC	Yes - Section 16 (3) of the CFA assigns this requirement on self-regulatory organizations. Section 16 (4) allow the commission to impose further requirements as it deems necessary.
Canada MSC	Yes – ICE Rule 8B14(d) requires participants to keep records of all trading Activity. ICE Rule 10D permits the Exchange to conduct audits to ensure participant compliance with record keeping rules.
China CSRC	Yes – In accordance with the provisions of the Regulations, Futures Exchange Regulations and Regulations for Futures Market Account Management, the futures exchanges shall develop and implement rules concerning account opening, trading, clearing, settlement, and delivery information carried by the futures firms. The futures exchanges shall conduct an annual compliance inspection on the futures firms and report to CSRC. Currently, the Chinese futures firms are only engaged in the brokerage business, and shall not engage in proprietary trade or asset management business. Therefore, the CSRC, the futures exchanges and the CFMMC do not have to monitor the trading behavior of futures firms.
Chinese Taipei	Yes – CGOFT, Taiwan Futures Exchange Corporation Regulations Governing Market Trading Surveillance, and Taifex Positions Rules allow the scope of surveillance to include the financial and business conditions of merchants and clearing members.
Denmark DSFA	Yes – The Danish Stock Exchanges monitors closely the activity of its members through real-time surveillance and these rules would also apply when a commodity market is established in Denmark.
Dubai DFSA	Yes – The AMI is required to put in place and execute a member compliance monitoring plan to ensure the ongoing compliance of its market participants. Results of such member compliance activities implemented by the AMI are shared with the DFSA in a monthly compliance

	meeting. Any major findings are escalated to the immediate attention of the DFSA. Under AMI Rule 7.2.8 an AMI is required to provide “general safeguards to investors” which includes ensuring that business conducted on or through its facilities is conducted in an orderly manner and that the AMI monitors for conduct on its facilities which may amount to Market Misconduct, financial crime or money laundering. Preliminary requests for information are carried out by the AMIs such as requesting underlying client information from market participants and order records.
France AMF	Yes – After a stringent membership approval process, the exchange closely monitors the activity of its members through the regular compilation and review of statistics, the conduct of audit programs by its market integrity department, and investigations of suspicious or disruptive trading activity. See also the answer to Question 2, Principle 7. As far as the French regulators are concerned: (i) at the AMF, the Market Surveillance Department conducts day-to-day analysis, while the domestic market intermediaries are monitored by the Market Intermediaries Monitoring Department; (ii) the CRE maintains a thorough knowledge of energy market participants; (iii) the AMF and CRE regularly share knowledge between themselves; (iv) the AMF holds ad hoc meetings with the Agricultural Ministry on topics of current interest.
Germany BaFin	Yes – In general, the exchange trading office is analyzing every single contract concerning abnormal member behavior. Further investigations are in place, which analyze long-term member behavior, specified market segments or products and possible abnormalities. The market surveillance monitoring system is able to “monitor” suspicious behavior. A manual routine is implemented in the daily surveillance, which requires analytical skills of the employees of market surveillance.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – HKFE: The Market Surveillance function within HKEx’s Risk Management Division is responsible for monitoring the trading activities of Exchange Participants but that does not include the monitoring of the business operations of other non-Exchange Participants market intermediaries. HKMEX: HKMEX has general power under Rule 5.5 of HKMEX rulebook to inspect documents of, and gather information, from Members. HKMEX performs real-time monitoring of market activities and where necessary, conducts further investigation into specific transactions.
Hungary	Yes – While real-time (T) monitoring is possible, the answer to the question in respect to the Budapest Stock Exchange is ‘no’, as it is a market of marginal size.
India FMC	Yes – The conduct of market intermediaries are analyzed through various reports like Trade analysis reports, open position violation reports, Member level trade analysis etc. Also the market intermediaries are informed through phone calls and e-mails and flash sms via MOPS (Market Operations System) about intra-day violations that take place.
Japan METI	Yes – Commodity exchanges are required to submit a daily report, pursuant to Article 112 of CDA, to a competent minister, setting out an audit trail, daily quotation and volume, buy and sell volumes by each member, positions by each member, and large positions by each large trader. Therefore, the market surveillance program includes monitoring market intermediaries business operations and trading information.
Japan MAFF	Yes – Commodity exchanges are required to submit a daily report, pursuant to Article 112 of CDA, to a competent minister, setting out an audit trail, daily quotation and volume, buy and sell volumes by each member, positions by each member, and large positions by each large trader. Therefore, the market surveillance program includes monitoring market intermediaries business operations and trading information.
Korea	Yes – The KRX has a derivatives product surveillance system which can monitor post-trade the real-time derivatives transactions. Pursuant to FSCMA Art.404, if KRX suspects abnormal trading in the securities market with regards to securities or exchange-traded derivatives, it may request members to submit relevant data and examine the business, financial status, books, documents or take a statement from the relevant person.
Luxembourg	Yes – The actual monitoring of the trading activity is based on MiFID law and MAD law. Under the current MiFID legislation there is no mandatory transaction reporting obligation on transactions on OTC derivatives. However, there will be a more detailed and robust legislation

	relating more specifically to commodities derivatives markets by the coming into force of EMIR legislation (e.g. transaction reporting of OTC derivatives and harmonization of such transaction reporting become mandatory) and of MiFID II and MiFIR legislation.
Malaysia	Yes – The monitoring of the conduct of market intermediaries is done through periodic/adhoc examinations of the intermediaries business operations as well as collecting and analyzing trade information, real-time and on a Post T+1 basis. For financial compliance, monitoring and analysis of information are done on weekly intervals, through the review of reporting requirements. Where an intermediary is classified under early warning level category due to weak financial position, the monitoring is done on a daily basis. Similarly, when the market is very volatile due to economic or other external factors, a crisis monitoring mode is invoked where all intermediaries' financials are monitored closely on a daily instead of weekly basis.
Mexico CNBV	Yes – The CNBV has powers to monitor activities of market participants in the interdealer brokers and in the derivatives exchange, without any distinction of the type of derivative that is traded. Nonetheless, the intraday monitoring is not done with the same depth as in other exchanges, such as capital markets.
Netherlands AFM	No – APX-ENDEX: The exchange only monitors the trading activities on the markets it operates. When doing investigations pricing information on comparable exchange might be consulted. The exchange is not in the position to collect data from market intermediaries, this is/should be the role of the AFM where appropriate. Moreover, since there are two regimes applicable to energy trading (MAD and REMIT) this becomes even more complicated.
Norway FSAN	Yes – Commodities firms under supervision in Norway must deliver transaction data to FSAN through the existing Transaction Reporting System in Norway. These data will be monitored by FSAN T+1. It is expected to be an extension of this obligation when new Market Abuse Regulation in EU comes into effect.
Panama	No.
Portugal CMVM	Yes – Although the CMVM has access in real-time to the trading platform, the analysis is made mainly with post-trade information (transactions executed).
Romania	Yes – CNVM is collecting trading data both from the intermediaries and market operators. The data is collected on a daily basis and/or periodically (annual, quarterly monthly reports)(, as requested by Art.59 of CNVM Regulation no. 2/2006. The trading information is collected both in real-time and at the end of the business day (for double checking). The real-time alerts are in relation with prices, volumes, etc.
Saudi Arabia CMA	Yes – However, using SMARTS, this is possible on a T+0 basis.
Singapore MAS	Yes – Prohibited activities are stated clearly in the business rules of AEs and they have the obligation to enforce compliance under section 16(1)(f) of the SFA. AEs are able to collect market information from their surveillance systems real-time and by requesting from market participants on an “as-needed” basis.
South Africa	Yes – Although a YES response has been provided, this is very limited and is specific to trading turns that intermediaries take when interacting with clients or other member firms.
Switzerland FINMA	Yes – Market supervision software of the exchange includes the examination of business operations and trading information primarily real-time but is also able to analyze data t+1.
Turkey	Yes – As the sole derivatives exchange, TurkDEX is required to have both real-time and post-trade monitoring capability. The CMB is capable of monitoring real-time trading activity in the Exchange. Monitoring activities include examination of business operations of market intermediaries and collecting and analyzing trading information. The surveillance program also provides information about profit-loss realizations, positions (including both large and small positions). All trades, orders, margin information and positions are collected and analyzed by VOBSERVER on both T+0 and T+1 basis.
United Arab	No response.

Emirates SCA	
U.K. FSA	Yes – See response to Principle 8.
U.S. CFTC	Yes – DCM Core Principle 4 – Prevention of Market Manipulation – requires that the board of trade shall have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery of cash-settlement process through market surveillance, compliance, and enforcement practices and procedures, including (A) methods for conducting real-time monitoring of trading; and (B) comprehensive and accurate trade reconstructions. CFTC Surveillance uses the Integrated Surveillance System (ISS) to access the position data it collects daily from trader and intermediaries to detect concentrated trade positions, position limit violations and monitor position changes as an exchange contract approaches contract expiration and delivery. In the future this will incorporate swap positions as well. Surveillance also uses the Transaction Surveillance System (TSS) to access transaction data (at this time only from the exchanges) to find intraday position limit violations and trade practice violations such as money pass, wash sales, etc. CFTC Surveillance is utilizing technology to develop processes to better visualize and analyze transaction data, and incorporate position information in combined analyses to detect and identify activities that may pose a threat in the increasingly complex markets driven by diverse algorithms that drive and order book and trading activities. At this time, CFTC access is T+1. The Office of Data and Technology (ODT) is evolving technology to better integrate data residing in the separate ISS and TSS systems, as well as interfaces to access, visualize and analyze data for positions, transactions and orders inflexible combinations.

Question 4	Are arrangements in place to permit Market Authorities to analyze on-exchange and related physical market and OTC derivatives activities, when needed, on an aggregated basis (i.e., these arrangements permit the identification of positions under common ownership and control and to identify such aggregate exposures)?
Argentina CNV	No – There are no plans on this issue at this moment.
Australia ASIC	Yes – In regard to on-exchange traded derivatives contracts, the ASX 24 Operating Rules require that all open positions be submitted to the exchange by market participants on a T+1 basis in the form of a Daily Beneficial Ownership Report (DBOR). The DBORs are then uploaded into a proprietary ASX system which groups positions on an aggregate basis and provides reports on the common ownership of positions; i.e. reports on the total positions holdings for a particular entity or client of each participant can be clearly identified. In regard to physical market and OTC derivative activities, ASIC can require that all records regarding such trading activity be submitted to it under s.30 to s. 34 of the ASIC Act. Often such requests are made ad hoc in the course of other enquiries or investigations into potential market misconduct matters. They may also be requested in response to certain market events or complaints from market participants.
Brazil CVM	Yes – Currently, the Market Authority is able to analyze on-exchange and related OTC-registered derivatives activities in order to identify common ownership, as explained in Brazil’s response to Principle 7 Questions 2 and 3. Physical market activities are not routinely monitored for aggregation purposes. Nevertheless, please refer to Principle 1, question 3 regarding the role played by CEPEA in physical market price collation and record keeping. All spot price providers are identified, so there is a way to trace back spot market positions based on aMoUnts bought or sold at any point in time. The power to embark on any such inquiry into spot market positions is provided by Law 6,385/76, Art. 9, which enables the Market Authority to ask for explanations from any person or market participant when conducting investigations.
Canada AMF	Yes – Powers are provided to the regulatory bodies, including SROs requiring that market participants provide all necessary information to gather needed data. It should be noted that the processes are not harmonized and once all the data has been obtained, there is no technology solution available to process all data. Plans are being contemplated to implement a tool set that will enable the electronic treatment of all the received information.

Canada ASC	Yes – When needed, recognized derivatives exchanges can aggregate a trader’s related transactions conducted in the respective exchange’s own exchange market. Paragraph 2 (Prevention of Market Disruption) of the Conditions for Maintaining Recognition as a Derivatives Exchange requires in part that a derivatives exchange must have rules that require traders in its contracts to keep records of their trading. Moreover, a derivatives exchange with customers trading through intermediaries must demonstrate that it can obtain position data from other sources in order to conduct an effective surveillance program.
Canada OSC	Yes – Not applicable for on-exchange futures but Section 15 (4)(e) of the CFA requires an exchange to publish aggregate open interest. Regulations are being developed to ensure that OTC derivatives will be analyzed on an aggregated basis. Arrangements are not in place to analyze physical market positions on an aggregate basis.
Canada MSC	Yes – Regulations are being developed to ensure that OTC derivatives will be analyzed on an aggregate basis. ICE Rule 12.05 requires that a participant disclose all relevant documentation relating to positions owned, this would include OTC and physical market positions.
China CSRC	Yes – The futures exchanges and the CFMMC have established the respective monitoring system to collect data from the futures markets, and if needed, data from the spot and OTC markets, allowing them to analyze data on an aggregated basis.
Chinese Taipei	N/A – There is no physical commodity exchange in Taiwan. There has been no OTC commodity derivatives governed according to the FTA.
Denmark DSFA	Yes – The DFSA has the power to investigate all market activities.
Dubai DFSA	Yes – DME can request from its Members certain reports and records pursuant to Rule 4.7. These records should generally be in permanent hard copy or permanent and readily-retrievable electronic form. They should be kept for 6 years or if the Market Contract to which the records refer has not been settled within six years from the trade date, in which case the relevant records shall be kept for a further one year after contract settlement. All records required to be kept under Rule 4.7 shall be open to inspection by DME, the NYMEX Clearing House, the DFSA and any other regulator which is responsible for the regulation of the DME’s activities or Members’ activities on the Exchange.
France AMF	Yes – The relevant legislation enables the AMF to request, on an ad hoc basis, information from intermediaries on their trading activities with regard to any contract or instrument whose price or valuation is linked to a financial instrument traded on an exchange, regardless of whether such a contract or instrument is traded physically or through a derivative, on-exchange or OTC. These powers with respect to physical market contracts and OTC derivatives will be further strengthened when EMIR (for OTC derivatives) and, especially, MiFID II come into effect.
Germany BaFin	Yes – According to §§ 3(4), 7(3) German Exchange Act the Trading Surveillance Office is allowed to ask for all data and has the same information rights as the supervisory authority. It is informed about all open aggregate positions and monitors them on a continuing basis.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – HKFE: There are no restrictions which interfere with such analysis from being conducted so no special arrangements are necessary to put in place to permit that. HKMEx: Rule 5.16.3 of HKMEx rulebook provides that the Emergency Committee may at any time require a Member to disclose to the Exchange immediately such information in the Member’s possession as the Emergency Committee may consider appropriate. When performing market surveillance functions, HKMEx also reviews market activities of other relevant futures markets and available information of the underlying [commodity].
Hungary	No – As the Budapest Stock Exchange is a market of marginal size.
India FMC	Yes – To a limited extent. The Exchanges analyze the transactions on the Exchange platform on an aggregate basis whenever there is suspicion of breach of open position limits. However, aggregation of physical market and OTC derivative activities are not undertaken due to lack of integration of these markets with the futures platform.
Japan METI	Yes – Information submitted pursuant to Article 112 of CDA allows a competent minister to analyze on-exchange activities and identifies

	positions under common ownership and control. Related physical market and OTC derivatives activities are available from commodity exchange or its market participants, pursuant to Article 157 of CDA, when MAFF finds it necessary for the enforcement of CDA.
Japan MAFF	Yes – Information submitted pursuant to Article 112 of CDA allows a competent minister to analyze on-exchange activities and identifies positions under common ownership and control. Related physical market and OTC derivatives activities are available from commodity exchange or its market participants, pursuant to Article 157 of CDA, when MAFF finds it necessary for the enforcement of CDA.
Korea	Yes – In addition to the market transaction information for abnormal transactions that KRX provides, the FSS can request additional transaction information to the securities company that traded/acted as an intermediary to the transaction in question. Based on the provided information, the FSS can determine whether there has been any violation of the relevant laws or regulations.
Luxembourg	Yes – The CSSF exercises its supervisory and enforcement powers under MAD law and the MiFID law. However, there will be a more detailed and robust legislation relating more specifically to commodities derivatives markets by the coming into force of EMIR legislation and MiFID II and MiFIR legislation. See answer to question 3 of principle 7.
Malaysia	No – The SC will explore the feasibility of this exercise in the future.
Mexico CNBV	No – No plans for the moment.
Netherlands AFM	Yes – the AFM monitors trading behaviour by market participants on a T+1 basis. However, this T+1 monitoring relies on alerts and/or signals received from the exchange operator or third parties like trading member firms. In addition, trading member firms have to report transaction details to the AFM (either directly or via the exchange where the transaction has taken place). Under the current MiFID legislation there is no mandatory transaction reporting obligation on transactions on OTC derivatives.
Norway FSAN	Yes – OTCclearing is voluntary but the degree of clearing is near to 100% in the main Norwegian commodities derivatives markets. The cleared contracts are monitored, on an ongoing basis, by the market surveillance at the exchange. There are some emerging markets where the clearing degree is low. In accordance with Norwegian legislation FSAN may ask anybody in all financial markets for relevant information.
Panama	No – However, Panama has plans to institute necessary changes.
Portugal CMVM	Yes – The daily information about the market activity, namely: orders, transactions and OMIP daily report, received by the CMVM is shared with the other 3 authorities with responsibilities within the MIBEL markets (ERSE, CNE and CNMV). In regular meetings of the MIBEL Regulators Council information about the markets' activity, both spot and derivatives, is shared among the 4 authorities. More recently (May 2011), the financial and the energy regulators from Portugal and Spain signed a MOU, establishing mechanisms for cooperation and exchange of information regarding the spot and the derivatives market, the management companies and the markets participants. From the OMIP derivatives market, regulators collect information regarding transactions executed on-exchange and OTC transactions registered to be cleared by OMIClear. The CMVM is also entitled to collect information concerning OTC transactions executed by financial intermediaries on similar derivatives contracts admitted to trading on the OMIP derivatives market.
Romania	No – CNVM has access to the data in relation to the derivatives transactions on the exchange and OTC market, but an automatic aggregation with the open positions on the underlying assets is not realized yet. Considering the new EU positions on short selling requesting reports on the short aggregated positions, CNVM will take the adequate measures in order to aggregate the transactions with derivatives and those with underlying assets.
Saudi Arabia CMA	Yes – Only those OTC transactions registered at the SDC may be aggregated with listed products using the Nasdaq SMARTS System and Oracle Equator interface.
Singapore MAS	Yes – AEs analyze physical market data from data vendors such as Bloomberg and Reuters and also from consultation with market participants. When needed, AEs can aggregate a trader's related transactions done in the respective AE's own futures market. If there is any large position or other suspicious activities, AEs will request for related positions in the physical market and in OTC derivatives to be disclosed under SGX-DT Rule 7.16.2 and SMX Rule 4.5.

South Africa	Yes – Only for those products that defined position limits in place does the exchange have the ability to request information related to the physical market. The structure of the market allows the exchange to see all registered positions down to the individual client.
Switzerland FINMA	No – There is currently no OTC-Derivatives trade repository and there are no reporting requirements for physical commodities transactions. However, market abuse covers financial markets as well as underlying OTC and physical markets. Therefore FINMA investigations on manipulations of financial product prices may cover OTC contracts.
Turkey	Yes - Both the CMB and TurkDEX analyze on-exchange activities in real-time. They are permitted to analyze related physical market and OTC derivatives activities when needed.
United Arab Emirates SCA	No –While the structure of the market allows the exchange to see all registered positions down to the individual client, but did not mention related physical market and OTC derivatives activities.
U.K. FSA	Yes, on –exchange – No, OTC. On-exchange: Market authorities have the ability under their rules to analyze trades on an aggregated basis but do not do so as a matter of course, rather they do so on an exceptions basis when adverse activity is identified or suspected. These data can be compiled and supplied to the FSA upon request as and when required. OTC: Market authorities and/or regulators do not have responsibilities to monitor OTC trades as a matter of course under current EU legislation. However with the introduction of EMIR legislation all OTC trades will be mandatorily reported to trade repositories which can be accessed by regulators.
U.S. CFTC	Yes - The CFTC can analyze related physical and OTC derivatives activities on an aggregated basis. The CFTC routinely collects information that enables its surveillance staff to aggregate related accounts. If a trader's position reaches a reportable level, the trader may be required to file a more detailed identification report to identify accounts and reveal any relationships that may exist with other accounts or traders. An additional monitoring mechanism allows surveillance economists to further investigate the positions of large traders by instituting a "special call," which requires a trader to report its futures and option positions with all brokerage firms, or its cash market or OTC positions. The trader is required to give information on its trading and delivery activity. However, such account information is not effectively linked to account information in the CFTC's Transaction Surveillance System. Such linkage is necessary for effective surveillance, and will require CFTC rulemaking to mandate account identification in transactions to be available and consistent with those in position reporting. At present, requests for information (Special Calls), which are a laborious and untimely process, are employed to identify the transaction accounts in the CFTC's Transaction Surveillance System, and to manually map them to accounts in the CFTC's Integrated Surveillance System for positions only when there is sufficient suspicion to justify the extra effort.

Question 5	Are the relevant surveillance programs adequately resourced to achieve the above goals, having adequately skilled staff and information technology taking into account the size, structure and complexity of a jurisdiction's markets?
Argentina CNV	No – Currently, the CNV is working on a new organizational structure and a reform bill that will hopefully make possible the fulfillment of these objectives.
Australia ASIC	Yes – ASIC MPS conducts the surveillance programs across all exchange-traded derivatives, not just for commodity derivatives. The relevant team currently consists of 11 staff members who are appropriately skilled and have a variety of markets backgrounds, including various physical commodities over which derivatives are traded in Australia, such as electricity. MPS continues to use a surveillance system developed by the market operator (ASX 24), when the market operator was a self-regulatory organization. ASIC is looking to develop its own enhanced market supervision system.
Brazil CVM	Yes – CVM is properly staffed, with dedicated and specialized personnel conducting surveillance duties. Currently there is a dedicated staff of 23 analysts examining market activity, abnormal price behaviors, large positions, outlier gains or losses and so forth.

Canada AMF	Yes – The AMF has five market analysts and a technician in its market surveillance team, as well as a newly created team of five specialists whose main responsibility will be to provide investigative support, in terms of expertise and industry knowledge. On the technological side, the AMF has an internal project to find a tool set that will enable cross-product monitoring and surveillance, and provide a robust analytical tool that will enable the storing and data mining needed to conduct broader trading analysis.
Canada ASC	Yes – The ASC maintains sufficient staff and resources to ensure that it can conduct effective market surveillance, taking into account size, structure and complexity of Alberta’s commodity markets. The recognized derivatives exchanges maintain sufficient compliance department resources and staff to ensure that it can conduct effective audit trail reviews, trade practice surveillance, market surveillance, and real-time monitoring. The recognized derivatives exchange staff is also sufficient to address unusual market or trading events as they arise, and to conduct and complete investigations in a timely manner.
Canada OSC	Yes - No surveillance program since there is no commodity futures exchange, but under Section 15(4)(f) of the CFA exchanges must have adequate measures in place to prevent manipulation. This would include having sufficient resourced surveillance programs to meets its SRO requirements under the CFA.
Canada MSC	Yes – Relevant surveillance programs are performed by ICE. ICE Rule 9.05(a)(1) requires the Special Regulatory Committee to ensure that the Regulation Division (responsible for surveillance) has the required resource to carry out surveillance and other functions.
China CSRC	Yes – The CSRC has two departments responsible for the supervision of the futures markets and futures intermediaries respectively. The CFMMC is responsible for market-wide surveillance, especially with respect to customer funds and market compliance. The futures exchanges each have a market surveillance department responsible for market supervision and investigation. Total market surveillance staff cannot be less than 15% of the total number of employees. The CSRC will continue to obtain more regulatory resources, upgrade technological systems, and strengthen the market supervision, as products, trading volumes, and complexities increase.
Chinese Taipei	Yes – The Surveillance Department of Taifex is responsible for relevant online and project investigation surveillance programs. The online surveillance group is in charge of detecting anomalies during the trading hours and the project investigation group is in charge of investigating market abuse projects.
Denmark DSFA	Yes – The DFSA market surveillance staff currently counts 10 individuals who are all specialized in market surveillance in different areas. The monitoring covers all issues related to securities listed on a regulated market, as well as transactions in OTC derivatives as defined by ESMA. The experience of DFSA surveillance staff can easily be extended to cover transactions in commodity derivatives if a regulated market for commodity derivatives is established in Denmark.
Dubai DFSA	Yes – The DME Compliance function is physically separated from the commercial and operational functions of the organization. In addition to this on-site monitoring DME is supported by the monitoring tools and resources of CME Group in the U.S.
France AMF	Yes – At the AMF, one analyst within the Market Surveillance department is fully dedicated to the monitoring of commodities markets, with the occasional support of a fiveanalyst team. The IT system is of good quality and is the same as the one used by the cash equity and derivatives analysts. On the CRE side, the Wholesale Gas & Electricity Market Surveillance team is made up of eight analysts. At Euronext Liffe Paris, the exchange for grains contracts, one analyst is involved in real-time surveillance while T+1 surveillance is performed by a twenty-three analyst team which covers both cash and derivatives markets. Staffing levels and technological resources are an ongoing concern for the AMF and, in particular, its market infrastructure department.
Germany BaFin	Yes – At EEX the Market Surveillance department is currently resourced with five employees, who are a lawyer, two mathematicians, an economist and an international relations specialist, while Eurex Germany, including financial derivatives, is resourced with eight people.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong	Yes – HKFE: The Market Surveillance function within HKEx’s Risk Management Division maintains experienced surveillance staff who are

SFC	supported by automated surveillance systems. HKMEX: HKMEX uses Scila Surveillance System, which is manned by the Chief Compliance Officer with the assistance of compliance staff members.
Hungary	Yes – A monitoring department is in place, although the market is of marginal size.
India FMC	Yes – The Exchange has in house software like Report Viewer, MOPS, TWS, etc. There are teams of skilled executives in Exchanges which look after the day-to-day operations. The approach is more software than human-oriented. A proposal to procure Integrated Market Monitoring Surveillance (IMMS) software is under consideration by the Commission.
Japan METI	Yes – The Commerce and Consumer Affairs Policy Division is responsible for the supervision of a Commodity Exchanges and a Commodity Clearing Organization and the amendment of the CDA. The Commodity Derivatives Market Supervisory Office belongs to the Commerce and Consumer Affairs Policy Division, and is composed of professional/experienced staffs which include IT staffs for the Market Surveillance System. The function of the Market Surveillance System is adequate to properly analyze the market activities. The supervision of a Commodity Derivatives Business Operator and inspections that are necessary to enforce the CDA are conducted by METI's Commerce Supervisory Division.
Japan MAFF	Yes – The Commodity Trade Division is responsible for the supervision of a Commodity Exchanges and a Commodity Clearing Organization and the amendment of the CDA. The function of the Market Surveillance System in MAFF is adequate to properly analyze the market activities. Inspections of a Commodity Derivatives Business Operator as necessary to enforce the CDA are conducted by the MAFF's Inspection Department.
Korea	Yes – As there are only three commodity derivatives that traded on the KRX (gold futures, mini-gold futures, lean hog futures) and based on the fact that the volume of the trade is minimal, the current KRX market surveillance system, staff, and FSS's examination staff are considered sufficient to adequately monitor the commodity market.
Luxembourg	Yes – See answer to Question 1, Principle 7.
Malaysia	Yes – The reporting tool or the surveillance program is adequately resourced to achieve the goals taking into account the current size of the Malaysian derivatives market. In Bursa Malaysia, there is a dedicated team of 5 persons to monitor the commodities derivatives contracts trading on the exchange.
Mexico CNBV	No – For the size and structure of the local market, the staff involved in the surveillance of the derivatives market is not functional. Within the Commission, there is an area, comprised of a dozen persons dedicated to oversee the entities in the market such as the exchange, interdealer brokers, and certain SROs. A derivatives market bill is to be sent to the Congress, which will establish clear responsibilities and powers for financial authorities. This will improve the resources and conditions for the CNBV surveillance.
Netherlands AFM	Yes – APX-ENDEX: The resources available within the exchange are sufficient taking into consideration the relative size, nature and complexity of the activities undertaken. The team responsible for operating the futures market consists of approximately 5 staff members, on a market with an average of 50-100 trades per day.
Norway FSAN	Yes – Nasdaq OMX Commodities: 4 full-time staff conduct market surveillance for the financial market. These staff members also have access to other resources, such as legal support. Nasdaq OMX Commodities uses a modified edition of the same monitoring system as for shares (SMARTS). The modification is on alarms et. Market surveillance of the Nordic electricity market is near connected to the pre-transparency system in the physical underlying market (insider trading).
Panama	No – Not enough resources and more skilled personnel are required. We are working to strengthen this area.
Portugal CMVM	Yes – Presently, the CMVM does not have a surveillance team exclusively dedicated to monitoring the OMIP derivatives market. Nevertheless, there are 3 people of the CMVM Market Structures and Intermediation Supervision Department who monitor the OMIP derivatives market. Taking into account the nature of the OMIP derivatives markets, (mainly energy entities), the capacity of intervention (for own account) and the low trade frequency, we believe the resources currently dedicated to this activity are adequate.

Romania	Yes – Trading on the regulated markets, including commodities derivatives, is supervised by real-time electronic supervision. The electronic surveillance activity is provided by a total of 4 experts with adequate qualifications.
Saudi Arabia CMA	Yes – (i) The technology as described in prior questions is suitable and scalable; (ii) The specific department set-up for transaction analysis is a discrete unit in its own right, with staffing levels monitored to ensure effective performance.
Singapore MAS	Yes – SGX-DT's current staff skills and automated analytical capabilities are adequate with respect to the SGX-DT futures market. Reuters terminals are also used to conduct monitoring and to generate alerts, which are followed up by designated analysts. SMX is adequately staffed with respect to the SMX markets. An online real-time system for monitoring the SMX markets is used by the surveillance staff.
South Africa	No – Although the exchange does have adequate programs and information technology to take the Principle 7 issues into account, there is a lack of adequately skilled staff to ensure active monitoring. There is a process underway to increase these numbers.
Switzerland FINMA	Yes – SESTO requires the unit for surveillance of the exchange to be adequately staffed and equipped with sufficient resources. Compliance with these requirements is subject to both FINMA supervision and the supervision by the independent audit firm.
Turkey	Yes – Currently surveillance programs being used by TurkDEX and CMB are adequately resourced. The CMB Surveillance Team is eighteen experts, equipped with real-time surveillance software and are supported by the surveillance teams of particular exchanges. TurkDEX Market Oversight Department consists of 1 Director, 1 senior analyst, and 4 junior analysts, all having a good knowledge of quantitative analysis and computer skills. The surveillance programs needs improvement to adequately monitor options trading.
United Arab Emirates SCA	Yes- The Exchange has sufficient staff and rotation shift programs that may be reviewed by the regulatory authority by on-site examinations.
U.K. FSA	Yes – All RIEs submit a yearly compliance plan to the FSA detailing how they plan to comply with their regulatory objectives in terms of market monitoring, giving FSA the opportunity to satisfy itself as to resourcing. This includes staffing levels and duties. Current staffing levels are as follows, within the regulatory and compliance departments at UK RIEs: (i) LIFFE, 35 staff in market monitoring; (ii) LME, 5 full time staff and 2 consultants in market monitoring, 15 in market operations, 12 of who work on the trading floor at any one time; (iii) ICE Futures Europe, 12 staff in market monitoring.
U.S. CFTC	Yes – However, appropriate levels of staffing and technological resources are a consistent concern for the CFTC given the resources of industry participants. The 2012 President's Budget requested \$42.2M for market surveillance which represented 151% increase due to the increased surveillance demand associated with Dodd-Frank. This request included \$9M for systems integration of existing large trader and trade systems with swaps data, for systems enhancements such as aggregated position limit surveillance. In FY 2012, the Commission expects to utilize 710 staff-years. At this size, we are but 10 percent larger than our peak in the 1990s. Since then, though, the futures market has grown fivefold, and Congress added oversight of the swaps market, which is far more complex and eight times the size of the futures market the agency currently oversees. The budget request estimates the need for an appropriation of \$308,000,000 and 1,015 staff-years for the agency. This amount is a \$102,706,000 increase over the \$205,294,000 FY 2012 enacted appropriations level and a 305 staff-years increase over the anticipated staff-years for FY 2012. The Large Trader Reporting System (LTRS) has 1.1M records loaded per day. This equates to 1.25B in total records for 10+ years of Large Trader data and 25+ years of Market information. The Trade Surveillance System has 7M records loaded per day. Order book data would be an order of magnitude higher. In addition, in response to amendments to the CEA and CFTC regulations pursuant to the Dodd-Frank Act, there will be an oncoming stream of swap data from Regulation Part 20 and Swap Data Repositories (SDRs). In addition to the evolution of data, how traders trade has also rapidly progressed. For example, high frequency traders (HFTs) and Automated Trading Systems (ATS) are an increasing presence and resources must be expended to effectively monitor and analyze such activity. Finally, better tools must be continuously developed to enhance the ability of surveillance analysts to visually, analyze, and "connect" the data as the markets quickly evolve.

Principle 8: Monitoring, Collecting and Analyzing Information – Market Authorities should develop, employ and maintain methods for monitoring of trading activity on the markets they supervise, collecting needed information and analyzing the information they collect that are efficient and suitable for the type of market being supervised. Effective monitoring of orders and electronic transactions requires real-time monitoring capabilities, supported by automated systems that detect trading anomalies. Monitoring, collection and analysis should also focus on intra-day trading.

Question 1	Do relevant Market Authorities employ methods for monitoring, collecting and analyzing information that are suitable for the type of market trading platform and the aMoUnt of data to be monitored (e.g., for electronic markets, monitoring in real-time using technology that is commensurate with the speed and volumes of the electronic platform supervised)?
Argentina CNV	No – With markets migrating to electronic trading CNV will use online monitoring in the future to monitor operations. However currently there is no specific method for monitoring and analyzing information.
Australia ASIC	Yes – Market surveillance for the ASX 24 market is conducted by both ASICs MPS team and ASX 24 as the market operator. Real-time monitoring is done. ASIC plans to enhance its market surveillance system to include automated analysis of trading anomalies on a real-time.
Brazil CVM	Yes – SRO of the Exchange (BSM) analyzes all trades carried out in the markets in real-time, including day-trades through an automated system (SMARTS) that issues warnings when there are signs of rule violations. Post-trade is also reviewed through SIA- Eagle
Canada AMF	Yes – The Montreal Exchange monitors its market on a real-time basis through its market operation centre and uses a proprietary post-trade surveillance system. The AMF does not conduct real-time surveillance and doesn't have any plans to implement same. AMF's internal project does contemplate finding a robust analytical tool that will enable the reception, indexation and storing of large quantities of data.
Canada ASC	Yes – Derivative exchanges are required to conduct real-time monitoring with an automated trade surveillance system with takes into account intraday trading and trade anomalies.
Canada OSC	Yes – CFA rules require that a commodity futures exchange have adequate oversight for the type of futures traded to ensure trading practices are fair and properly supervised (section 15 and 34(4c) of the CFA).
Canada MSC	Yes – ICE which is a recognized exchange through 14(1) of the Act is required to monitor, collect, and analyze trading information. ICE employs SMARTS market surveillance program to monitor trading information. SMARTS is an automated electronic monitoring system.
China CSRC	Yes – Each futures market has a market surveillance department and monitoring facility which conducts real-time monitoring and post-trade analysis. CFMMC monitors market wide risk profile and market compliance by using its automated monitoring system. Both the futures exchanges and CFMMC monitor intraday trading a conduct analysis both at real-time and post-trade basis.
Chinese Taipei	Yes –No explanation provided.
Denmark DSFA	Yes – the DFSA only does post-trade market surveillance. Real-time surveillance is carried out by the regulated markets. Data from a variety of sources are merged in TRACE which is the DFSA's market surveillance system.
Dubai DFSA	Yes – Position overviews and monitoring of concentrations for OQD are executed on a daily basis. Other information is provided at different periods of time pursuant to reporting requirements. The DFSA has access to all information where required through DME surveillance. This information is provided weekly and can be provided whenever requested.
France AMF	Yes – Regulate a grain and energy market. With respect to the grain market, the exchange performs real-time monitoring and T+1 surveillance and the regulator performs only T+1 surveillance. Trading data is stored on a database. With respect to the energy market, data is monitored and is stored for subsequent analysis.
Germany	Yes – Every single derivative is analyzed concerning abnormalities and manipulation.

BaFin	
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – HKFE- All orders and trade data are collected and market surveillance has access to established procedures for monitoring same. HKMEx- Uses the Scila Surveillance System to monitor markets throughout the pre-opening and trading sessions.
Hungary	Yes – Receive order and trade information including pre- and post-trade. BSE provides real-time and end of complete view of the market to the Regulator.
India FMC	Yes – Surveillance departments in the exchanges monitor real-time trading on-line. Real-time monitoring of trading activity general does not include data collection. Under post-trade activities various reports are generated on a T+1 basis.
Japan METI	Yes – TOCOM conducts real-time market surveillance using its matching system and Nasdaq OMX Smarts. . Additionally, METI has conducted daily basis market performance analyses which include the analysis of all the audit trails.
Japan MAFF	Yes – TGE conducts real-time market surveillance using its matching system and Nasdaq OMX Smarts. Additionally, MAFF has conducted daily basis market performance analyses which include the analysis of all the audit trails.
Korea	Yes – KRX has a monitoring system monitors commodity derivatives transactions both real-time and post-trade. In addition, pursuant to FSCMA Art. 173(2) participants who have significant exchange traded derivatives positions are required to report positions and any changes to their positions within 5 days to the FSS and KRX.
Luxembourg	Yes – There are no specific steps for monitoring the trading activities in commodities derivatives. The actual monitoring is performed under the MAD law and the MiFID law. However new reforms are coming into place with EMIR MiFID II and MiFIR.
Malaysia	Yes – The SC is in the final planning stages of building an integrated database to incorporate all trading data on the trades, orders and participants for the purpose of monitoring, collecting and analyzing trade information. Pursuant to the SC's oversight role, the SC will access the data via a reporting tool and will only look at a surveillance system should there be a change in the role. The Exchange conducts the real-time monitoring of the derivatives market. There is significant real-time monitoring, most of the market surveillance and trade practice surveillance is done on T+1 basis.
Mexico CNBV	Yes – The commission has the power to obtain any information about transactions during the day. A formal monthly review is done.
Netherlands AFM	Yes – Several methods are used to monitor APX-ENDEX including real-time market surveillance, periodic reports with regard to open positions, with an analysis of developments volumes and prices.
Norway FSAN	Yes – Market surveillance monitors trades pre- and post-trade after disclosure is made or should have been made. For pre- and post-trade Nasdaq OMX Commodities uses a market surveillance system which has alarms.
Panama	No – Most derivative transactions are done privately. The superintendent is gradually increasing its monitoring of such transactions and will be issuing a regulation on the use of these types of products.
Portugal CMVM	Yes – CMVM has full access to the trading and clearing platform. It also receives on a daily basis, all information related to market activity which is stored on an internal database. As there is a low trading frequency on the OMIP the CMVM does not use specific technology for monitoring, collecting and analyzing the information. CMVM receives daily report which includes information about the trades executed. OMIP monitors the trading activity
Romania	Yes – CNVM analyses the data received from the market operators (transactions and trading orders) and intermediaries (transactions). The information received contains the date, the hour, price, volume of the intermediary, the client ID, order number, the bank, and the intermediary user who introduced the order.
Saudi Arabia CMA	Yes – Although there is no KSA commodity derivatives market, all data traded on Tadawul and registered in the SDC are monitored and analyzed.

Singapore MAS	Yes – SGX-DT market surveillance collects orders, transaction and position information in real-time and largely analyzes the information on a real-time basis. Reuters terminals are used to conduct real-time monitoring which includes orders and trades. SMX market surveillance relies on periodic and real-times alerts generated on the SMX trading platform and Exchange Admin Terminal analyses the alerts on real-time, hourly and end of day.
South Africa	Yes – Uses technology that will allow for replaying the market conditions with the processes relying on manual monitoring and analyzing
Switzerland FINMA	Yes – Market supervision is primarily carried out by the exchanges which meet the requirements and are subject to FIMNA supervision and a independent audit firm.
Turkey	Yes –TurkDEX and CMB monitor, collect and analyze information. Methods depend on economic conditions. Price, volume, and margining are the core data constructing a sound surveillance system. All trade data are collected and analyzed in real-time. The surveillance program has warning system rules based on volume, value, order, price, volatility and open position as well as spot market data. TurkDEX and CMB monitor trades in real-time and analysis results by employed methods are real-time signals for operations.
United Arab Emirates SCA	Yes – As stated in the response to Principle 7 Question 2, the Exchange as SRO has surveillance systems for real-time monitoring of all orders, open positions and margin utilizations. Due to the nature of the Market being relatively low turnover (average daily volume below 35,000 contracts) and being a ‘price taker’ from other international exchanges, so that price anomalies are quickly brought back into line by arbitrageurs; there is negligible opportunity in front-month contracts for manipulation or pre-arranged ‘suspicious’ transactions. However activity is monitored in ‘back’ or ‘far’ contract months with reports collected and analyzed for pre-arranged transactions that may be suspicious in nature.
U.K. FSA	Yes – The methods by which the UK RIE monitors its markets (for transactions, positions or other) are carried out under the provisions of the Recognition Requirements. The market authority must ensure that the systems and controls used in performance of its relevant functions are adequate and appropriate. There are 3 markets each with different systems in place.
U.S. CFTC	Yes – DCMs conduct real-time monitoring of the markets, however DCM real-time monitoring is somewhat limited. Most market surveillance and trade practice surveillance potential violations are identified by DCMs on a T+1 basis. The CFTC analyzes daily data to identify potentially disruptive futures positions. CFTC has been restructuring and implementing changes to its core surveillance functions after assessing market changes compared to current capabilities. Surveillance staff collects and analyzes daily concerning overall supply and demand conditions in the cash market, cash and future prices and price relations, and the sizes of hedgers and speculator’s positions in the futures markets.

Question 2	Are such methods supported by automated systems which collect and analyze data for trading patterns and trading anomalies?
Argentina CNV	No – As markets are migrating to electronic trading the CNV will adjust and refine how they monitor operations in the future.
Australia ASIC	Yes – ASX 24 has systems available which collect position holdings on a daily basis and upload them into a reporting system which can provide summaries on T+1 basis. MPS uses an automated system to identify trading anomalies on a T+1 basis. ASIC plans to enhance its market surveillance to include automated analysis of trading anomalies on a real-time basis.
Brazil CVM	Yes – The SRO of the Exchange (BSM) uses an automated system (SMARTS) that issues warnings and/or raises red flags when there are signs of rule violations. Post-trade information is received from the Exchange or OTC organized markets and is compiled and analyzed through SIA-Eagle. The system detects suspected abuse practice performing daily screening of market transactions. Detection algorithms are used also.
Canada AMF	No – The automation of the collection and storing of large quantities of data is not robust and efficient. Historical data mining is possible and conducted by all regulators. The systems are not efficient.
Canada ASC	Yes – Derivative exchanges are required to maintain a automated trade surveillance system capable of detecting and investigating trade practice

	violation. Such systems must maintain all data reflecting the details of each order entered into the electronic trading platform. The trade surveillance system must have the capability to detect and flag specific trade execution patterns and trade anomalies.
Canada OSC	Yes – CFA rules require that a commodity futures exchange has adequate oversight for the type of futures traded to ensure trading practices are fair and properly supervised (section 15 and 34(4c) of the CFA).
Canada MSC	Yes – SMARTS (see response above) collects and analyzes data for trading anomalies.
China CSRC	Yes – The futures exchanges and CFMMC have adopted automated systems to monitor and analyze data such as orders, quotes, transactions and positions of market participants. These monitoring systems will issue warnings in case of abnormal activities which can be done in real-time and post-trade mode.
Chinese Taipei	Yes. No explanation provided.
Denmark DSFA	Yes – The current market surveillance system uses data from the Danish investment firms and all investment firms located within the EEA who trade Danish securities and order book data are provided by NASDAQ OMX Copenhagen. All data including data from the company announcement database and general news feeds are merged into TRACE.
Dubai DfSA	Yes – DME surveillance uses SMART. In addition, DME uses the New Large Trader Reporting System.
France AMF	Yes – Each of the exchanges have automated systems for real-time and T+1 surveillance. Automatic alerts have also been developed by the AMF and the CRE.
Germany BaFin	Yes – Market surveillance has a monitoring system in place which is able to generate alerts.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – HKFE - In addition, also examines the order book on a daily basis to detect any unusual order inputs. HKMEx - The system used high level market data as well as order book views detailing every single order and trade. The data can be reviewed in real-time or post-trade. The system also contains an alert rule engine.
Hungary	No – Steps have been initiated and the system is planned to start in the second half of 2012.
India FMC	Yes – Exchanges use in-house automated software like MOPS, TWS and Report Viewer.
Japan METI	Yes – Both TOCOM's Nasdaq OMX SMARTS and METI's Market Surveillance System are automated systems which analyze data for trading patterns and trading anomalies according to preset codes and procedures.
Japan MAFF	Yes – Both TGE's Nasdaq OMX SMARTS and MAFF's Market Surveillance System are automated systems which analyze data for trading patterns and trading anomalies according to preset codes and procedures.
Korea	Yes – KRX operates an electronic derivatives product surveillance system which monitors derivatives transactions both real-time and post-trade.
Luxembourg	Yes – IBM Cognos BI-Software is the market monitoring system used. The CSSF can also ask for relevant order book data from the LSE.
Malaysia	Yes – The SC will use a reporting tool to generate automated reports to analyze trades and/or orders to establish trading patterns and identify possible trading violations. The SC reviews the monthly surveillance findings report submitted by the Exchange which the Exchange derives from its Automated Surveillance System
Mexico CNBV	No – The information is taken directly from the trading venues. No steps for the moment to create automated systems.
Netherlands AFM	Yes, the AFM has automated software to analyze transactions. However, because currently only 50 to 100 transactions are executed per day (over various products and maturities) there is no need to use automated surveillance software. Because of the limited transactions, the exchange does not have automated surveillance software and monitors manually.

Norway FSAN	Yes – For the mature markets the same surveillance is done as the equity markets. No - For the emerging markets; an automated system is not used because the number of trades are so small.
Panama	No– Currently reports are provided in physical form and the regulator is continuously improving the review of these reports in order to get to review transactions in real-time.
Portugal CMVM	No – Due to the OMIP derivative markets characteristics, the CMVM considers the means it uses to monitor the market adequate.
Romania	Yes – Real-time data received from the market operators is automatically analyzed by the supervision application that issues alerts on significant variations of prices, volumes or values. The activity of the intermediaries and the trading orders introduced and cancelled in a short period of time are also analyzed. Complex trading patterns are not analyzed in real-time but only in case of complex investigations.
Saudi Arabia CMA	Yes – Nasdaq SMARTS has been installed and is accessed by the CMA and Tadawul to provide real-time analysis of individual transactions. Furthermore, the CMA makes use of the Oracle Equator interface with SDC. Information from SDC is analyzed on a T+1 basis. The Market Supervision Department sets detection thresholds and decides upon issues flagged by the SMARTS. Surveillance is conducted as part of a real-time analysis of each transaction, as well as of each order book.
Singapore MAS	Yes – The AEs have automated market surveillance systems that collect trading data. Based on thresholds set in the systems trading data is analyzed and alerts are triggered if thresholds are breached.
South Africa	No – Nothing is planned in the immediate short term.
Switzerland FINMA	Yes – Exchanges are equipped with different software tools to adequately monitor trade executions and order book entries on a real-time and delayed basis.
Turkey	Yes – TurkDEX and CMB conduct surveillance activities on an ongoing basis and methods are supported by automated systems. An alarm is followed up by detailed evaluation and order book examination.
United Arab Emirates SCA	No, however, updated automated surveillance systems will be in place by Q1 2013 in expectation of growing business needs that will collect and analyze data for trading patterns and trading anomalies.
UK FSA	Yes - See responses to Principle 7 questions.
US CFTC	Yes – CFTC has automated systems to analyze data for trading patterns. However, the entire approach and its effectiveness are under review and may be restructured. Currently, on a daily basis staff in the DMO's market compliance section review details of transactions at each exchange by using the CFTC's automated surveillance system. Additionally, DMO staff periodically observe trading activity on the floor of the exchanges that still have open cry trading.

Question 3	Does the market surveillance program take into account intra-day trading?
Argentina CNV	No – No intra-day surveillance is in development.
Australia ASIC	Yes – ASX 24 real-time monitoring reviews all trades throughout the day. Note ASIC's plans to enhance market surveillance as indicated in q 1 and 2.
Brazil CVM	Yes – The technology used computes standard behavior indicators for financial instruments etc for intra-day, day, week, month, and year.
Canada AMF	No – The AMF's project aim is to include this functionality into its business requirements. Intra-day activities would be accessible, but they would not be in real-time. The scope of the project aims for near real-time.
Canada ASC	Yes – Derivative exchanges are required to surveil intraday trading.
Canada OSC	Yes – Section 15 (7)(a) & (b) of the CFA empower the Commission to impose such requirements.

Canada MSC	Yes – SMARTS (see above) has the required capabilities.
China CSRC	Yes – Both the future exchanges and the CFMMC monitor the intraday trading and conduct analysis both on a real-time and post-trade basis.
Chinese Taipei	Yes.
Denmark DSFA	Yes – All trades are included.
Dubai DFSA	Yes.
France AMF	Yes. Intra-day trading is taken into account in all surveillance programs, whether performed in real time by the exchange or in T+1 by the exchange and the regulator.
Germany BaFin	Yes – Eurex- intra-day trading activities are monitored in the market surveillance monitoring system. EEX- daily routine (T+1) has been implemented. However, a real-time surveillance is planned with the introduction of a Business Data Warehouse in 2013.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – For both HKFE and HKMEx.
Hungary	No – Because of market size it is possible to carry out constant surveillance.
India FMC	Yes – The market is watched on a hourly basis and in the case of volatility the frequency is increased.
Japan METI	Yes – Both TOCOM's Nasdaq OMX SMARTS and METI's Market Surveillance System take into account intra-day trading.
Japan MAFF	Yes – Both TGE's Nasdaq OMX SMARTS and MAFF's Market Surveillance System take into account intra-day trading.
Korea	Yes – KRX operates an electronic derivatives product surveillance system which monitors derivatives transactions both real-time and post-trade.
Luxembourg	Yes – The CSSF and LSE supervise on a daily and ongoing basis. Intra-day trading is therefore included in the daily and ongoing monitoring but there is no specific tool for such intraday trading surveillance.
Malaysia	Yes – DSD monitors intra-day trading on real-time. The SC oversees the Exchange's surveillance on intra-day trading.
Mexico CNBV	Yes – The Commission is able to oversee intraday trading but doesn't have enough human resources to have more detailed supervision in real-time over all trading sessions.
Netherlands AFM	Yes – Intraday activities are monitored continuously on screen. Additionally weekly reports are provided which are reviewed.
Norway FSAN	Yes – for the mature markets. No manual monitoring is used for the emerging markets.
Panama	Yes – Currently all regulated entities must record all transactions for each day and make them available to the regulator.
Portugal CMVM	No – Due to the OMIP derivative markets characteristics, the CMVM considers the means it uses to monitor the market adequate.
Romania	Yes – The intermediaries intra-day trading is verified. After February 2012 CNVM is monitoring the intermediaries intra-day transactions on real-time.
Saudi Arabia CMA	Yes – SMARTS is used to provide a constant real-time analytical flow.
Singapore MAS	Yes – The automated market surveillance system collects intra-day trading data and thresholds are set to detect material intra-day fluctuations.
South Africa	Yes – The program records all market activity including intraday orders and trades and all deal management activity.
Switzerland	Yes – See response to Principle 8 Question 2.

FINMA	
Turkey	Yes – Ongoing market surveillance program takes into account intra-day trading. Staff are assigned to watch intra-day activities in TurkDEX. Surveillance Team and CMB mainly carry out e intra-day surveillance. When an alarm is triggered, teams from the CMB and the Exchange carry out a detailed examination of the event. Support from Settlement/Clearing Bank and/or Central Registry is available.
United Arab Emirates SCA	No response.
U.K. FSA	No.
U.S. CFTC	Yes – The CFTC relies on the DCM SOS to survey intra-day trading within each DCM. CFTC conducts selective surveillance of intra-day trading using T+1 data.

Principle 9: Authority to Access information - Market Authorities should have the authority to access information on a routine and non-routine basis for regulated commodity derivatives markets as well as the power to obtain information on a market participant's positions in related over-the-counter (OTC) commodity derivatives and the underlying physical commodity markets. In particular, Market Authorities should have the power to:

- i) access information that allows the reconstruction of all transactions on a regulated commodity derivatives market (audit trail);
- ii) access information that permits them to identify large positions (i.e., “large exposures” or “concentrations”) and the composition of the market in question;
- iii) access information, if needed, on the size and beneficial ownership of positions held by a market participant in order to aggregate positions held under common ownership and control;
- iv) access information about a market participant's transactions and positions in related OTC and physical commodity markets; and
- v) take appropriate action where a commodity derivatives market participant does not make requested market information available to the Market Authority.

Market Authorities should review the scope of their authority to obtain such information and if necessary to request such power from the relevant legislature or other appropriate governmental bodies.

Question 1 Do relevant Market Authorities have the power to:	i) access information that allows the reconstruction of all transactions on a regulated commodity derivatives market (audit trail)?	ii) access information that permits them to identify large positions (i.e., “large exposures” or “concentrations”) and the composition of the market in question?;	iii) access information, if needed, on the size and beneficial ownership of positions held by a market participant in order to aggregate positions held under common ownership and control?	iv) access information about a market participant's transactions and positions in related OTC and physical commodity markets?	v) take appropriate action where a commodity derivatives market participant does Not make requested market information available to the Market Authority?
Argentina	Yes – CNV has broad authority to require SROs. CNV does not have access to OTC market participants' transactions (iv). CNV Rules require				

CNV	markets to periodically conduct economic analysis of underlying commodity spot market. When underlying commodity is physical, the SRO must submit to CNV an analysis of corresponding product in order to detect and avoid market manipulation.				
Australia ASIC	Yes – ASX24 submits daily trade logs to ASIC: ASX 24 Market Integrity Rules s.4	Yes - ASX 24 receives daily ownership reports showing details of participants with significant market share, esp. before contract expiry.	Yes - ASX 24 to submit daily ownership reports showing all positions: ASX 24 Market Integrity Rules s.4 and MOU with ASIC	Yes - ASIC can demand transaction information: ASIC Act and Ch.7 of Corps Act.	Yes- Licenses require participants to submit information to ASIC under penalty of revocation
Brazil CVM	YES – Market intermediary must define rules, policies, procedures, and internal controls to reconstruct audit trails: Instruction CVM 505/11, Art. 20, II.	Yes - CVM can access all position information, not just large positions.	Yes - CVM has access to size and ownership of all positions.	Yes- OTC-transactions but not spot markets: Instruction CVM 505/11, Art. 20, II	Yes- Appropriate action can be taken: Law 6,385/76, art 9, II
Canada AMF	YES – The reporting of OTC and listed derivatives will be mandatory at the end of 2012. AMF will have the authority to access transactional data that can reconstruct an audit trail. There are no exceptions to the TR reporting mandate. Physical commodity market data will not be reported, but as they relates to settlement prices they will be included: Québec Derivatives Act s.3, 90.				
Canada ASC	YES – ASC can access the audit trail under Criteria for Recognition as an Exchange: Criterion 17 (Trade Information); Criterion 22 (Record-keeping). Conditions for Maintaining Recognition: Paragraph 5 (Trade Information).	Yes - ASC has access to positions, business conduct, and can investigate records: Securities Act (Alberta) s.63(2), Criterion 11 (Position Limits and Accountability), Paragraph 1 (Compliance with Rules), and Securities Act (Alberta) s.60.1(1).	Yes -Exchanges must require traders to keep records and must conduct a surveillance and enforcement program: Paragraph 2 (Prevention of Market Disruption), Paragraph 1 (Compliance with Rules).	Yes- ASC can: Sanction for failure to make information available: s.194. Restrict activities: s.198(1). Apply administrative penalties (s.199). Exchange must investigate: Criterion 2 (Rules of the Exchange). Exchange must establish rules for monitoring and discipline: Criterion 6 (Regulation of Members and Market Participants)	Yes – ASC can access the audit trail under Criteria for Recognition as an Exchange: Criterion 17 (Trade Information); Criterion 22 (Record-keeping). Conditions for Maintaining Recognition: Paragraph 5 (Trade Information).
Canada OSC	Yes – Commodities Futures Act gives broad powers to collect information, but not to ascertain positions under common ownership and physical commodities. Regulations are being developed to ensure OTC derivatives data can be accessed. Pending trade repository rules will also require Ontario participants to report OTC derivatives. Section 60 (1.5)(i) of the CFA empowers the Commission to compel a market participant to release any report as is deemed necessary. The Commission’s powers of investigation in Section 7-10 of the CFA allows the Commission to access documents and compel disclosure.				
Canada MSC	Yes – Authority to	Yes- Any position in excess of	Yes - Commission can make	Yes - Rules for	Yes - Traders must

	investigate: Securities Act (Manitoba) ss.6(1) and (4). Exchange must provide records to MSC: s.22(1). Reconstruction is via ICE's SMARTS system.	100 futures contracts must be reported: ICE Rule 12.	an order for financial records: Securities Act (Manitoba) s.7(1).	access are being developed by OSC. See above.	register: s.6(1). Director may suspend or cancel registration for failures: ss.7(3), (7), and 8(1). ICE Rules 11B and 11C allow penalties for withholding.
China CSRC	Yes – CSRC has the power to obtain information: <i>Regulations</i> . Futures exchanges and CFMMC are responsible for collection and analysis of information: <i>Regulations, Futures Exchange Regulations, and CSRC Instructions</i> . Futures exchanges can impose sanctions for failures to provide information. CSRC can impose administrative penalties on uncooperative parties.				
Chinese Taipei	Yes – Order parties to furnish statements/books: FTA s.98. Competent Authority may request submission or an explanation of transactions: FTA s.99. TAIEX may inspect trading documents and merchants may not refuse. TAIEX Operating Rules 20,21	Yes – Market Authorities have investors' position data and can identify large positions as well as composition of the market.	Yes –Market Authorities have investors' position data and can request beneficial ownership information.	Yes – If the Act is likely to have been violated, Competent Authority may request relevant books and documents, or demand explanation of transactions: FTA 99	Yes –FSC can impose fines on a party that does not make a document or information available. Taifex may impose a fine, suspend trading by the merchant and suspend the member's clearing and settlement operations.
Denmark DSFA	Yes – The Danish Securities Trading, etc. Act and the Danish Financial Business Act grant the appropriate powers.				
Dubai DFSA	Yes – Position information held by members is available via CME Clearing.	Yes - Consolidated position overviews and concentration information for OQD is executed on a t+1 basis. Disaggregated client information is available via DME.	Yes - DME's surveillance department has weekly access and upon request.	Yes - Ascertainment of traders' overall positions are available via MOU with the CFTC and other regulators.	Yes - DFSA has powers to obtain access to relevant spot market positions. DFSA has wide powers: Regulatory Law Art.73 'Power to Obtain Information', Art 75 'Requirement to Provide a Report' and Art. 80 'Powers to Obtain

					Information for Investigation'. Powers for non-DFSAs are available through a variety of means.
France AMF	Yes – Regulator collects all relevant information daily, provided by exchanges (NYSE LIFFE Paris and Powernext).	Yes – Regulator regularly collects positions from the clearinghouse and is able to access omnibus accounts also. Power is strengthened by MiFID II.	Yes – Regulator has power to request positions and account information from any clearing member to determine beneficial ownership.	Yes – Agricultural: Regulator can require any participant to provide position and transaction information. Energy: CRE has similar power and MOU between CRE and regulator allows sharing.	Yes – Regulator has power to request information: Monetary and Penal Code, Art. L. 625-15. In case a participant fails to provide the requested information, the AMF Enforcement Committee is empowered to pronounce sanctions against any individual or entity.
Germany BaFin	Yes – German Exchange Act s.3.7 allows for all of the appropriate powers.				
Greece HCMC	See response to Principle 1, Question 1.				
Gibraltar FSC	See response to Principle 1, Question 1.				
Hong Kong SFC	Yes – SFC can inspect documents of any corporation, including trade records, and impose penalties for non-compliance: SFO s.180-3. HKFE participants must produce documents as HKFE requires: HKFE Rule 535. Required Information must be open to inspection: HKMEx Rule 5.5.1 to 5.5.5.	Yes - HKMEx Members must report aggregated positions equal to or in excess of position levels set by the exchange: HKMEx Rule 5.1.4 Position Reporting. CCO shall access HKMEx Members' positions: Rule 5.5.6. HKMEx may require disclosure: Rule 5.5.8. Emergency Committee must disclose any appropriate information, 5.16.3.	Yes - Same as ii). In addition, HKMEx Members must disclose Client activities, including beneficial ownership: HKMEx Rule 5.1.1(o).	Yes - Same as ii).	Yes- HKMEx Members must ensure that Responsible Person(s) and Representatives shall co-operate fully with Compliance Department: Rule 5.8.3. Failure to attend interview results in fines and suspension: Rule 5.10.4.
Hungary	Yes – Daily information is	Yes – CCP has information on	Yes - Act on HFSAs s.55.	Yes – on physical	Yes – Act on HFSAs

	provided to regulator: Act on HFSA s.55.	a client level: Act on HFSA s.55.		commodities, NO – on OTC: Act on HFSA s.55.	s.55.
India FMC	Yes – Available under existing provisions. However, commodity derivatives are not regulated.				
Japan METI	Yes – Commodity exchange must submit report that includes audit trail, large positions, and aggregate positions for common ownership and control: CDA Art. 112. A competent minister may collect information about a market participant's transactions: CDA Art. 157. A person who has failed to make a report may be sanctioned with imprisonment or fines or both: CDA Art. 362				
Japan MAFF	Yes – Commodity exchange must submit report that includes audit trail, large positions, and aggregate positions for common ownership and control: CDA Art. 112. A competent minister may collect information about a market participant's transactions: CDA Art. 157. A person who has failed to make a report may be sanctioned with imprisonment or fines or both: CDA Art. 362				
Korea					
Luxembourg	Yes – CSSF has access to data within MAD or MiFID law. Transaction report is not mandatory until EMIR legislation is in force, so CSSF will continue to receive information.				
Malaysia	Yes – SC can request from Bursa Malaysia (BM) all transaction data to reconstruct the audit trail. BM is frontline regulator and has immediate access to the information that enables prompt detection of trading irregularities which can tantamoUnt to possible violations. All current and historical transaction data are kept by BM electronically for ease of access and analysis.	Yes - The SC can retrieve information from Derivatives Clearing System located at its Market Surveillance Department or Bursa Malaysia. DSD has information that allows reconstruction of all trades. Position reports are generated to monitor clients with large open positions and these positions are aggregated on per client basis.	Yes- SC can retrieve information on the beneficial ownership from its database or request from the Exchange. However, the SC is unable to access the beneficial ownership of the omnibus accounts in other jurisdictions, but can require intermediaries to submit information.	No - SC and Bursa Malaysia do not have access to participants' information in the OTC and physical commodity markets as the physical market is in another jurisdiction (i.e. Malaysian Palm Oil Board).	Yes - The Exchange, as the frontline regulator, takes necessary actions on market participants.
Mexico CNBV	No – There are no commodity markets in Mexico.				
Netherlands AFM	Yes – AFM can demand audit trail information only in cases of investigation into market abuse: Financial Supervision Act.	Yes - AFM can demand large position information only in cases of investigation into market abuse: Financial Supervision Act.	Yes – AFM can demand beneficial positions only in cases of investigation into market abuse: Financial Supervision Act.	Yes – AFM can demand transaction information only in cases of investigation into market abuse: Financial Supervision Act.	Yes – AFM is able to impose orders for incremental penalty payments and administrative fines on any person for infringement of the obligation to provide the demanded information The AFM can also

					refer serious cases of failure to cooperate to the Public Prosecutor through an official report.
Norway FSAN	Yes – Mature markets use the same systems as the stock markets but tailored to commodity derivatives.	Yes - Surveillance of large positions in mature markets with high degree of clearing may be conducted in the clearinghouse. FSAN also conducts surveillance. FSAN may as anybody in all financial markets for relevant information.			
Panama	Yes – Securities Law, Agreement 2-2011 and Agreement 4-2011.	Yes - Reporting Obligations, Agreement 2-2011 and Agreement 4-2011.			
Portugal CMVM	Yes – CMVM is entitled to request all information related to transactions carried out on the trading platform to the system operator.In addition CMVM has access to OMIP trading platform and OMIClear: Portuguese Securities Code Art. 359, 361. CMVM has power to request information from any party that has impact on the markets (i.e. intermediaries, counterparties). Other authorities within MIBEL (i.e. energy regulator) shares information regarding market participants.				
Romania	Yes – CNVM may require market operator to send data to reconstruct audit trail: Capital Market Law no. 297/2004 Art 136(1). Market Operator must keep distinct evidence. CNVM has right to perform on-site inspections: CNVM Regulation no. 2/2006 Art 60.	Yes – Intermediaries must submit and keep financial statements and periodic reports.: Capital Market Law no. 297/2004 Art 23. CNVM may require datat from market operator: CML no. 297/2004 Art. 136(1).	Yes - CNVM may request information from intermediaries only in cases of market abuse: CML no. 297/2004 Art. 255. CNVM has right to demand information from any person or entity subject to its supervision: CNVM Statute.	Yes - CNVM has access to OTC transactions with derivatives traded on a regulated market. No spot market for commodities.	Yes - CNVM shall supervise operators and operations of capital markets and on regulated commodity and financial derivative instrument markets CNVM Statute (Law no. 514/2002) Art. 7(2).
Saudi Arabia CMA	No – No KSA commodity derivatives market.	No – No KSA commodity derivatives market.	No – No KSA commodity derivatives market.	No – No KSA commodity derivatives market.	No – No KSA commodity derivatives market.
Singapore MAS	Yes – AEs are required to maintain records of all transactions: SFA s.18. AEs must provide records to MAS: SFA s.18. SGX-DT requires clearing members to submit daily positions: SGX-DT 2.6.4. SMX requires members to keep an audit trail: SMX Rule 4.2	Yes – AEs publish position limits and identify large positions at account level. AEs may request for information from participant or members: SGX-DT Rule 2.6.4 and SMX Rule 4.2.	Yes – SGX-DT maintains position records and end-customer identities: SGX-DC Clearing Rule 7.16.3. SMX identifies common ownership by unique client codes, by submission by SMX members on as-needed basis: SMX Rule 4.2.	Yes – AEs may request information about a participant’s transactions and positions: SGX-DC Clearing Rule 7.16.2 and SMX Rule 4.2.	Yes – Violation of SFA results in fines or imprisonment: SFA ss.148, 162, and 168. Disciplinary Committee hears violations: SFX-DT Rule 7.2 and SMX Rule 8.

South Africa	Yes – Market structure requires all positions to be recorded down to client level. Exchange provides information with clearing members keeping a copy. Details around OTC and physical positions would have to be supplied. JSE Derivatives rules and contract specifications provide the framework for the exchange to see down to this level.				
Switzerland FINMA	Yes – FINMA and regulatory audit firm must be able to reconstruct any trades with the trade recording and reporting requirements: Circular 08/4	Yes - Record keeping must occur in a standardized form by licensed dealers with security and parties identified: Circular 08/4.	Yes – Even though the Exchanges gather information from members only on an principal/agent basis, FINMA can obtain information on beneficial owners.	Yes - OTC derivatives are covered by the reporting requirements if they are classified as Effekten (i.e. standardized and frequently traded: SESTA. Public authorities can obtain information on all other contracts on request.	Yes - FINMA cannot take measures against non-regulated participants but can advise the exchange to exclude a participant. Criminal Law sanctions still available.
Turkey	Yes – TurkDEX (for commodity futures only). CMB Surveillance system enables reconstruction of all transactions.	Yes – TurkDEX (for commodity futures only). System also allows for aggregation of positions.	Yes – TurkDEX (for local commodity futures only).	No – But new Capital Markets Law will rectify this.	Yes – TurkDEX (for commodity futures only). The CMB can action against financial institutions.
United Arab Emirates SCA	Yes – Exchange saves all relevant data for 6 years.	Yes - Saved data allows for identification of market exposures.	Yes - Saved data allow for identification of beneficial common ownership.	No - Not under the exchange's purview.	No answer.
U.K. FSA	Yes – FSA can request any relevant information: FSMA s.165. Transactions are electronic and therefore retrievable: RIE 2.9 Transaction Recording. LIFFE: monitors contracts on real-time and T+1 basis. ICE: Provides FSA with daily reports. LME: records in real-time and T+1 and provides audit trail	Yes - RIEs have monitoring facilities for positions under RIE 2.5, 6, and 10. LIFFE: Collects all position information daily down to member level and monitors them. LIFFE provides top 5 position-holders to FSA. ICE: Daily reports are detailed to individual client level. Monitoring of pending expiring contracts. LME: Protects against lending squeezes by dominant position holders: <i>The Lending</i>	Yes - LIFFE: has powers to require provision of client position information. ICE: Discusses with FSA monthly operational level meetings positions of note or investigations. LME: Monitoring system that details individual customer positions to a one-lot level.	Yes - RIEs have powers to require market positions where relevant to their investigations.	Yes - Each UK RIE has the powers to monitor, detect, and deter abusive practices: REC 2.10 and for breaches of the Rules: REC 2.14.

		<i>Guidance.</i>			
U.S. CFTC	Yes – CFTC can access information from a DCM to reconstruct trades. DCM must record and store all identifying trade information: CEA, s.5(d), Core Principle 10. DCM must maintain records: CEA, s.5(d), Core Principle 18. Audit trail must capture information to reconstruct trades: CFTC Regs. Pt. 38 App. B.	Yes – Large Trade Reporter System requires clearing members, FCMs, and foreign brokers to file daily reports: CFTC Regs Pt. 17.	Yes – LTRS collects daily information on beneficial ownership.	Yes – CFTC passed final rules that require position reporting for large traders. Reporting entities report daily to CFTC on positions: Final Rule 20.4.	Yes – CFTC has authority to request information (“Special Calls”): CFTC Regulation 18.05.

Principle 10: Collection of Information on On-Exchange Transactions – *In respect to on-exchange commodity derivatives transactions, a Market Authority should collect information on a routine and regular basis on:*

- i) pricing of contracts throughout the trading day in real-time;*
- ii) daily transactional information including time and date of trade, commodity contract, delivery month, expiry date, buy/sell, quantity, counterparties to the contract, and price of the contract;*
- iii) daily reports of end-of-day positions held by market intermediaries (both "whole firm" and by individual trader) and by other market participants, where the size of the position is above a specified level (“large position”). Information collected should permit a Market Authority to identify each position holder (by name or code) down to the first customer level, and the size of position, by contract month, for each position holder;*

The Market Authority should have the capability to aggregate position holder information promptly in order to identify positions under common ownership or control; and

- iv) where appropriate, warehouse stocks or other deliverable supply.*

Question 1 In respect to on-exchange commodity derivatives transactions,	i) pricing of contracts throughout the trading day in real-time	ii) daily transactional information including time and date of trade, commodity contract, delivery month, expiry date, buy/sell, quantity, counterparties to the contract, and price of the contract;	iii) daily reports of end-of-day positions held by market intermediaries (both "whole firm" and by individual trader) and by other market participants, where the size of the position is	iv) where appropriate, underlying warehouse stocks or other deliverable supply
---	---	---	---	--

does the relevant Market Authority collect information on a routine and regular basis on:			above a specified level (“large position”). Do you clearly identify the type of trading, so that true customer transactions are clearly distinguished from member or member’s affiliates’ proprietary trading?	
Argentina CNV	Yes	Yes – CNV collects data on all trades including time and date of trade, commodity contract, delivery month, expiry month, buy/sell, quantity, counterparties to trade, price and final beneficial owners.	Yes – Daily post-trade reports disclose beneficial parties to trades. Also, CNV rules require monthly reports differentiate proprietary and customer trading.	No
Australia ASIC	Yes – the ASX 24 retains data in real-time. This data can be accessed in real-time by the ASX.ASIC provided a copy of the trade log on T+1 as required under section 4 of ASX24 Market Integrity Rules, an MOU and protocols.	Yes – the trade log provided to ASIC by ASX 24 includes details of each trade providing all of the information including time and date of trade, commodity contract, delivery month, expiry date, buy/sell, quantity, counterparties to the contract, and price of the contract	Yes – ASX 24 receives a daily report from each market participant outlining all positions held by each beneficial owner as at the end of the previous trading day. This report differentiates between house and client accounts. A summary of this report is provided to ASIC under section 4 of ASX24 Market Integrity Rules, an MOU and protocols.	Yes – While this information is not delivered routinely, the ASIC can get warehouse/deliverable supply information under the ASIC Act and chapter 7 of the Corporation Act. ASX 24 can also request this information as a contractual right.
Brazil CVM	Yes – the exchange SRO analyzes trades in real-time. The CVM has access to this system in real-time.	Yes – CVM receives post-trade information on all trades, including: time and date of trade, commodity contract, delivery month, expiry date, buy/sell, quantity, counterparties to contract, price of contract and final beneficial owners.	Yes – Final beneficial owners are disclosed to the CVM in the post-trade report. This differentiates customer transactions from proprietary transactions.	Yes – Though there is no monitoring of warehouse stocks or other deliverable supply to a routine basis, the authority can do so on a case-by-case basis to investigate irregularities under Law 6,385/76, Art. 9.
Canada AMF	Yes – The exchange’s Market Supervisors monitor trading in real-time use data feeds on the underlying for the calculation of theoretical prices on the	Yes – the exchange collects all of the information listed on a daily basis.	Yes – Exchange participants report all positions above the reporting threshold set by the Exchange’s Regulatory Division.	Yes – The exchange does monitor the supply of outstanding bonds that are eligible for delivery on bond futures contracts to ensure that the risks of market corners are

	exchange's less liquid products on a real-time basis			mitigated. The Exchange is of the opinion that should it list commodity derivatives that are settled through physical delivery, it would monitor warehouse stock of the deliverables.
Canada ASC	Yes – the Criteria for Recognition, particularly Criterion 9, requires exchanges to have the capacity to prevent manipulation through surveillance, compliance and enforcement practices that must include real-time monitoring of trading.	Yes – Market surveillance is conducted jointly by the ASC and recognized exchanges. Data must be available to allow for an understanding of trading activity and to prevent manipulation, price distortion disruptions of the delivery or cash settlement processes, including real-time surveillance and accurate trade reconstructions. All data necessary to facilitate this must be available.	Yes – The Conditions for Maintaining Recognition as a Derivatives Exchange, particularly paragraph 5, requires exchanges to maintain audit trails that will include a history of all trades including the categories of participants for which trades are executed, including whether the trade was for a client or was proprietary.	Yes – The Conditions for Maintaining Recognition as a Derivatives Exchange, particularly paragraph 2, requires exchanges to have rules mandates that members keep track of trading, including activity in the underlying markets and make the records available to the exchange on request. Section 58 of the Alberta Act allows the ASC to examine the records of an exchange.
Canada OSC	N/A	N/A	N/A	N/A
Canada MSC	Yes .	Yes – ICE has the ability to produce historical transaction data directly from the trading platform.	Yes .	Yes – ICE Rule 12 requires reporting of any position in excess of 100 contracts as well as reporting of beneficial ownership information. The MSC has access to those records as well as other trading information held by the exchange under section 22(1) of the MCFA.
China CSRC	Yes – Futures exchanges and the CFMMC are responsible for collecting this data under the Regulations, the Futures Exchange Regulations and the authorization and instructions of the CSRC.	Yes – Futures exchanges and the CFMMC are responsible for collecting this data under the Regulations, the Futures Exchange Regulations and the authorization and instructions of the CSRC.	Yes – Futures exchanges and the CFMMC are responsible for collecting position data under the Regulations, the Futures Exchange Regulations and the authorization and instructions of the CSRC. As futures firms in China are not allowed to execute proprietary trades, differentiation between client and proprietary trading is not necessary.	Yes – Futures exchanges and the CFMMC are responsible for collecting this data under the Regulations, the Futures Exchange Regulations and the authorization and instructions of the CSRC.

Chinese Taipei	Yes – Real-time market information is available on "TAIFEX Real-Time Snapshot Quotes" website. Daily time and sales data are available on Taifex website.	Yes – Regulations Governing Futures Exchanges §16, 17 requires daily transactional information to be available to the public and participants on Taifex website. Only the Market Authority can access counterparties' IDs.	Yes –Taifex maintains all transaction data, which contain ID of intermediaries and individual investors. Taifex can distinguish customer transactions from proprietary trading.	No response.
Denmark DSFA	N/A	N/A	N/A	N/A
Dubai DFSA	Yes – DME's market surveillance collects, monitors and analyzes trading data in real-time and on T+1 basis for all contracts traded on its platform. Same applies to the DFSA.	Yes – All categories are collected.	Yes	Yes – DME liaises between the physical delivery facility, the trading platform and the clearing house.
France AMF	Yes – The exchanges collect pricing data in real-time to facilitate surveillance.	Yes – All of this information is collected on an ongoing basis by both the AMF and CRE.	Yes – While the AMF does not specifically collect end-of-day position reports, they do collect information of all positions on an ongoing basis which would include beginning-of-day and end-of-day positions and volumes traded and exercised regardless of the size of the position. This information is received from CCP clearinghouses and included positions for clearing members and first level clients (unless an omnibus account is used). These powers will be extended when MiFID II comes into effect.	Yes – The CCP clearinghouse collects information on contracts with significant open interests including stock certificates from warehouses. These stock certificates are required 5 or 2 days before expiry based on the size of the position.
Germany BaFin	Yes – for Eurex data. Real-time data is not yet available from EEX.	Yes - In Germany, this is ensured by law, namely in section 7 of the Exchange Act in connection with section 3 of the same Act. The relevant TSO and the surveillance systems in place are able to	Yes - The system has been designed flexibly enough so as to ensure that new reports and alerts can be generated in due course or request.	Yes – Please see response to 1i).

		generate a wide variety of reports and alerts, including those mentioned above. Alerts and reports are under daily scrutiny and analysis.		
Greece HCMC	See response to Principle 1, Question 1.	See response to Principle 1, Question 1	See response to Principle 1, Question 1	See response to Principle 1, Question 1
Gibraltar FSC	See response to Principle 1, Question 1.	See response to Principle 1, Question 1	See response to Principle 1, Question 1	See response to Principle 1, Question 1
Hong Kong SFC	Yes – The HKFE collects information in real-time. The HKMEx is required to conduct surveillance in the markets it operates and report its surveillance activities to the SFC. HKMEx must also provide SFC with all information, including trading data, that SFC requests.	Yes – the HKFE collects data including time and date of trade, contract, delivery month, expiry date, buy/sell, quantity, counterparties and price. HKMEx is required to conduct surveillance in the markets it operates and report its surveillance activities to the SFC.	Yes – Rule 628(b) of HKFE Rules requires disclosure of end-of-day positions by participants on their own behalf and on behalf of clients. Client positions are clearly distinguished from proprietary positions. HKMEx must also provide SFC with all information, including trading data, that SFC requests.	Yes – HKMEx must also provide SFC with all information, including trading data, that SFC requests. Not applicable for HKFE as all gold positions are cash-settled.
Hungary	Yes – The HFSA receives these data pursuant to HFSA Act §55.	Yes – The HFSA receives thesedata pursuant to HFSA Act §55.	Yes.	No.
India FMC	Yes – Information is obtained from the exchange as needed.	Yes – Information is obtained from the exchange as needed.	Yes – Information is obtained from the exchange as needed.	Yes – Information is obtained from the exchange as needed.
Japan METI	Yes.	Yes – Article 112 of the CDA requires exchanges to provide daily transactional information including the pricing of contracts throughout the trading day.	Yes – Article 112 of the CDA requires exchanges to submit records of end-of-day positions.	Yes – Articles 157 and 349(5) of the CDA allows for the collection of data on underlying warehouse stocks or other delivery supply, if necessary.
Japan MAFF	Yes.	Yes – Article 112 of the CDA requires exchanges to provide daily transactional information including the pricing of contracts throughout the trading day.	Yes – Article 112 of the CDA requires exchanges to submit records of end-of-day positions.	Yes – Articles 157 and 349(5) of the CDA allows for the collection of data on underlying warehouse stocks or other delivery supply, if necessary.
Korea	Yes – The KRX monitors transactions in real-time.	Yes – the KRX collects transactional information including transaction dates, price, volume, sale volume, purchase volume.	Yes – under the FSCMA holders of significant exchange-traded derivatives positions must report their positions and changes to their positions to the FSC/FSS	No.

			and KRX within five days.	
Luxembourg	No.	Yes – CSSF has access to such information, upon request, in the case of an investigation under the MAD or MiFID laws. Access to this information on a regular basis will be available upon implementation of EMIR, MiFID II and MiFIR.	Yes – Currently the information is only available on request for investigation purposes pursuant to MAD and MiFID but, upon implementation of EMIR, MiFID II and MiFIR it will be available on a regular basis.	No.
Malaysia	Yes.	Yes – The Exchange is responsible for surveillance and “soft” enforcement to prevent market abuse. The SC has access to information collected by the exchange.	Yes – Access to the information is provided online through the derivatives clearing system. Daily reports are generated for all clients’ positions and large client position report is also generated to specifically monitor those with large position. Members affiliates’ proprietary trading can be segregated by the system.	Yes – Information is only available via the government regulatory body website that oversees the commodities.
Mexico CNBV	N/A.	N/A.	N/A.	N/A.
Netherlands AFM	No – Real-time data is not presently provided, however the AFM does have the power to collect the data.	Yes - the AFM does collect daily trading data.	No – The AFM does not collect end-of-day position reports but does have the power to collect such data.	No – AFM does not collect reports on warehouse stocks or other deliverable supplies as stock information is not applicable to key types of commodities such as gas and energy.
Norway FSAN	Yes – this information is collected by the regulated market.	Yes – this information is collected by the regulated market.	Yes – this information is collected by the regulated market.	N/A.
Panama	No – working on getting powers.	No – working on getting powers.	No – working on getting powers.	No – working on getting powers.
Portugal CMVM	Yes – the CMVM receives real-time contract price information via direct access to the trading platform.	Yes - The CMVM receives information via direct access to the trading platform including daily post-trade reports. These reports identify the derivative contract, the time of the transaction, quantity, price, participants, capacity of	Yes – The CMVM receives information on all transactions executed on the market with identification of the trading member. Open positions are reported for each derivatives contract. There are no limits on members however OMIP has the	N/A - Physical delivery of assets underlying derivative contracts are made through the spot market regulated by Spanish authorities. The Portuguese CCP only guarantees the financial settlement of derivatives contracts.

		participants (trading for own account or on behalf of clients), information relating to offers, transaction reference numbers and trading amendments.	power to forbid new transactions, determine the closing of positions, or order the execution of transactions that may decrease risk exposure.	
Romania	Yes – CNVM has access to market systems. CNMV statute (Art. 7(2) of law no. 514/2002) requires the CNVM to supervise regulated commodity and derivatives markets in due time, on a regular basis.	Yes – Art. 59(1) of CNVM requires markets to provide CNVM with daily reports that include, for each instrument: number of transactions, number of traded instruments, opening price, minimum and maximum price, closing price, type of contract, maturity/expiry date and number of open positions.	No – CNVM regulations do not require daily position reports. Provisions will be added once MiFIR directive is brought into force.	No.
Saudi Arabia CMA	No – There is no KSA commodities derivative market.	Yes – Transactions are identified by their defining parameters.	Yes – Trade reports can be generated by reference to individual transactors by reference to their National Identification Number (NIN).	No – There is no KSA commodities derivative market.
Singapore MAS	Yes – AE surveillance systems collect pricing information on commodities contracts in real-time.	Yes – AE surveillance systems collect daily transactional data.	Yes – SGX clearing members are required to provide end-of-day position by contract month held in each account, daily. The position holder is identified through account/client codes. SMX Rule 4.2 allows SMX to request additional information from participants holding large positions.	Yes – Actively traded commodities futures contract are settled via exchange of warehouse receipts and SGX-DT keeps track of number of receipts made available by accepted warehouses. SMX also checks warehouse stocks to verify intention of positions holders near expiry.
South Africa	Yes.	Yes – All of the listed information is collected down to the individual client account. This includes desk management activity including if the trade was executed as a principal or agent.	Yes.	Yes – where relevant to position limits. See section 10.40 of derivative rules.
Switzerland FINMA	Yes – Effective contract price, used to settle, must be recorded.	Yes – Classifications are: time dealer receives orders, time dealer executes order, identification of security, order type, order	No - The market authority is only able to recognize end-of-day positions held by an exchange member (exchange	N/A – No physically settled contracts are traded on Eurex Zurich.

		aMoUnt (number of contracts), aMoUnt executed, execution price, location of execution, identification of client and counterparty and value date of trade.	member classification). Consolidated information about non-exchange members is not available.	
Turkey	Yes	Yes – TurkDEX and CMB collects daily transactional information.	Yes – Surveillance system allows exchange to see traders, trader type, and positions.	No – No plans for changes.
United Arab Emirates SCA	Yes – The exchange through ISVs produces real-time information regarding pricing of contracts.	Yes – The exchange produces reports of intermediaries and other market participants, including: time and date of trade, commodities contract, delivery month, expiry date, buy/sell, quantity, counterparties to contract, and price of contract.	Yes – The exchange produces reports of intermediaries and other market participants. There is no special requirements relating to large positions at present.	No
U.K. FSA	Yes – RIEs collect and publish trade prices and transaction volumes in real-time.	Yes –, end-of-day volumes and settlement prices are published at market close and end-of-day information sheets.	Yes – live warrants are made accessible by both LIFFE and LME.	Yes – live warrants are made accessible by both LIFFE and LME. Warehouse stocks are published on a T+1 basis.
U.S. CFTC	Yes – DCMs are required to have real-time monitoring capabilities. DCM Core Principle 4, of Section 5(d)(4) of the CEA requires the board of trade to have the capacity to prevent manipulation, price distortion and disruptions through method including real-time monitoring of trading.	Yes – Each day CFTC surveillance staff monitor daily activities of large traders, key price relationships, and relevant supply and demand factors to review for potential market problems. In addition, Core Principle 4, of Section 5(d) of the CEA requires the board of trade to have the capacity to prevent manipulation, price distortion and disruptions through method including real-time monitoring of trading and trade reconstruction. DCMs will collect various fundamental data about the underlying commodity including supply and demand and movement through marketing	Yes – End-of-day positions are collected and analyzed as a part of the large trader reporting system. Every contract market should have access to the positions and trading of its market participants.	Yes – The CFTC has authority to examine related cash markets and OTC positions and can require traders to report their futures and options positions on all markets or their cash market or OTC position. The CFTC has the ability to investigate and discover the identity of true account owners and controllers of large positions.

		channels.		
--	--	-----------	--	--

Question 2	Does the information collected permit a Market Authority to identify each position holder (by name or code) down to the first customer level, and the size of position, by contract month, for each position holder?
Argentina CNV	Yes.
Australia ASIC	Yes – This information is collected by the ASX as a part of the detailed beneficial ownership on a daily basis report and submitted to ASIC as required under section 4 of the ASX 24 Market Integrity Rules and an MOU. The information includes the name, account number and address to the first customer level and includes information on the contract, expiry month, size, whether position is long or short, and whether it is for the house or a client.
Brazil CVM	Yes – Final beneficial owners are disclosed to the CVM in the post-trade report.
Canada AMF	Yes – At the current time exchange’s system allows for the collection of each position holder down to the first level. However, the Exchange has not yet received the regulatory approval from the AMF to collect this information.
Canada ASC	Yes – The Conditions for Maintaining Recognition as a Derivatives Exchange, particularly paragraph 5, requires exchanges to maintain an audit trail, including information to allow the exchange to track a client order through execution.
Canada OSC	N/A.
Canada MSC	Yes – Section 6 of the MCFA allows the MSC to request information when it deems an investigation to be in the public interest. The Commission has the power to compel the productions of documents and testimony from third party holders of relevant information.
China CSRC	Yes – Each person trading in Chinese futures markets is assigned a unique trading identity. Exchanges and the CFMMC have access to transitions and positions for each customer.
Chinese Taipei	Yes – Information collected by Market Authorities allows them to identify position holders down to the first customer level, and the size of position, by contract month, for each position holder.
Denmark DSFA	N/A.
Dubai DFSA	Yes – The DME applies a system that labels direct members and guaranteed customers of a clearing member using customer type indicator codes.
France AMF	Yes – The AMF collects information from CCP clearinghouses that is broken down by positions for clearing members and first level clients (unless an omnibus account is used). No further information is systemically available beyond that level. In the absence of client ID, the AMF does not comprehensively collection initial/ultimate beneficiary data. Information relating to ultimate beneficial ownership however, maybe requested from the member firms when needed.
Germany BaFin	Yes – However, at Eurex this information is only available by making a request to the exchange participant.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – Rule 628(b) of HKFE Rules requires disclosure of end-of-day positions by participants on their own behalf and on behalf of clients. For each holder they report name, size of position by contract month. HKMEx Rule 5.1.4(a) requires members to report positions at or exceeding levels set by the exchange for both client and proprietary accounts. Rule 5.1.4(c) extends this requirement to sub-accounts, requiring the

	reporting of both long and short positions above prescribed levels.
Hungary	Yes – This information is available through the CCP.
India FMC	Yes.
Japan METI	Yes – The information submitted pursuant to Article 112 of the CDA must include the traders name, address, type of trading and omnibus account classification and will allow for identification of position holder and size of position by contract month and holder.
Japan MAFF	Yes – The information submitted pursuant to Article 112 of the CDA must include the traders name, address, type of trading and omnibus account classification and will allow for identification of position holder and size of position by contract month and holder.
Korea	Yes – Where a party holds a significant exchange-traded derivative position they must make a report that includes the name, address, derivatives positions held and other information that will identify position holders and their transactions.
Luxembourg	No.
Malaysia	Yes – The SC and the Exchange have databases that keep all participant details that enable surveillance to identify an account and aggregate related accounts. DSD is able to identify holders by name down to client level except in respect of omnibus accounts where information is available upon request.
Mexico CNBV	N/A.
Netherlands AFM	No – Data only contain ID of the trading firms engaged in the transaction. However, AFM does have the power to collect such information down to the position holder level, including information relating to the size of positions by contract month.
Norway FSAN	Yes – In Norway producers, retail companies, large end-users and traders may all be direct members of the market and clearinghouse. They may also trade and clear through general clearing members.
Panama	Yes.
Portugal CMVM	No – The information received does not allow for the identification of the position holder and only differentiates between “own account” and “third party account”. CMVM does have the right to request information on beneficial owners.
Romania	Yes – Based on information provided by SIBEX CNMV is able to identify position holders to the first customer level and the size of positions by contract month, for each holder. For BVB CNMV cannot see each unit holder but can request this information from the intermediary.
Saudi Arabia CMA	Yes – Oracle Equator has the functional capacity. As there is no commodities exchange in the KSA contract months are not relevant.
Singapore MAS	Yes – SGX-DT maintains records of positions and end-customer identities. In the case of undisclosed omnibus accounts, SGX-DT can require disclosure under SGX-DC Clearing Rules 7.16.3. SMX identifies clients from unique IDs assigned by its members to their clients.
South Africa	Yes.
Switzerland FINMA	Yes – Though data are collected on an exchange member basis. For client information FINMA must take additional steps of requesting information from exchange members. This is only done where a breach of rules is suspected.
Turkey	Yes.
United Arab Emirates SCA	N/A.
U.K. FSA	No response.
U.S. CFTC	Yes – The large trader reporting system collects information on the beneficial ownership of reported positions daily. This information is

	aggregated for related accounts across reporting firms
Question 3	Does information identify the type of trading (e.g. commercial, Non-commercial)?
Argentina CNV	No.
Australia ASIC	Yes – the detailed beneficial ownership on a daily basis report indicates whether a position is a house or client position. The concepts of client and house positions are set out in the ASX Clear (Futures) Operating Rules.
Brazil CVM	Yes – Type of trading is identified for each contract with commercial trading identified as hedgers, as appropriate depending on their underlying business. As an example, you can only be a hedger if you are a coffee grower, cooperative, agricultural supply firm, manufacturer of coffee, machinery manufacturer or coffee importer/exporter.
Canada AMF	Yes – The exchange’s system allows for a distinction between hedgers and speculators.
Canada ASC	No.
Canada OSC	N/A.
Canada MSC	Yes – ICE Rules include record keeping requirements. In addition, FCMs registered under the MCFA must be IIROC members and comply with IIROC requirements including the requirement to maintain records as to whether a trade is for a institutional or retail client.
China CSRC	Yes – Trading is differentiated between hedging and speculation and between legal persons and individuals. Information is collected at account opening to allow futures exchanges and the CFMMC to differentiate between types of customers.
Chinese Taipei	No.
Denmark DSFA	N/A.
Dubai Dfsa	Yes – The DME applies a system that labels direct members and guaranteed customers of a clearing member using customer type indicator codes in accordance with 6.13(B) of the Rules. This also differentiates between customer and house.
France AMF	No – MiFID II will provide for this type of classification when in force.
Germany BaFin	Yes – Accounts are classified into three categories: (i) trading agent account; (ii) proprietary account; and (iii) market maker account. However, it is not possible to distinguish between customers’ accounts that are for commercial and non-commercial customers as all customer accounts have the same classification.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – HKFE participants are required to disclose positions that are executed for hedging, trading or arbitraging purposes. HKMEx Rule 5.1.4(a) requires members to report positions at or exceeding levels set by the exchange for both client and proprietary accounts. Rule 5.1.4(c) extends this requirement to sub-accounts, requiring the reporting of both long and short positions above prescribed levels.
Hungary	No – However, proprietary orders are differentiated from client orders.
India FMC	No.
Japan METI	Yes – The information submitted under Article 112 of CDA includes type of trading.
Japan MAFF	Yes – The information submitted under Article 112 of CDA includes type of trading.
Korea	No.
Luxembourg	No.
Malaysia	Yes – The database has identifiers that tag participant by types, including local, local institutions, foreign institutions.
Mexico CNBV	N/A.

Netherlands AFM	No.
Norway FSAN	No.
Panama	No.
Portugal CMVM	No.
Romania	No.
Saudi Arabia CMA	Yes – Client and agency transactions are identified separately by name and NIN code.
Singapore MAS	Yes – Participants are required to declare account types as hedge, arbitrage or speculative at time of account opening. SMX categorizes member positions as proprietary, institution customer or individual customer.
South Africa	No.
Switzerland FINMA	No.
Turkey	Yes – “Owner Type” classifications are used on an account basis.
United Arab Emirates SCA	N/A.
U.K. FSA	Yes - ICE and LIFFE publish the following categories of trading: producer/merchant, processor/user, swap dealers, and managed money. LME does not produce categories in its reports.
U.S. CFTC	N/A.

Principle 11: Collection of OTC Information – In respect of OTC commodity derivatives transactions and positions, a Market Authority should consider what information it should collect on a routine basis and what it should collect on an “as needed” basis. A Market Authority that has access to a relevant Trade Repository’s (‘TR’) data should take such broader access into account, as well as its statutory obligations with respect to the TR, in constructing its data collection policies.

Information could include, as appropriate:

For information collected on a routine basis:

- i) transactional information including time and date of transaction, contract terms, counterparties to the contract and price of contract; and
- ii) position information.

For information collected on an “as needed” basis:

- i) delivery intentions;
- ii) beneficial owners;
- iii) positions under common control; and
- iv) for contracts other than forwards, additional information may also need to be sought on notional values, replacement cost, valuation methodology

or duration of the contracts.

Question 1	Has the relevant Market Authority considered what information it should collect on a routine basis and what it should collect on an "as needed" basis?
Argentina CNV	No – only partial and informal data is available.
Australia ASIC	Yes – Currently in the process of assessing specific data collection requirements by engaging relevant regulators on the types of data required and the frequency of data collection.
Brazil CVM	Yes – CVM receives all OTC traded and registered operation in a post-trade basis. Under Law 6,385/76 Art.9 any other information can be received on an "as needed" basis.
Canada AMF	Yes – Data is collected on a daily basis in order to conduct proper market surveillance and on an ad hoc basis when dealing with investigations and inspections.
Canada ASC	Yes – Under section 41 (1) and section 58 (1) of the Securities Act (Alberta) the ASC can request any information on both a routine and non-routine basis. The CSA Derivatives Committee is reviewing the state of OTC derivatives and the more specific proposals relate to key areas including mandatory reporting of OTC derivatives and the regulation of trade repositories.
Canada OSC	Yes – The CSA Derivatives Committee currently is reviewing what information would be required to be collected from a trade repository on both a continuous and an "as needed" basis.
Canada MSC	Yes – The CSA Derivatives Committee currently is reviewing what information would be required to be collected from a trade repository on both a continuous and an "as needed" basis.
China CSRC	Yes – When the OTC markets affect the futures markets the CSRC can collect information on an "as needed" basis
Chinese Taipei	Yes – On an as needed basis, i.e. when the OTC Market affect the futures market, the CSRC can collect information on the OTC Market, such as transactions, positions, funds, ownership and controlling relationship.
Denmark DSFA	No – Waiting for implementation of EU EMIR regulation
Dubai DFSA	Yes – Quarterly financial reporting provides data and intelligence on positions in Investments including OTC derivatives. DFSA also has the power to request further information "as needed" from firms and market operators.
France AMF	Yes – The AMF has been actively involved in the discussion of the new European Market Infrastructure Regulation (EMIR), whose key objectives include the reporting of OTC derivatives to Trade Repositories on a routine basis. In the meantime, the AMF has the ability to request any OTC information on an "as needed" basis as described above.
Germany BaFin	Yes - Market Surveillance does not check OTC data for plausibility nor controls proper realizations of transactions. However, the European Commission has drafted a proposal for a regulation on OTC derivatives, central counterparties and trade repositories (EMIR) which is expected to come into force at the end of 2012. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010PC0484:EN:NOT
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong	Yes – Hong Kong will introduce a mandatory reporting obligation whereby certain OTC derivatives must be reported to the trade repository

SFC	which is being set up by the Hong Kong Monetary Authority. The SFC & HKMA will consider the types of information which should be collected from the TR.
Hungary	No – Not Applicable to BSE
India FMC	No – The Market Authorities do not regulate the OTC Commodity derivatives market.
Japan METI	Yes - Under Article 349 (5) of the CDA, METI has the power to collect OTC trading information on any frequency required and has considered what information should be collected on a routine basis and which would be collected on an “as needed” basis.
Japan MAFF	Yes - Under Article 349 (5) of the CDA, MAFF has the power to collect OTC trading information on any frequency required and has considered what information should be collected on a routine basis and which would be collected on an “as needed” basis.
Korea	N/A.
Luxembourg	N/A.
Malaysia	No – There is no OTC commodity derivatives market although the SC is currently looking into establishing a framework for trade repositories (TR). The SC has recently amended the Capital Markets and Services Act 2007 (CMSA) to include the requirement for OTC reporting through a TR.
Mexico CNBV	No – The Central Bank receives all information related to derivative transactions.
Netherlands AFM	No - Waiting for implementation of EU EMIR regulation.
Norway FSAN	Yes – Post-trade data of all OTC cleared trades in listed products must be submitted to the relevant regulated market. Since the proportion of cleared trades is high, market surveillance at the regulated market will be able to monitor the market position of each participant. FSAN’s own system for position is then at the moment not necessary.
Panama	No – currently awaiting pending derivatives legislation.
Portugal CMVM	N/A. Taking into account the nature of the OMIP derivatives market and the existence of the MIBEL Council of Regulators, the CMVM considers the information it receives on a regular basis as adequate for the analysis undertaken.
Romania	No – CNVM has access to information on derivatives both on exchange and OTC that are traded on the regulated market.
Saudi Arabia CMA	No – As there is no commodity derivatives market in Saudi Arabia. However, all Tadawul listed or SDC registered OTC transaction data are collected on a systematic and continual basis.
Singapore MAS	Yes – Under section 163 of the SFA, MAS can request any information of OTC commodity derivatives and the exchanges have the investigative power to request information on OTC commodity derivative transactions on an “as needed” basis under the exchange rules. MAS has also concluded a policy consultation on a new regulatory regime for trade repositories, whereby for certain OTC derivative contracts reporting is mandatory.
South Africa	No – The exchange may be involved in collecting the OTC information but there has been no discussion as to what information specific to the OTC transaction will be considered.
Switzerland	No – However, OTC reporting to trade repositories will be adopted within the coming months/years, in line with many other jurisdictions.
United Arab Emirates SCA	No response.
U.K. FSA	Yes – the FSA collects OTC information for commodity related markets either directly from the RIEs or the market participants on an ‘as needed/or requested’ basis. OTC information is stored in the global trade repository maintained by the DTCC can also be accessed by the FSA if

	required.
U.S. CFTC	Yes - Historically CFTC has only collected OTC information for related markets on an as needed basis through its special call. The Dodd-Frank Act added CEA Section 21 relating to Swap Data Repositories which requires all swaps to be report to trade repositories.

Principle 12: Large Positions – Market Authorities should require the reporting of large trader positions for the relevant on-exchange commodity derivatives contracts. The Market Authority should have the ability to aggregate positions owned by, or beneficially controlled on behalf of, a common owner.

Question 1	Do Market Authorities require the reporting of large trader positions for relevant on-exchange commodity derivatives contracts?
Argentina CNV	Yes – Markets rules place position limits and large positions of all traders are known.
Australia ASIC	Yes – Although reporting is not restricted to large trader positions, but all open positions on its market. Positions are then analyzed to determine whether they positions are of significant size.
Brazil CVM	Yes – But CVM requires reporting of all trader and positions and not just large trader positions.
Canada AMF	Yes – Through the Large Open Position Reporting System. Each approved market participant has the obligation to file its own position reports to the Exchange for each account exceeding the reporting threshold.
Canada ASC	Yes – Although no specific requirements for the reporting of large traders, the market surveillance staff monitor the daily activities of large traders through the derivatives exchange daily reports on positions and transactions of each member.
Canada OSC	N/A.
Canada MSC	Yes – ICE rule 12 requires the reporting of any position in excess of 100 futures contracts. Furthermore, ICE Rule 4E.04 requires FCMs using omnibus accounts to disclose gross long and short positions to their Clearing Participants.
China CSRC	Yes – A large trader report system is required under the Regulations and the Futures Exchanges Regulations.
Chinese Taipei	Yes - According to <i>the Regulations</i> and <i>the Futures Exchanges Regulations</i> , the futures exchange must have the large trader report system. According to the exchange rules, members and customers are obligated to file reports with the exchange when certain reporting levels are exceeded
Denmark DSFA	No.
Dubai DFSA	Yes – The reporting levels for position reporting are fixed by the exchange Board (currently at 25 contracts) and published by the Exchange on their website. The Market Authority receives a weekly report with these details across all contacts and all maturities.
France, AMF	No – However, the possibility of introducing this is currently being examined with the exchanges and clearing houses, whilst pending the introduction of MIFID 2.
Germany BaFin	No – However, the large trader reports will be introduced through the pending review of the EU Directive on Markets in Financial Instruments (MiFID)
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes –Through the exchange rules. HKFE – Rule 628 (b) of the HKFE Rules requires the reporting of large positions and Section 6(1) of the Securities and (Contracts Limits and Reportable Positions) Futures Rules. HKMEx – Rule 5.1.4 of HKMEx rulebook prescribes that markets participants shall report to the exchange positions equal to or in excess of the levels set at any time by the Exchange.

Hungary	Yes - HFSA obtains this information from BSE members as and when required but there is no special requirement for reporting large trader positions
India FMC	No – But discussions are underway with the exchanges regarding the disclosure of information on large trades
Japan METI	Yes – Article 112 of CDA requires the reporting of large trader positions for relevant on-exchange commodity derivatives contracts.
Japan MAFF	Yes – Article 112 of CDA requires the reporting of large trader positions for relevant on-exchange commodity derivatives contracts.
Korea	Yes - Pursuant to the FSCMA, holders of significant exchange-traded derivative positions must report their positions and any changes to their positions to the FSC/FSS and the KRX within 5 days.
Luxembourg	NA.
Malaysia	No – due to the fact that BMD is able to see all open positions down to the client level.
Mexico CNBV	N/A.
Netherlands AFM	No - waiting for implementation of EU EMIR regulation and MiFID II.
Norway FSAN	No – Not explicit but considered as not relevant depending on the current market situation. Since the clearing degree is high the market surveillance at the regulated market will be able to monitor the market position of each participant. An own system for position is then at the moment not necessary.
Panama	No – But this principle has been flagged for further review.
Portugal CMVM	No - However, all transactions executed/registered within the OMIP derivatives market are reported to the CMVM, by trading member at a trading account level (see answer above). There are no limits established according to the size of positions.
Romania	Yes – The investment firms have the obligation to submit to CNVM “report on derivatives transactions” within maximum 10 days from the close of the reporting month or within maximum 24 hours from the request by C.N.V.M. (art 153 (1) from CNVM Regulation no. 32/2006). CNVM require the report of all positions not only large positions. This reporting requirement applies to all positions not only to the large positions.
Saudi Arabia CMA	No – For commodity derivatives contracts. As there is no commodity derivatives market present in KSA.
Singapore MAS	Yes – The exchanges set position limits on commodity derivatives contracts traded on their platform, and monitor these positions via their automated surveillance system.
South Africa	Yes – Please note no additional reporting is required as the exchange already has sight down to individual client accounts and so can already aggregate large trader positions without any additional reporting.
Switzerland FINMA	No – There are no plans to implement. large position reports. However, in case of an investigation, FINMA can obtain information on beneficial owners from regulated dealers which permits identification of large positions.
Turkey	No - TurkDEX and CMB do not require the reporting of large trader positions for relevant on-exchange commodity derivatives contracts. Instead, market authorities are able to monitor and gather large trader positions data in real-time by surveillance program.
United Arab Emirates SCA	No response.
U.K. FSA	No – However, ICE and Liffe require their members to supply position information under the exchange rules from which they create their own Commitment of Traders Report. The UK regulatory legislation does not obligate the reporting of large positions but the FSA does receive open interest reports from the three exchanges.
U.S. CFTC	Yes – Via the large-trader reporting system the CFTC is able to collect and analyze data on large trader positions in all commodities. Reportable

	positions—daily reports of futures positions above specified levels set for reporting purposes—are obtained from FCMs, clearing members and foreign brokers.
--	--

Question 2	Does the Market Authority have the ability to aggregate positions owned by, or beneficially controlled on behalf of, a common owner?
Argentina CNV	No – There is no single and aggregated national registry of positions held by a common owner. Positions are aggregated in a single market basis. No steps in this issue have been initiated yet.
Australia ASIC	Yes – ASX 24 can group the account level positions on an aggregate basis and provide reports on common ownership i.e. reports on the total positions holdings for a particular entity or client of participant.
Brazil CVM	Yes – Database analysis tools allow CMV to aggregate positions per final beneficial owner, per investor group, per market intermediary, per asset or any other parameter.
Canada AMF	Yes – Through the assignment of a unique identifier to an account beneficial owner and the LOPR system.
Canada ASC	Yes – Through the assignment of a unique identifier to an account beneficial owner and the LOPR system.
Canada OSC	N/A.
Canada MSC	Yes – Through ICE Rules which require that market participants report the names of all beneficial owners of positions in excess of 100 futures and that positions reported by a participant must be aggregated positions.
China CSRC	Yes – The futures exchange aggregates positions based on criteria including shareholding structure, transaction execution, specific relationship, pre-agreement arrangements and trading activity synchronization.
Chinese Taipei	Yes – Exchanges have the ability to aggregate positions - with the criteria including shareholding structure, transaction execution, specific relationships, pre-agreement arrangements and trading activity synchronization.
Denmark DSFA	No.
Dubai DFSA	Yes – Pursuant to Rule 6.9 of the DME Rules, a market participant of DME must record details of each transaction as specified under the DFSA Conduct of Business Rules App1 RuleA1.1.1. This DFSA COB rule requires that the identity and account number of the client be recorded. Transactional record keeping is also obligatory for propriety transactions and transactions passed to another Person for execution, under the same Rule of the DME Rulebook. Based on this information, aggregation of positions by beneficial/common owner would be possible as requested by either the exchange or the DFSA.
France AMF	No – Positions may not always reveal the actual beneficiary, but it is expected that this difficulty should be largely resolved through the implementation of the Client ID as expected in MIFID II.
Germany BaFin	No – However, as positions are associated with a particular account type: trading agent account, propriety account, or market maker account, and aggregation could be done on this basis.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – All positions held or controlled by any person, including those held in propriety accounts and those belonging to other persons are aggregated.
Hungary	Yes - HFSA receives information on aggregate positions monthly.
India FMC	Yes – The exchange obtains information on ownership structures based on information obtained through disclosure on KYC forms and through information provided by Tax authorities and common addresses, telephone numbers to determine aggregation of positions.

Japan METI	Yes – Article 112 of CDA requires that information submitted should include the trader’s name, address, type of trading which would allow the market authority to aggregate manually if required. The Exchange has provisions in place to request beneficial ownership information of omnibus holders if required.
Japan MAFF	Yes – Article 112 of CDA requires that information submitted should include the trader’s name, address, type of trading which would allow the market authority to aggregate manually if required. The Exchange has provisions in place to request beneficial ownership information of omnibus holders if required.
Korea	Yes - Holders of large positions of exchange-traded derivatives must report to the regulatory authority. In its report, there must be information on the name of the position holder, address, the derivatives being reported, and any other information that may identify the transactions. In addition, in case of investigation of unfair trading, the regulatory authority may request the submission of information to the relevant person(s).
Luxembourg	No. See answer to Question 1 ii) of Principle 10,
Malaysia	Yes – All positions are aggregated based on client ID number (for residents), passport number (for foreigners) and for institutions by Business registration numbers.
Mexico CNBV	Yes – However, this is restricted to the submission of periodical regulatory reports by financial entities. The central bank receives daily transaction information which can be aggregated.
Netherlands AFM	No - Waiting for implementation of EU EMIR regulation and MiFID II.
Norway FSAN	No – However, see response to Principle 12, question 1.
Panama	No – But this principle has been flagged for further review.
Portugal CMVM	Yes - The information received on a regular basis details the trading member and the trading account; therefore it is possible to gather information by trading account. Please note that the trading account distinguishes only between “own account” and “third parties account”. Market members act on the OMIP derivatives market mainly for own account. If more detailed information is needed, the CMVM has the power to request the identification of the final beneficial owner.
Romania	Yes – Aggregation although possible is only performed if requested such as during an investigation.
Saudi Arabia CMA	Yes – Based on the prior knowledge of corporate structures and data which have been input into transaction monitoring programs.
Singapore MAS	Yes – Though the automated surveillance system – SGX – DT.
South Africa	Yes – Via a report which provides a delta basis position held by all registered clients per expiry per product across all product lines.
Switzerland FINMA	Yes - Data is collected on an exchange member basis only. For information about beneficial owners and customers, FINMA has to undertake further steps (i.e. asking exchange member for beneficial owner data). There are no intentions to implement such provisions.
Turkey	Yes - TurkDEX and the CMB have the ability to aggregate positions owned by, or beneficially controlled on behalf of, a common owner. The surveillance system can group aggregate positions owned by common account.
United Arab Emirates SCA	No response.
U.K. FSA	Yes – If required the FSA can request this information from the members of the exchanges although this is not done as a matter of course. The RIEs do provide reports to the FSA on an anonyMoUs basis and further information can be furnished if required.
U.S. CFTC	Yes - The CFTC’s large trader reporting system (LTRS) daily collects information on beneficial ownership of reportable positions

Principle 13: Intervention Powers in the Market - Market Authorities should have, and use, effective powers to intervene in commodity derivatives markets to prevent or address disorderly markets and to ensure the efficiency of the markets. These powers should include the following:

1) Position Management Powers, Including the Power to Set Position Limits - Market Authorities should have and use formal position management powers, including the power to set ex-ante position limits, particularly in the delivery month,.

These should necessarily include position management powers that:

(a) Establish a trader's automatic consent to follow an order of the Market Authority when that trader's position reaches a defined threshold size or any size, which the Market Authority considers prejudicial to orderly market functioning, taking into account all relevant circumstances. They should also require such a trader to comply with the Market Authority's order, either not to increase a position or to decrease a position; and

(b) Authorize a Market Authority to place ex-ante restrictions on the size of a position a market participant can take in a commodity derivatives contract (i.e., position limits).

2) Other Discretionary Powers - Market Authorities should also have the powers to employ any of the following measures, as appropriate to address market disruption or the perceived threat of such disruption or to assist market surveillance efforts:

a) the imposition of price movement limits;

b) calling for additional margin, either from customers or from clearing members on behalf of their clients;

c) ordering the liquidation or transfer of open positions;

d) suspending or curtailing trading on the market (e.g., trading halts and circuit breakers);

e) altering the delivery terms or conditions;

f) cancelling trades;

g) requiring owners of positions to specify delivery intentions; and

h) requiring traders to disclose related OTC derivatives or large physical market positions.

Question 1	Do Market Authorities have formal position management powers, including the power to set ex-ante position limits, particularly in the delivery month, which include powers that: a) Market participants must comply with the Market Authority's order, either Not to increase a position or to decrease a position; and b) Authorize a Market Authority to place ex-ante restrictions on the size of a position a market participant can take in a commodity derivatives contract (i.e., position limits).
Argentina	Yes – Market authorities have the power to set maximum open interest, reduce or close out positions, throughout the term of the contract if

CNV	necessary. The market operators, under Law 17,811 are also empowered to impose position limits.
Australia ASIC	Yes – Under ASX 24 Operating Rule 3400, position limits may be set on a number of derivatives contracts in a contract series of class which may be entered into. Under ASIC Market Integrity Rule 2.1.1 position limit rules are imposed on market participants to their clients. Under the ASX Clear (Futures) Rulebook, ASX 24 prescribes limits on the number of open positions (propriety and client) a clearing participant may hold.
Brazil CVM	Yes – Under CVM 283/98, the SRO of the Exchange is responsible for setting position limits and open interest limits. On Futures, limits are placed on the percentage total of outstanding contracts held by each market participant relative to maturity date and also on the maximum absolute number of contracts each market participant is allowed to hold, relative to maturity date. The exchange also has the ability to vary the pre-set limits whenever deemed necessary.
Canada AMF	Yes – under the Rule BdM 6651-70 of the Montreal Exchange the Exchange has formal position management powers.
Canada ASC	Yes – Under Criterion 11 (Position Limits or Accountability) the derivatives exchange has the power and obligation to adopt position limits or position accountability for speculators.
Canada OSC	Yes - The OSC has fairly broad powers when it comes to the regulation of commodities futures exchanges. Section 15 (7) of the CFA allows the OSC to make any decision regarding commodities futures exchanges if it is in the public interest, this includes: <ul style="list-style-type: none"> • The manner in which a registered commodity futures exchange carries on business; • Any by-law, rule, regulation, policy, procedure, interpretation or practice of a registered commodity futures exchange; or • With respect to trading on or through the facilities of a registered commodity futures exchange or with respect to any contract traded on a registered commodity futures exchange, including the setting of levels of margin, daily price limits, daily trading limits and position limits.
Canada MSC	Yes – ICE Rule 12.01 requires that both speculative and hedge position limits are published and publicly available. ICE Rule 12.02 authorizes the Exchange to place position limits on speculative positions during the spot month.
China CSRC	Yes – The CSRC requires that all futures exchanges impose ex-ante speculative position limits for all products, in both delivery and non-delivery months.
Chinese Taipei	Yes – Exchanges are obligated to establish and strengthen regulation on position limits.
Denmark DSFA	No – The power to impose position limits has not as yet been considered.
Dubai DFSA	Yes – Under Rule 4.26 of the DME Business Rules, the exchange board may take any action to correct, counteract or check for further development of, or stop any position, speculation, situation or practice that the board determines is undesirable. Furthermore, under section (B) of this rule, the board can direct the market participants of the Exchange to close out any or part of any position held.
France, AMF	Yes – Article 524-9 of the AMF General Regulations provides that the clearing house establish position limits either by Member or across all market participants. LCH. Clearnet have also issued instructions whereby under Article 2 of Instruction IV, the LCH.Clearnet can determine position limits and can grant a derogation from these provisions. (Article 6)
Germany BaFin	Yes – at a regulatory level the German Exchange Act 3 (5) and the German Securities Trading Act Section 4(1)(2) and at the Exchange level also, under the Exchange Rules. According to Art. 59 of the draft Directive amending MiFID the European Commission shall be empowered to determine position limits.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – Rule 629 of the HKFE Rules provides the power for setting position limits. The SFC also has the power to make rules to amend contract limits and reporting positions and to set statutory position limits. Under HKMEx Rule 5.1.3 (a) the exchange has the power to establish positions in any Exchange contract. Rule 5.16.2 of HKMEx also enables the Exchange to stop any positions, speculation, situation or practice.
Hungary	No – This is not applicable to BSE and is determined by KELER.

India FMC	Yes – Position limits are prescribed by the Governmental Regulator under the provisions of the Forward Contracts Regulations Act, 1952 and the directives implemented by the Exchanges.
Japan METI	Yes –At the regulatory level there are no specific rules, Article 102 of CDA specifies that that each commodity exchange shall specify for each commodity market it opens, detailed regulations on a matter concerning trade of contracts and restraint thereof. More specifically, TOCOM sets position limits in Article 30 of its Markets Rules.
Japan MAFF	Yes –At the regulatory level there are no specific rules, Article 102 of CDA specifies that that each commodity exchange shall specify for each commodity market it opens, detailed regulations on a matter concerning trade of contracts and restraint thereof.
Korea	Yes - The KRX sets position limits pursuant to the Derivatives Market Business Regulation for gold futures, mini-gold futures and lean hog futures.
Luxembourg	Yes (pending). The CSSF exercises its supervisory and enforcement powers within the scope of MAD law and MiFID law and will have some more enhanced powers by the coming into force of EMIR legislation and of MiFID II and MiFIR legislation. However, the CSSF will not get the power to alter the delivery terms or conditions or for cancelling trades. Indeed, such issues are governed by civil and commercial law.
Malaysia	Yes – Under Section 101 of the CMSA, SC is able to set position limits. Bursa Malaysia is also empowered under Rule 613 of the BMD Rules, and the powers are further elaborated under Schedule 3 of the BMD Rules.
Mexico CNBV	No – As there is no commodities market in Mexico, although the exchanges and the central counterparty both have the power to impose positions limits.
Netherlands AFM	Yes – The exchange (APX – ENDEX) has the power to set position limits, although this power has not as yet been exercised. Additionally, MiFID II is intending to introduce an obligation that rests upon among other Market Authorities (in this case Regulated Markets).
Norway FSAN	No – There is no legislation covering position management in Norway.
Panama	No – Currently being reviewed for future implementation.
Portugal CMVM	Yes - According to the OMIP derivatives market rules, it is possible to apply limits to the open positions of participants with the purpose of market safeguard. When those limits are reached, participants may only execute transactions either for closing the positions or to decrease their exposure. The limits are determined by the OMIP (market operator) in cooperation with OMIClear (CCP).
Romania	Yes – With regard to the imposition of position limits, CNVM has the power to impose any measures to ensure investor protection,. Specifically, CNVM Regulation no 13/2005 provides in Article 170 that the clearing house/central counterparty has the ability to request members to reduce their exposure. Under Sibex regulations, the exchange and clearing house are able to limit the number of open positions per participant.
Saudi Arabia CMA	Yes – Under Listing Rules Art. 45, CMA has the power to impose position limits but there is currently no derivatives market in the KSA.
Singapore MAS	Yes – Under Section 16A of the SFA, exchanges are required to obtain MAS approval for setting, varying or removing any position limit on the commodity futures contract traded in their market. Under Section 34 of the SFA, MAS has the emergency powers which include the authority to direct the exchanges to set position limits.
South Africa	Yes – Through Rule 10 of the JSE Derivatives Market and the agricultural contract specifications.
Switzerland FINMA	Yes – Under the EUREX regulations the exchange has the ability to impose position limits.
Turkey	Yes - Each derivatives future contracts has its own position limit and also it is regulated by Exchange Circular No: 2011/144 Position Limits Regarding Institutional Accounts. Moreover, after the introduction of the New Capital Markets Law the issue will be reconsidered.
United Arab Emirates SCA	N/A.

U.K. FSA	Yes – Each exchange (ICE, LIFFE and LME) monitor its own markets in its own manner as permitted under its own exchange rules.
U.S. CFTC	Yes – The CFTC and the DCMs both have position management powers. Dodd-Frank Act requires the CFTC to limit the aMoU of positions, other than true hedging positions, with respect to physical commodity futures and option contracts in exempt and agricultural commodities. Core Principle 5 of Section 5(d) of the CEA requires the DCM to reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month.

Question 2 Do Market Authorities also have the following powers that permit:	a) the imposition of price movement limits;	b. calling for additional margin, either from customers or from clearing members on behalf of their clients;	c. ordering the liquidation or transfer of open positions;	d. suspending or curtailing trading on the market (e.g., trading halts and circuit breakers);	e. altering the delivery terms or conditions;	f. cancelling trades;	g. requiring owners of positions to specify delivery intentions; and	h. requiring traders to disclose related OTC derivatives or large physical market positions.
Argentina CNV	Yes – Self Regulated markets have these powers							No – If trading is not registered or formalized then there is no regulation addressing this issue.
Australia ASIC	Yes – Under ASX 24 Operating Rule 3400, Under ASIC Market Integrity Rule 2.1.1 position limit rules are imposed on market participants to their clients. Under the	Yes – Under ASX Clear (Futures) Rule 45.2 and 9.3 (a) provides that ASX Clear (Futures) may at any time require clearing participants to deposit extra margin or additional initial margin.	Yes – Under ASX Clear (Futures) Rule 9.3.	Yes – Under ASX 24 Rule 3100 ASX 24 may suspend / halt trading, cancel or amend any transaction. Section 794D of the Act gives ASIC the	NA.	Yes – Under ASX 24 Rule 3100 ASX 24 may suspend / halt trading, cancel or amend any transaction.	NA.	NA.

	ASX Clear (Futures) Rulebook, ASX 24 prescribes limits on the number of open positions (propriety and client) a clearing participant may hold.			power to direct market operators to suspend dealings.				
Brazil CVM	Yes – The Exchange defines price movements	Yes – The Exchange has the power to call for additional margins.	Yes – The Exchange may impose reductions in positions	No – Trading halts and circuit breakers only apply to the equity spot market.	Yes – The exchange would only exercise this power in cases of impediments to physical delivery, or cases of force majeure.	Yes – The Clearing house is empowered to do this under Article 27 of the Exchange Rules but only in the case of violation of any internal regulations. Under CVM 461/07 the CVM can also order a halt.	No – As the delivery intentions and notifications are specified in each contract.	Yes – Under the general provision for investigation (Article 9)
Canada AMF	Yes – But only in the instance of the index and equity derivatives.	Yes – The Canadian Derivatives Clearing Corporation can make margin	Yes – The Canadian Derivatives Clearing Corporation can	Yes – At the Exchange level	Yes – at the Exchange level	Yes – At the Exchange level	N/A.	Yes – at the Exchange level

		calls if it deems necessary	liquidate positions calls if it deems necessary					
Canada ASC	Yes - Both the ASC and the exchanges have the power to suspend/halt trading/set margins/price limits and circuit breakers. Under Subsection 63 (4) of the Alberta Securities Act, the ACS has the power to take any decision if it is in the public interest to do so. Under Section 198 of the Alberta Securities Act, the ASC has the power to order trading in or purchasing cease in respect to any exchange contract. Criteria 12 the derivatives exchange (in consultation with the ASC) may liquidate/transfer/suspend or curtail/or require market participants to meet special margin requirements for any open positions in any contract. Criterion 11 gives the exchange the power to place position limits for speculators.							
Canada OSC	<p>Yes - The OSC has fairly broad powers when it comes to the regulation of commodities futures exchanges. Section 15 (7) of the CFA allows the OSC to make any decision regarding commodities futures exchanges if it is in the public interest, this includes:</p> <ul style="list-style-type: none"> • The manner in which a registered commodity futures exchange carries on business; • Any by-law, rule, regulation, policy, procedure, interpretation or practice of a registered commodity futures exchange; or • With respect to trading on or through the facilities of a registered commodity futures exchange or with respect to any contract traded on a registered commodity futures exchange, including the setting of levels of margin, daily price limits, daily trading limits and position limits. <p>The OSC would also have the power, per Section 65 (1) of the CFA , to vary the act to require traders to disclose related OTC derivatives and physical market positions.</p>							
Canada MSC	Yes – Both the Commission and the Exchange have this power. Under S 17 (3) of the Act and ICE Rule 8B.05.	Yes – The Commission has this power. Under S 17 (3) of the Act.	Yes – The Commission has this power. Under S 17 (3) (b) (ii) of the Act.	Yes – Both the Commission and the Exchange have this power. Under S 17 (3) of the Act and ICE Rule 8B.11.	Yes – The Commission has this power. Under S 17 (3) (a) of the Act.	Yes – The Exchange may cancel trades under ICE Rule 8B.11	Yes – The Exchange has this power under ICE Rule 12.01 (a)(1)	Yes – The Exchange can request this information under ICE Rule 12.05
China CSRC	Yes – CSRC has all these powers under the Regulations. The futures exchanges are also authorized to collect this information mentioned under the Regulations and the Future Exchange Regulations.							
Chinese Taipei	Yes - According to the Regulations, the CSRC has the aforementioned powers. According to the Regulations and the Futures Exchange Regulations, the futures exchanges are also authorized to collect aforementioned information..							
Denmark DSFA	N/A.							
Dubai DFSA	Yes – There are general provisions under the Markets Law that empower the DFSA to do all the things necessary to maintain an efficient market. Under Art. 26 of the Markets Law, the DFSA can direct the exchange to do anything to ensure the integrity of the							

	DIFC Market. The DFSA requires that the business rules of the exchange specify these powers for the exchanges. Furthermore, the DFSA has various powers to access traders' underlying and related market positions through a number of channels and powers depending on the jurisdiction and the regulatory status of such trader. For entities based in the DIFC and regulated by the DFSA the DFSA has wide supervisory powers to request any information it deems necessary to investigate any suspicious conduct where reasonable doubt exists. The powers of the DFSA are set out under Art. 73 'Power to Obtain Information', Art. 74 'Requirement to Provide a Report' and Art. 80 'Powers to Obtain Information for Investigation' of the Regulatory Law.							
France AMF	Yes – Article 514-3 of the AMF General Regulations assigns this power to the Market Operator.	Yes – Article 4.2.0.3 of the LCH. Clearnet Rulebook allows LCH.Clearnet to have the right to impose upon a clearing member additional margins.	Yes – The enforcement of position limits by the clearing house can lead to the automatic liquidation of surplus open positions.	Yes – Article 514-3 specifies the conditions for halting trading in a financial instrument.	Yes – Although the clearing house would be able to take this action only in exceptional circumstances.	Yes – Article 514-4 of the AMF General Regulations assigns this power to the market operator.	Yes – LCH. Clearnet requires owners of position to specify delivery instructions (either CCP delivery procedure or any alternative delivery procedures).	Yes – But only in certain conditions (as stipulated in the response to Principle 9 and 11).
Germany BaFin	Yes – The Management Board according to Exchange Rules, Exchange Supervisory Authority according to § 3 (5) German Exchange Act and BaFin according § 4 (1)(2) German Securities Trading Act.							
Greece HCMC	See response to Principle 1, Question 1.							
Gibraltar FSC	See response to Principle 1, Question 1.							
Hong Kong SFC	Yes – On HKFE through the amendment of the contract specifications. On HKMEx under Rule 5.16.1 of the Rulebook.	Yes – On both Exchanges. On HKMEx under Rule 5.16.2. LCH also has similar rules regarding this.	Yes – On both Exchanges. Under rule 5.1.3 (b) on HKMEx in the case of where the member exceed any position limits imposed.	Yes – On HKFE but under HKMEx Rulebook does not provide for circuit breakers.	Yes – Under the HKFE regulations in Trading Metal Futures, and in the case of HKMEx if reported to LCH and pursuant to LCH Rules and accepted by LCH.	Yes – Under HKFE Trading Procedures or under Rule 6.11.1 of HKMEx rulebook.	Yes – There is no obligation on HKMEx to report delivery intentions, but the exchange does ask Members of their delivery intentions upon an approaching expiry. On HKFE this is not applicable because it is not	Yes – Although on both HKFE and HKMEx this is not a specific requirement but covered under general information requesting powers. HKFE Rule 535, and

							applicable to cash-settled futures but this will be considered by HKFE with the introduction of physically settled futures.	HKMEx Rule 5.16.3.
Hungary	Yes (partially) – Under the Act on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities and Act on Securities Market. Price limits, suspensions and altering delivery terms and conditions can be done by BSE. HFSA also has the ability to suspend trading along with large positions and altering delivery intentions. Cancelling trades is not possible on BSE.							
India FMC	Yes – the Exchange can exercise these powers under their FMC approved by-laws, rules and regulations.							
Japan METI	Yes – Under Article 118 of CDA, METI can order the exchange to impose price limits if necessary to maintain the order of the commodity market.	Yes – Under Article 118 of CDA, the exchange or clearing organization can be ordered to change the aMoUnt of margins if necessary to maintain the order of the commodity market.	Yes – Under Article 118 of the CDA, the exchange or market participant can be ordered to liquidate or transfer open positions if necessary to maintain the order of the commodity market. Under Article 30 of the Market Rule, TOCOM also has this power.	Yes – Under Article 118 of CDA, a commodity exchange can be ordered to curtail trading if necessary to maintain the order of the Commodity Market. Under Article 30 of the Market Rule, TOCOM also has this power.	Yes – TOCOM under Article 82 of its Market Rules may alter the delivery terms or conditions if necessary to maintain the order of the commodity market.	Yes – TOCOM under Article 82 of its Market Rules may cancel trades if necessary to maintain the order of the commodity market.	Yes – Under Article 157 of CDA, a commodity exchange or market participant may be ordered to submit a report that may include delivery intentions, related OTC derivatives or large physical market positions.	Yes – Under Article 157 of CDA, a commodity exchange or market participant may be ordered to submit a report that may include delivery intentions, related OTC derivatives or large physical market positions

Japan MAFF	Yes – Under Article 118 of CDA, MAFF can order the exchange to impose price limits if necessary to maintain the order of the commodity market.	Yes – Under Article 118 of CDA, the exchange or clearing organization can be ordered to change the aMoUnt of margins if necessary to maintain the order of the commodity market.	Yes – Under Article 118 of the CDA, the exchange or market participant can be ordered to liquidate or transfer open positions if necessary to maintain the order of the commodity market.	Yes – Under Article 118 of CDA, a commodity exchange can be ordered to curtail trading if necessary to maintain the order of the commodity market.	Yes – Under its Market Rules, a commodity exchange may alter terms or conditions where necessary to maintain the order of the commodity market.	Yes – Under its Market Rules, a commodity exchange may cancel trades where necessary to maintain the order of the commodity market.	Yes – Under Article 157 of CDA, a commodity exchange or market participant may be ordered to submit a report that may include delivery intentions, related OTC derivatives or large physical market positions.	Yes – Under Article 157 of CDA, a commodity exchange or market participant may be ordered to submit a report that may include delivery intentions, related OTC derivatives or large physical market positions.
Korea	Yes - The KRX sets a percentage limit on the quotation price of commodity derivatives (for gold and mini-gold futures: 9%, for lean hog futures: 21%). Any quotation price above this limit cannot be submitted.							
Luxembourg	H							

Malaysia	Yes – Under Rule 707.1 of Burse Malaysia Derivatives (BMD) Rules.	Yes – Under Rule 613 of the Bursa Malaysia Derivatives Clearing (BMDC) Rules.	Yes – Under Rule 401.4 (i)(j) of the Rules of BMD.	Yes – The Exchange has this power in the case of emergency, under Rule 707.4 of the BMD Rules and more general powers are provided for under Rule 707.7 which allows suspension of trading of any Contract in order to maintain a fair and orderly market.	Yes – Under Rule 1300 and Schedule 13 of the BMD Rules, the exchanges are granted these powers.	Yes – The Exchange has the power to cancel traders under Rule 707.2 of BMD.	No – Currently no steps are being taken to create this power for the exchange.	No – However, the SC has recently amended the CMSA to include provisions for approval of trade repositories as well as additional obligation for dealers in OTC derivatives to report details of trades to a trade repository approved by the SC.
Mexico CNBV	No – As there is no commodity derivatives market in Mexico.							
Netherlands AFM	Yes – This power is at the exchange level.	No – Margining is done by the central counterparty and its clearing members and therefore this power is defined with the CCP and clearing members. The AFM supervises the CCP and	Yes – This power is at the exchange level.	Yes – This power is at the exchange level.	Yes – This power is at the exchange level but only with regards to the product specifications	Yes – This power is at the exchange level.	Yes – Because contracts are settled physically, trading member firms have to specify time and quantity of delivery	Yes – The AFM has this power.

		clearing cembers.						
Norway FSAN	Yes – Through the regulated market.	Yes – Through the clearing house	Yes – Through the clearing house	Yes – Through the regulated market and the Market Authority FSAN	Yes – Through the regulated market.	Yes – Through the regulated market.	Yes – Through the regulated market and the Market Authority FSAN	Yes – Through the regulated market.
Panama	Yes – Panama responded “In the case of Panama, if we see any position does not fit, if within transactions and reports we see something that is unusual or could create a reasonable risk level does not proceed to order the liquidation of the position, either by House Exchange or is at risk if some kind of operation with the customer, as long as necessary.”							
Portugal CMVM	Yes - All the powers listed from a. to g. above are within the market operator’s remit. The CMVM has the same powers, namely if the market operator has not acted in a timely manner. The OMIP derivatives market rules detail the circumstances where such powers can be used, for the purpose of safeguarding the market. In relation to the power referred to in h., the CMVM does have such power, in conjunction with the authorities within the MIBEL Council of Regulators.							
Romania	Yes – The market operators and clearing house have this power. Under Sibex Regulation 4 Art.29 (1). CRC has the power under Art. 42 of the same regulation to modify the daily variation limit set for each derivative instrument and for each settlement.	Yes – The clearing house has this power. Under CNVM regulation no. 13/2005. Specifically under Art 161. And under the rules and regulations of the CRC (Art 29 of Sibex Regulation 1)	Yes – CNVM and the clearing house have these powers. Article 162 of the CNVM Regulation no. 13/2005 also Article 171 (2) of the same Regulation grants further powers in the case of non-payment of a margin call, with the power to	Yes – CNVM and the market operators have these powers. Sibex Regulation No 4 Art. 34(1). stipulates the conditions for suspending of trading on the market. Art 46 (1) stipulates individuals of Sibex and CRC can interrupt the	Yes – The market authority may request the alteration of the delivery terms and conditions.	Yes – All the Authorities, CNVM, Bucharest Stock Exchange Bucharest Clearing House have these powers.	No – The execution modality is included in the contract specifications.	Yes – Under Art 149 (1) and (2) of CNVM Regulations no 32/2006.

			force close out positions.	trading session.				
Saudi Arabia CMA	N/A - For the simple reason that there is no KSA commodity derivatives market. These powers are in force in the existing securities markets.	N/A - For the simple reason that there is no KSA commodity derivatives market.	N/A- For the simple reason that there is no KSA commodity derivatives market. These powers are in force in the existing securities markets.	Yes – Under CML Art. 6, CMA has wide ranging powers to suspend trading.	N/A- For the simple reason that there is no KSA commodity derivatives market. These powers are in force in the existing securities markets.	Yes– Under CML Art. 6, CMA has wide ranging powers to cancel listings. Cancellation of trades is possible under broad powers accorded Tadawul under CML Art.23.8.	N/A- For the simple reason that there is no KSA commodity derivatives market. These powers are in force in the existing securities markets.	N/A - For the simple reason that there is no KSA commodity derivatives market. These powers are in force in the existing securities markets.
Singapore MAS	Yes – Exchanges have all these powers as emergency powers under rules SGX – DT Rule 7.3.3. and SMX Rule 5.16. The regulatory authority MAS also has emergency powers enabling these actions under section 34 of the SFA.							
South Africa	Yes – The SRO, JSE has these powers.							
Switzerland FINMA	Yes – Partially. Eurex Exchange Regulations provide a mechanism for the imposition of position limits, exception from physical delivery/ mandatory cash settlement, interruption and shut-down of trading, trading limits, stop button for clearing members to prevent non-clearing members from placing additional orders. Eurex Clearing Conditions define margin requirements and possible actions that the clearing house can take if margin calls are not met. FINMA has overarching powers under Art. 3 and 4 SESTA to urge the Exchange to amend their rules.							
Turkey	Yes – Market authorities have the powers listed in (a)-(g).							No - However, after the introduction of the New Capital Markets Law this issue will be considered.
United Arab Emirates	Yes - The Exchange has powers through its By-Laws and Clearing Rules to employ all these measures.					No – The Exchange	No, The Exchange via	No response.

SCA						does not have a cancel or “bust” trade policy.	“matching intention” disclosure does not require owners of positions to specify delivery intention.	
U.K. FSA	Yes – Each exchange (ICE, LIFFE and LME) monitors its own markets in its own manner as permitted under its own exchange rules.	No – Margins are not managed by Market Authorities but by the clearing house. UK Recognized Clearing Houses are regulated by the FSA under the Recognition Requirements.	Yes - Each exchange (ICE, LIFFE and LME) allow for the closing out of positions.	Yes - Each exchange (ICE, LIFFE and LME) have the power to suspend.	Yes - Each exchange (ICE, LIFFE and LME) has the power to alter delivery terms and conditions following consultation with the market participants.	Yes - Each exchange (ICE, LIFFE and LME) has this power under the Exchange Rules.	Yes – Each exchange (ICE, LIFFE and LME) monitors its own markets in its own manner as its own exchange rules.	Yes – Each exchange (ICE, LIFFE and LME) can request this information on an “as required” basis.
U.S. CFTC	Yes – Both the CFTC and the DCMs have these powers. Under CEA Section 5 (d) and Section 8a(7) of the CEA authorizes the CFTC to supplement the rules of a registered entity and Section 8a (9) allows the CFTC to direct any such registered entity to take any action the CFTC feels is necessary to maintain an orderly market. Under Core Principle 6 of Section 5(d) of the CEA a board of trade (in consultation with the CFTC) has the authority to liquidate/transfer any open positions, suspend/curtain trading in any contract and require market participants to meet special margin requirements.							

Question 3	Have Market Authorities demonstrated actual use of these powers, listed in 2(b)?
Argentina CNV	Yes – During the 2001 economic crisis several contracts were suspended or restricted.
Australia ASIC	Yes - ASX 24 introduced intra-day margins during periods of high volatility (for example the global financial crisis of 2008) ASX 24 has also in the past contacted position holders regarding their intentions on physical delivery in the lead up to contract expiration.
Brazil CVM	Yes – It is not unusual to have several additional margin calls a day due to directional positions that may have violated position limits.
Canada AMF	Yes – Price limits have been imposed in an effort to curb volatility. The calling of additional margin is a regular practice of CDCC. Also due to changes in the underlying grade or extraneous events, although rare, delivery terms and conditions have been altered. Wash trades have been subject to enforcement by trade cancellation.
Canada ASC	No – The exchange has the primary responsibility to resolve any problems on their market. It is only when the Exchange action is not effective, would the matter be raised to ASC. To date there has not been any matter that has required the ASC to intervene as the exchange actions have proved effective.

Canada OSC	N/A.
Canada MSC	Yes – ICE has demonstrated use of these powers. For example, the Exchange has imposed price limits, halted trading and cancelled trades in the past. Some are exercised on a daily basis (price limits, calling for additional margin and ordering liquidation / transfer of positions) whilst all others have been used less frequently. ICE has not yet been required to request traders to disclose their related OTC transactions or large physical market positions.
China CSRC	Yes – During the nascent phase of development, the futures market used the power to call for additional margin from market participants. However, over the course of the last five years no circumstance has occurred that has required the use of any of these powers.
Chinese Taipei	Yes - The Market Authority imposed price movement limits in Oct. 2008 due to the financial crisis.
Denmark DSFA	No.
Dubai DFSA	Yes – During the matters of MF Global and Lehman Brothers action was taken by the exchange to suspend and subsequently cancel trading privileges of the firms.
France AMF	Yes – All the powers mentioned in question 2 have been used by market authorities, with the exception of altering the delivery terms and conditions.
Germany BaFin	Yes – On both Eurex and EEX, liquidation and transfers have been ordered in the cases of where an exchange participant has defaulted, for example, MF Global. Trades have been cancelled under the error trade policy. On Eurex, margin calls have been made as part of the risk management framework and price limits have been used to manage volatility although on EEX no price limits are imposed. Trading interruptions are imposed on Eurex and Xetra-trading system. Neither exchange has incurred incidences where which would require traders to disclose their OTC or large physical market positions. Neither exchange has yet been required to amend the delivery terms and conditions.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – For example, during the matter of MF Global, HKMEx suspended and restricted the trading of MF Global Hong Kong and declared MF Global UK to be a “defaulter”. This triggered the standard policy and procedures to facilitate an orderly transfer and closing out of positions.
Hungary	No.
India FMC	Yes – recently initial margins have been increased in agricultural commodities and special margins have also been imposed in times of volatility and uni-directional price movements.
Japan METI	Yes – TOCOM has implemented the use of circuit breakers.
Japan MAFF	Yes – the Commodity exchange has utilized the measure of imposing circuit breakers.
Korea	N/A.
Luxembourg	N/A.
Malaysia	Yes – In 2011 there were 2 instances where intraday margin calls were made on clearing participants.
Mexico CNBV	No – Due to the fact that there is no commodities market in Mexico.
Netherlands AFM	Yes – Market Makers have been limited to submitting bids and asks on pre-agreed price limits. Also, with regard to error trades where market participants orders have been matched inadvertently and have very high or low prices, the exchange has exercised the power of cancellation of transactions.
Norway FSAN	Yes – Additional margin calls are a common occurrence in the clearing house to manage settlement risk. If a counterparty fails to settle then the clearing house orders for the liquidation or transfer of these positions, and this is a common occurrence also. Trading halts have also been placed on the market in cases of fraud or where the contract conditions have been subject to change. FSAN has only altered the terms and conditions of delivery due to external political factors.

Panama	Yes – See response to Principle 13, Question 2.
Portugal CMVM	Yes – The most common instance are price limits variation, cancellation of transactions and calling additional guarantees by the CCP.
Romania	No – Due to the small number of financial instruments with commodities as the underlying no irregularities have necessitated the use of these powers.
Saudi Arabia CMA	No – Due to the absence of a listed derivatives market, though 2.b. (c), (d), and (f) could be applied to other asset markets. The CMA has responded with specific action relating to violations falling within its current regulatory scope, leading to sanctions where such violations are confirmed (see www.cma.org.sa).
Singapore MAS	Yes - Powers have been exercised by market authorities to prevent the establishment of new positions (e.g. following the bankruptcy filing by MF Global Holdings Ltd) and to direct the suspension of a particular member's trading activities (e.g. following the bankruptcy filing of Lehman Brothers).
South Africa	Yes – Price limits are in place, and are reviewed and amended in accordance with the value of the underlying. Clearing members often request for additional margin calls depending on the risk appetite with regard to positions and clients. JSE has transferred positions to solvent members in the case of a member default. Although rare, the exchange has also used its power to reverse transactions, but with the consent of the parties involved. The exchange has also requested sight of physical stock held on silo receipts to evidence short positions.
Switzerland FINMA	Yes - 2a. Volatility Interruptions in place, 2b. Risk-based Margin Calls in place, 2c. E.g. in case of default of an Exchange Participant (MF Global), 2d. See a., 2e. No incidents so far that made this step necessary, 2f. Misstrade cancellation based on misstrade regulations (http://www.eurexchange.com/documents/regulations/mistrade_en.html), 2g. E.g. in potential market squeeze scenarios, 2h. No incidents so far that made this step necessary.
Turkey	Yes – a- the imposition of price movement limits, Upper and lower price limits have already been applied; c- ordering the liquidation or transfer of open positions: these powers were used in the cases of mergers; and f- cancelling trades: this power has been applied because of some erroneous trades. However, powers b,d and e have not been used.
United Arab Emirates SCA	No response.
U.K. FSA	One example provided in that ICE suspended trading after the theft of emission certificates and also carried out “technical suspension” pending release of the Gasoil circular to prevent market price moves.
U.S. CFTC	Yes – However, CFTC has not exercised this authority since 1980 (and has only exercised it four times in total). For example, CME took emergency action involving the transfer of AIG positions via block trades due to the deteriorating financial condition facing AIG and enabled the transfer of positions from AIG to other financially healthy entities. Other exchanges have taken emergency actions that liquidated proprietary positions held by Lehman Brothers and invoked their respective emergency authorities to limit MF Global's customer transactions to liquidating trades only.

Principle 14: Review of Evolving Practices - Market Authorities should have or contribute to a process to review the perimeter of regulation to ensure that they have the power to address evolving trading practices that might result in a disorderly market. Exchanges and self-regulatory organizations play a critical and complementary role with governmental regulators in identifying such practices.

Question 1	Does the governmental regulator have or contribute to a process to review the perimeter of regulation to ensure that they have the power to
-------------------	---

	address evolving trading practices that might result in a disorderly market? Does the Regulator review the perimeter of regulation on a regular basis to ensure that they have the proper power to address trade practice issues?
Argentina CNV	No – Due to the limited size of the market there is currently no such review process.
Australia ASIC	Yes – ASIC contributes to policymaking at the Government level and with advisory bodies to Government such as the Companies and Markets Advisory Committee (CAMAC) and the Council of Financial Regulators (CFR). ASIC also engages regularly with the industry. One example given is where ASIC outlined a number of key issues in a Consultation Paper. Based on this feedback received, ASIC formed a number of proposals relating to the market structure including related to pre-trade transparency and price formation and automated trading including high frequency trading.
Brazil CVM	Yes – Whenever the Market Authority deems necessary, it has the power under Law 6,385 / 76, to elaborate new Instructions to address current issues. Furthermore, effective January 2011, Rule CVM/PTE/n.12 created the Risk Identification Committee (CIR) an on-going forum to examine market activities and its participants. One duty of this Committee is to assess whether the powers and operations structure of the Market Authority is appropriate and sufficient. In February of this year a Technical Group was established by the Finance Ministry with representatives of the Central Bank, CVM and the Finance Ministry, public and private entities can be invited by the technical group to take part in the meetings which provides helpful insight.
Canada AMF	Yes – The creation of the Canadian Securities Administrators (CSA) in October 2009 addresses the review process at the perimeter of regulation in order to curtail systemic risk and address evolving trading practices. AMF is an active participant of this Committee. On example cited is the creation of a new rule which is currently being finalized by the CSA and should be in force by March 2013. This rule was created with the CSA Committee and the IIROC (SRO) working together and was seen as necessary to ensure marketplace participants and marketplaces manage the risks associated with electronic trading. Although the review of regulation has no formal process attached to it the market authorities do conduct a regular review.
Canada ASC	Yes – ASC has the responsibility to make new rules and to recommend changes in the law to address evolving trading practices that might result in disorderly markets.
Canada OSC	Yes – Consistent with other jurisdictions in Canada, the OSC has broad rule-making authority and oversight over exchanges and other marketplaces. This includes expedited rule-making authority in certain circumstances where there is a substantial risk to material harm to investors or to the integrity of the capital markets. The OSC also contributes to the review of the perimeter of regulation through its work with the Canadian Securities Administrators. The OSC monitors evolving trading practices and may propose rule amendments or request statutory changes if it has concerns that such practices could interfere with fair and orderly markets.
Canada MSC	Yes – The Commission contributes to a review of the perimeter through its work with the Canadian Securities Administrators (CSA), as well as through other regulators and exchanges.
China CSRC	Yes –The CSRC has consistently strived to optimize the regulatory process and enhance the regulatory framework to accommodate new trading practices.
Chinese Taipei	Yes – Continuous efforts are made to optimize the regulatory process and enhance market regulation.
Denmark DSFA	Yes –This is done as a normal course of business by the DSFA.
Dubai DFSA	Yes – The DFSA conducts a rolling review of all the Rulebook modules to ensure that the regulatory perimeter is up to date. This includes a tracking and review of recommendations as published or being consulted on by international standard setters.
France AMF	Yes – The AMF actively contributes to the work in both an international and European forums. For example, AMF has over the past two years focused more resources on the supervision of French commodity derivatives markets. AMF has also actively participated in IOSCO and ESMA

	working groups on both commodity markets and OTC derivatives markets.
Germany BaFin	Yes – A securities council consisting of representatives of the States advises BaFin on issuing regulations and establishing guidelines for the supervisory activity (5 German Securities Trading Act.)
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – The SFC reviews the perimeter of regulation, looking not only at the local market situation but also to the global market development to ensure that its regulations are consistent with international best practices and benchmarks.
Hungary	Yes - HFSA has the power to initiate the necessary changes in the regulation, and it contributes to the regular reviews.
India FMC	Yes – FMC and SROs interact at regular intervals to review the perimeters of regulation.
Japan METI	Yes – Both METI and MAFF consult with the Commodity Derivatives Advisory Committee to review the regulatory perimeter and ensure that the METI and MAFF have adequate power in light of evolving trading practices. Involved in the IOSCO meetings.
Japan MAFF	Yes – Both METI and MAFF consult with the Commodity Derivatives Advisory Committee to review the regulatory perimeter and ensure that the METI and MAFF have adequate power in light of evolving trading practices. Involved in the IOSCO meetings.
Korea	Yes - When the necessity arises to make improvements in the derivatives market or regulations and for the operation of the market to function in an orderly manner, the KRX does so after receiving prior approval by the FSC. For instance, the KRX must amend the Derivatives Market Business Regulation to implement evolving trading practices and need approval by the FSC for such amendment.
Luxembourg	Yes - According to Article 3 (e) of the law of 23 December 1998 establishing a commission for the supervision of the financial sector as amended the CSSF shall present to the Government any suggestions likely to improve financial sector's legislative and regulatory environment. In addition, as according to Article 3 (d) of said law the CSSF monitors dossiers and participates in negotiations at Community and international levels relating to problems affecting the financial sector, the CSSF participates actively in the debates relating to relevant European legislation at the EU Council level and at ESMA level. The CSSF also participates in the drawing up by ESMA of implementing legislation and ESMA guidelines relating to the relevant European legislation. Furthermore, the CSSF participates in the debates relating to the transposition of relevant European legislation in the financial sector and issues circulars where appropriate.
Malaysia	Yes – To look at long term structural issues, the SC follows a 10 year cycle involving stakeholder engagement. The process culminates in an articulation of the vision and approach for addressing such issues, known as the Capital Market Masterplan which is subsequently reviewed every 5 years. To address short term issues the SC follows a 12 month cycle that starts with the review of the business and operating environment and an assessment of key risks. The risks are documented and an overall risk profile developed. Senior management then reviews the risk profile, proposed work plans and mitigation strategies, as well as resource requests, and incorporates into the SC's formal work program for the year. SC also conducts periodic and ad hoc engagements with the SC stakeholders which would include individual market participants. The Derivatives Surveillance Department of Bursa Malaysia continuously reviews the processes and approaches to ensure that its surveillance practices remain effective, with changes in the trading environment.
Mexico CNBV	Yes – The authority has the flexibility to modify any rule under its powers and the derivatives exchange and central counterparty have the ability to modify their respective by-laws in a quicker way in case it is needed.
Netherlands AFM	Yes – In addition to the ESMA review of regulatory perimeter, ADM also reviews the perimeter on a continuous basis and any concerns are escalated to ESMA and if necessary ESMA will entrust a Task Force to further investigate the concerns raised.
Norway FSAN	Yes – In cases related to the market of a listed product it may be solved by changes in the exchange rules. Such a process may be done as a common understanding of the needs. The legal basis in Norway is derived from EU-legislation. In some cases it will be possible to make Norwegian special laws. In such cases the regulated market and/or FSAN will inform the Ministry of Finance of the need.
Panama	Yes – The Superintendence of the Securities Market has changed its structure to create a specialized unit for the drafting of legislation and

	ensure that any updates are incorporated to keep Panama updated as per international standards.
Portugal CMVM	Yes - The CMVM may propose legislative changes to the Portuguese competent institutions. In addition, under its competences and according to the Portuguese Securities Code, the CMVM shall draw up regulations on matters covered by its duties and powers. Therefore, in case the CMVM detects that a certain area is lacking regulation, or that existing regulation requires a review, it has the power to issue Regulations and/or Instructions (more detailed rules).
Romania	Yes– Based on the provisions of its Statute, CNVM may issue rules and regulations which can be revised as the case may be following certain events, complaints or inquiries. CNVM may require the market operators/clearing houses to modify/change their own regulations, modifications that have to be approved by CNVM (art 136 (2) and art 153 (2) from the Capital Market Law). Where market entities identify a need for changes in the regulatory framework, CNVM considers and analyzes such requests and may pursue with the modification of the regulations if needed.
Saudi Arabia CMA	Yes – There is a process of constant review in place. The Implementing Regulations are reviewed by specialist committees within the CMA, and recommendations are then passed to the CMA Board for approval.
Singapore MAS	Yes – MAS monitors regulatory changes internationally and domestically to assess whether any changes are required to the regulatory regime in Singapore. There is a requirement for the market operators to also manage risks prudently and maintain business rules that ensure that the market remains fair, orderly, and transparent.
South Africa	Yes – There is a 5 year review cycle for all pieces of legislation falling under the FSB remit. The Capital Markets department of the FSB conduct regular reviews and benchmarking based on various IOSCO reports to ensure that the legislation is aligned to international best practice.
Switzerland FINMA	Yes – Aprocess is in place, whereby there is staff dedicated to the observation of market practices and are in continuous contact with the surveillance units of other exchanges in order to identify changing trends in products, trading patterns and technology.
Turkey	No - After the introduction of the New Capital Markets Law the issue will be reconsidered.
United Arab Emirates SCA	No response.
U.K. FSA	Yes – All exchanges are expected to be informed of ongoing international regulatory rule making. The exchanges would then make their own representations to the relevant national or international regulatory and legislative bodies. It is the involvement of the RIEs in the international policy work that the FSA reviews.
U.S. CFTC	Yes – Under CEA Section 3 the CFTC has a broad mandate. The CFTC can revise its surveillance program as it feels is required and has a responsibility to issue new rulemakings and to recommend changes in law to address evolving trading practices. Under Core Principle 4, the DCMs are also required to ensure that they have an ongoing capacity and responsibility to prevent market abuse.

Principle 15: Rules and Compliance Programs - *Market Authorities should have rules, compliance programs, sanctioning policies and powers to prohibit, detect, prevent and deter abusive practices on their markets, including manipulation or attempted manipulation of the market. The rules and compliance programs should take account of the whole position of the market participant (i.e., all positions under common ownership and control). There should be clarity as to what constitutes manipulative, abusive conduct or other prohibited conduct.*

Specific practices which Market Authorities should seek to detect and prevent include, among others:

- i) *causing, or attempting to cause, artificial pricing in the market;*
- ii) *creating a false or misleading appearance of active trading;*
- iii) *disseminating false or misleading information in respect of the market or conditions that affect the price of any commodity derivatives contract;*
- iv) *creating, or attempting to create, a corner or squeeze, in which an abusive controlling position is accumulated in the physical and/or futures or OTC markets, forcing those holding short positions to settle their obligations, by purchase or offset or otherwise, to their detriment;*
- v) *abuse relating to customer orders;*
- vi) *"wash trades", involving no change of beneficial ownership or economic purpose;*
- vii) *collusive trades, which seek improperly to avoid exposure to the pricing mechanism of the market;*
- viii) *violation of applicable position limits;*
- ix) *concealment of a position holder's identity and, misuse of information.*

Question 1	Do the relevant Market Authorities provide through law or applicable market rules, statutes and regulations which determine what constitutes manipulative, abusive or other prohibited conduct? Please detail any permitted exclusions, e.g. "block trades".
Argentina CNV	Yes – The CNV Regulations define market misconduct by defining which market participants are captured under the regulations (Issuers/Intermediaries/Investors and any other party intervening in the market). Manipulation itself is defined as any conduct that artificially affects the price formation, liquidity or trading volume or one or more securities futures or options.
Australia ASIC	Yes – Although the focus of the Market Integrity Rules is on market abuse, including but not limited to market manipulation, intent to trade and crossing to the exclusion. Chapter 3 of the ASX Market Integrity Rules specifies the provisions of the market misconduct, specifically Rule 3.1.2. There are no blanket exceptions from the market manipulation. However, exceptions to other market misconduct provision (e.g. withholding orders, disclosure and order aggregation) which can apply to pre-negotiated business orders and block trades (detailed in sections 3.3 and 3.4 of the ASX Market Integrity Rules). In Part 7.10 of the Corporations Act allows ASIC to administer provisions relating to market misconduct including insider dealing.
Brazil CVM	Yes – Instruction CVM No. 8/79 defines manipulative, abusive or prohibited conduct. This instruction lays out various concepts that apply to the market participants including artificial demand / supply or price manipulation, fraudulent trading on securities market and unfair practices. Sanctioning provisions are stipulated in Article 11, Section I to VI of Law No. 6,385/76.
Canada AMF	Yes – Laws and regulations are in place that prohibits manipulative, abusive and prohibited conduct but what constitutes such behavior is determined by market surveillance, investigation and litigation departments through jurisprudence and legal precedent.
Canada ASC	Yes – Prohibition for unfair practices are included in Section 92 (3)(d) and Section 92 (5) which includes activities such as putting unreasonable pressure on a person or imposing terms and conditions and that are harsh, oppressive or one-sided. This section currently only deals with exchange contracts but there are proposals in place in to broaden the scope to also include the underlying interest of a derivative. Section 93 prohibits the participation in fraudulent activity and Section 93.3 (1) & (2) specifically deal with using information regarding a person's

	intention to trade. Additionally, Part 15 of the Securities Act (Alberta) prohibits insider trading and self-dealing. The Exchange Rules also specify that the derivatives exchange (Criterion 2) must have rules in place to ensure the prevention of fraudulent and manipulative acts. Criterion 5 further reinforces the requirement that derivatives exchanges should establish and enforce rules designed to protect market and market participants from fraudulent, manipulative and abusive acts and practices. There are no exemptions mentioned but block trades do have special conditions placed on them under Paragraph 4 of the Execution of Transactions.
Canada OSC	Yes – Section 126.1 of the Securities Act (Ontario) prohibits any fraudulent or misleading trading activity on securities, derivatives or the underlying interest of a derivatives exchange. Section 126.1 prohibits the use of price sensitive information or misleading and untrue statements. These provisions are also covered in Section 59.1 and 59.2 of the Commodity Futures Act (Ontario). National Instrument 23-101 Trading Rules also set forth rules pertaining to market manipulation.
Canada MSC	Yes – Part 8 of the Enforcement Act and ICE Rule 11B.01 [r] defines various trade violations and rules for preventing abusive practices.
China CSRC	Yes – The Regulations define market manipulation to include the controlling of futures prices through various means, wash trading, hoarding the underlying physical commodity, insider trading and other activities to control futures prices as prescribed by the State Council. There are currently no exemptions to the market manipulation rules.
Chinese Taipei	Yes - The Regulations define futures market manipulation as: (1) Controlling futures prices through pooling funds, positions, or information to jointly or continuously buy or sell contracts, either acting individually or collectively; (2) Affecting futures prices, or the futures trading volumes by working in collusion with others to buy or sell futures at a time, prices, or methods previously agreed on;(3) Wash trade ((4) Hoarding the underlying physical products with the aim of affecting the futures market; (5) Other activities to control the futures prices. There are no exemptions provided.
Denmark DSFA	Yes – The Danish Securities Trading etc. Act chapter 10 covers what constitutes market manipulations and there are no exceptions.
Dubai DFSA	Yes – Markets Law Part 8 addresses the various offences which amount to market abuse and prohibits fraud, market manipulation, (Article 54) false or misleading statements (Article 55), use of fictitious devices and other forms of deception, false or misleading conduct and distortion (Article 54 and 56), insider dealing (Article 58), providing inside information (Article 59), front running (Article 63) and inducing persons to deal (Article 60) and misuse of information. The Exchange also has provisions in the DME Rulebook, Rule 4.10 Conduct of Trading Standards of Members which sets minimum conduct and trading standards for members, prohibiting any practice which may reasonably be expected to have an adverse impact on the operation of the Exchange or the market.
France AMF	Yes– As defined in the EU Market Abuse Directive that was implemented in French Law in 2004. Includes manipulative practices such as dissemination of false or misleading information, false or misleading signals, collaborative trading, or trading that affects the price of one or several financial instruments to an abnormal or artificial level.
Germany BaFin	Yes – Under Section 20a of the German Securities Trading Act and is specified under the Market Manipulation Definition. However, Section 20a German Securities Trading Act may be altered by the proposed Regulation of the European Parliament and of the Council on insider dealing and market manipulation.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – Sections 274-278 and Sections 295-299 of the SFO sets out different types of manipulation/misconduct/offences and there are no permitted exclusions. The exchanges also specify and define prohibited conduct. HKFE prohibits creating artificial prices (Rule 517 of the HKFE), creating a false or misleading appearance of active trading in the contracts (Rule 517), fictitious or artificial transactions (Rule 519) and unduly or improperly influencing market price or manipulating or attempting to manipulate prices or cornering or attempting to corner any market of any commodity (Rule 520). HKMEx Rulebook also specifies which abusive trading practices are prohibited under Rule 6.14.2 (b) and

	are inclusive of all trades that are executed on the Exchange Platform. Members may, however, engage in pre-execution discussions with regard to transactions executed on the Exchange Platform where they wish to be assured that a counterparty will take the opposite side of the order.
Hungary	Yes – Under Guidance of the Board of HFSA 5/2006 and Capital Market Act § 202.
India FMC	No – the Governmental Regulator (FMC) is formulating comprehensive guidelines prescribing what constitutes manipulative, abusive or other prohibited conduct.
Japan METI	Yes – Articles 116 and 118 of CDA stipulate the prohibited trading activities. TOCOM also specifies which activities are specified as prohibited under Article 141 of the Market Rules. There is exclusion for block trades as long as conditions set out in Article 3 (4-2) are satisfied.
Japan MAFF	Yes – Articles 116 and 118 of CDA stipulate the prohibited trading activities. The commodity exchange also specifies which activities are specified as prohibited under Article 141 of the Market Rules. There is an exclusion for block trades as long as conditions set out in Article 3 (4-2) are satisfied.
Korea	Yes - The FSCMA prohibits unfair trading under Article 176 (Prohibition on Market Price Manipulation) and Article 178 (Prohibition on Unfair Trading).
Luxembourg	Yes - Article 3 of the MAD law and Circular CSSF 07/280 of 5 February 2007 on implementation rules of the law of 9 May 2006 on market abuse specify and describe the various manipulative behaviours. The MAD law implements the Directive 2003/6/EC on market abuse as well as the implementing directives and more precisely the directive 2003/124/EC on definition and public disclosure of inside information and the definition of market manipulation. The Circular CSSF 07/280 implements the CESR level 3 guidance and information on the common operation of the Market Abuse Directive. The first set of CESR level 3 guidance includes a description of some types of practices that are considered constituting market manipulation. Both the aforementioned law and circular are more or less a literal transposition of the respective European Directives and CESR guidance.
Malaysia	Yes – With both the CMSA and the Exchange Level. Under the Capital Market Services Act 2007 (CMSA), Part V sets out the prohibited conduct and offences for the derivatives market. These include front running (s 104), false trading and market rigging (s 202 & 204) bucketing (s 203), Market and price manipulation (s 205), use of manipulative and deceptive devices to defraud (s 206) and making of false or misleading statements (s 207). Under Rule 510.2 of the Rules of BMD major offenses are mentioned including fraud or any act of bad faith or any dishonest conduct, knowingly acting as both buyer and seller in the same transaction except when permitted under the Rules, manipulating prices or attempting to manipulate prices or to corner or attempt to corner any contract in the market, making a material misstatement to Bursa Malaysia or knowingly disseminating false or misleading reports concerning market information or conditions that may affect the price of any instrument. No exemptions are mentioned.
Mexico CNBV	Yes – Prohibited trading activities are set out in the derivatives exchange by-laws.
Netherlands AFM	Yes – The Rules governing the manipulative, abusive or other prohibited conduct are based directly on the European Market Abuse Directive (2003/6/EC) Article 1 Paragraph 2 and includes conduct such as transactions or orders which give or are likely to give false or misleading signals of demand and supply, price manipulation, employment of fictitious devices or any other form of deception or contrivance, dissemination of information/news which may lead to false or misleading signals. Insider trading is covered under the European Market Abuse Directive (2003/6/EC) Article 2 paragraph 1 and 2003/124/EC. ESMA has also issued additional guidance and interpretation in relation to how its members should apply the prohibition of market manipulation.
Norway FSAN	Yes – Market manipulation is defined in the Norwegian Securities Trading Act (STA). Section 3-8 defines Market Manipulation as orders to trade which give or are likely to give false incorrect or misleading signals as to the supply of and demand for or price of financial instruments or result in abnormal or artificial prices. Prohibitions are also included in the specific regulations of the Nasdaq OMX Commodities market.
Panama	No –There are prohibited activities covered by securities law, but not specifically for the activity products.
Portugal	Yes - Article 378 of the Portuguese Securities Code classifies insider trading as a criminal offence, punishable with imprisonment of up to five

CMVM	years, or with a fine. Article 379 of the Portuguese Securities Code contains a general prohibition of market manipulation, it being a criminal offence punishable with imprisonment of up to five years, or with a fine. Article 379, paragraph 2 defines a set of practices which can constitute market manipulation, such as: acts that may change the conditions of price development, the regular conditions of offer or demand of securities or of other financial instruments, or the normal conditions of issue and acceptance of a public offering.
Romania	Yes – Capital Markets Law No. 297/2004 includes a section referring to Market Abuse. Included within this section is the definition of inside information, market manipulation, accepted market practices. CNVM Regulation No 32/2006 (art 163-165) provides for illegal practices and suspicious transactions.
Saudi Arabia CMA	Yes – Market Conduct Regulations Articles 2 &3 provide the defining implementation rules for preventing market manipulation and includes a prohibition of creating a false or misleading impression of trading activity, or creating an artificial bid price. Under Article 3 other practices are included as being manipulative or deceptive acts which include fictitious trades, pre-determined prices, and selling at a lower price. No exceptions are mentioned.
Singapore MAS	Yes – Section 205 to 211 of the SFA specifies the list of prohibited trading conduct for futures contract including false trading, price manipulation, fraudulent trading and dissemination of information of illegal transactions. The Exchanges also define prohibitions in SGX-DT Rules 3.4.1 to 3.4.5 and SMX Rule Chapter 4 and include false trading, professional misconduct, front running, trading against client orders, churning, and market manipulation broadly.
South Africa	Yes –Chapter 8 of the Securities Services Act, 2004 covers the Market Abuse provisions. The presence of the ability to replay all trading activity; any manipulative activity can also be investigated on an order by order basis. The investigation of those manipulative trading practices that result in OTC gains are more challenging to investigate as the exchange only has an insight into physical positions.
Switzerland FINMA	Yes – These are specified under FINMA circular 08/38. No exceptions.
Turkey	The Capital Markets Law (Law no. 2499) exclusively determines the main rules which constitute manipulation. Though the Law does not differentiate between what is considered manipulative, abusive, it gives a broad definition. Also, current regulation on manipulation, which is also applicable for commodity derivatives trading, is mainly targeted at financial markets, stock trading in particular. Moreover, after the introduction of the New Capital Markets Law the related rules and regulations will be reconsidered.
United Arab Emirates SCA	No response.
U.K. FSA	Yes – and there are no permitted exclusions. The Code of Market Conduct represents the FSA's implementation of the Market Abuse Directive which is contained in the UK Financial Services and Markets Act 2000 (FSMA). Regulation 2273/2003 and Directive 2004/72/EC Part VIII 118 2 (b)FSMA defines Market Abuse as any behavior that would or would be likely to distort the market or if the behavior is likely to give a regular used of the market a false or misleading impression. RIEs are required to have the ability to monitor, detect and deter abusive practices and to sanction where breaches occur.
U.S. CFTC	Yes – Part 180.1 of the final rule describes the prohibition on the employment or attempted employment of manipulative and deceptive devices. Scope of Part 180.1 covers swaps, contract of sale of any commodity in interstate commerce, or contract for future delivery. Both intentional and reckless behavior is deemed to be unlawful. Part 180.1 also covers actual and intended manipulation. Examples are provided for in Footnote 32, 37 and 99 and FR41403 and 41406.

Question 2	Do such statutes or rules prohibit manipulation and attempted manipulation?
Argentina	Yes – CNV regulations defines that market participants must avoid any conduct that intends or allows manipulation.

CNV	
Australia ASIC	Yes – Under Rule 3.1.2 where it clearly states that “any attempt” is regarded as manipulation.
Brazil CVM	Yes – Law 6,385/76 Art. 27-C which prohibits manipulation states that any “fraudulent transactions or other deceitful action aiming at... ” Administrative Law does not cover attempted manipulation. However, attempted manipulation is punishable under the Penal Code Art. 14 II) and is considered a breach of criminal law
Canada AMF	Yes – Under Chapter I-14.01 section 150 – an attempt to influence the market price is also captured.
Canada ASC	Yes – The provisions do also cover attempted manipulation.
Canada OSC	No – There is currently no prohibition against attempted manipulation. However, the Commission is considering legislative changes to introduce the concept of attempted manipulation.
Canada MSC	Yes – Section 56 (a) of the Act prohibits both manipulation and attempted manipulation. ICE Rule 11B. 01 [R](8) also prohibits attempted manipulation.
China CSRC	Yes – The Regulations define futures market manipulation as controlling futures prices, affecting futures prices, wash trades, hoarding the underlying physical products with the aim of affecting the futures market or other activities to control the futures prices. The Regulations prescribe the prohibition of insider trading in the futures market. At present, no exemption is provided for China's futures market, including block trading
Chinese Taipei	No – the Regulations do not address attempted manipulation.
Denmark DSFA	Yes – the Danish Securities Trading etc. Article 39 also covers attempts at manipulation.
Dubai DFSA	Yes – the DIFC Markets Law Article 54 does incorporate attempted manipulation, as it prohibits market conduct that may result or contribute to a false or misleading impression, or creates or is likely to create an artificial price. The Exchange also defines emergency powers in the DME Rulebook. An emergency is defined to include any manipulative activity or attempted manipulative activity .
France AMF	Yes – Attempted manipulation as such is not currently prohibited, but the prohibition of transactions or orders to trade that are “likely to give false or misleading signals” (as to demand, supply or price) is a broad prohibition that effectively covers certain types of attempts having no impact on the market. The revised EU market abuse legislation (Market Abuse Regulation currently being negotiated) will specifically prohibit attempted manipulation.
Germany BaFin	Yes – The rules do include attempted manipulation since they only require the potential to influence the domestic stock exchange or market price of a financial instrument or the price of a financial instrument on an organized market. Same applies to the proposal for a Regulation of the European Parliament and of the Council on insider dealing and market manipulation (Art. 10, 8 (2)).
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – In Hong Kong, any attempt to commit a criminal offence, including market manipulation, is illegal and prohibited by both the SFO and Crimes Ordinance. At the Exchange level, Rule 520 of the HKFE provides for attempted manipulation and attempting to manipulate the price . On HKMEx, Rule 6.14.2(b) of the HKMEx Rulebook prohibits the Executing Trader from attempting to manipulate or attempting to undertake wash trading and attempting to undertake fictitious transactions .
Hungary	Yes – Under Capital Market Act § 202
India FMC	Yes – Bye-laws, Rules and Regulations of the Exchanges include rules that prohibit manipulative and attempted manipulated practices.
Japan METI	Yes – Article 116/118 of CDA and Article 141 of TOCOM’s Market Rules have been cited as setting out prohibited trading activities and the government’s intervention powers.

Japan MAFF	Yes – Article 116/118 of CDA and Article 141 of the commodity exchange’s Market Rules have been cited as setting out prohibited trading activities and the government’s intervention powers.
Korea	Yes – This is covered by the rules detailed in the response to Principle 15, Question 1.
Luxembourg	Yes - For the time being, MAD law only prohibits market manipulation and attempt to market manipulation is not yet forbidden. However, the draft EU regulation on insider dealing and market manipulation (“MAR”) foresees that the attempt of market manipulation will also be prohibited. The debates and negotiations in the European Council are still under way and there is no agreement yet on the final text between the three European bodies (Commission, Council and Parliament). If the attempt of market manipulation will be prohibited by MAR, the attempt will be prohibited in Luxembourg once the MAR is adopted and has entered into force.
Malaysia	Yes – Section 205 of the CMSA prohibits any person from directly or indirectly manipulating or attempting to manipulate the price of the futures contracts that may be dealt in on a futures market, or of any underlying instrument which is the subject of such futures contract, or corner or attempt to corner any underlying instrument which is the subject of a futures contract. Under the Rules of BMD – Rule 510.2 (e) refers to manipulating or attempting to manipulate prices or to corner or attempt to corner any contract in the market.
Mexico CNBV	No – There is no regulatory proposal to introduce this.
Netherlands AFM	Yes – The Public Prosecutor is able to investigate and prosecute actual manipulation as well as attempted manipulation. AFM however, under Article 5.58 of the Financial Supervision Act can only address actual manipulation.
Norway FSAN	Yes – Market Manipulation is defined to include any transaction or order to trade which gives or is likely to give a false or misleading signal.
Panama	Yes – Under the Securities Market Law, Art 269
Portugal CMVM	Yes - Attempted market manipulation is punishable as criminal offence. The crime of market manipulation is punishable with imprisonment which may go up to five years; Article 23, paragraph 1 of the Portuguese Penal Code applies, which punishes the attempt of all criminal offences with imprisonment of up to three or more years.
Romania	Yes – Title VII of the Capital Market Law no. 297/2004 prohibits the market abuse. Art. 248 of the Capital Market Law no. 297/2004 clearly specifies that no natural or legal person shall be allowed to be involved in market manipulation activities. Also, at the European level, under the MAD (Market Abuse Directive) review there is a proposal to penalize also the attempt to manipulation but this provision is still under negotiation.
Saudi Arabia CMA	Yes – CML Art. 59 states that a violation of the CML occurs when the perpetrator “ <i>intentionally</i> [emphasis added] does any act or engages in any action which creates a false or misleading impression...”
Singapore MAS	Yes – Under Section 208 of the SFA and Rules 3.4.1 to 3.4.5 of the SGX-DT and Chapter 4 of the SMX Rules all prohibit attempted manipulation.
South Africa	Yes – Under section 3,7,8,12,16 and 17 of the Exchanges Rules prohibit attempted manipulation.
Switzerland FINMA	Yes – Under Article 161 of the Criminal Law, there is no need to prove perfected manipulation and the intention to influences is sufficient.
Turkey	Yes - In principle, it is believed that current statutes and rules maintain a sound framework to fight against manipulation and other abusive conducts. TurkDEX has the authority to stop trading on exchange temporarily if an extraordinary event happens. Also since the CMB monitors trading activities in real-time, abusive activities and conducts can be detected to start an inspection right away. Moreover, after the introduction of the New Capital Markets Law the related rules and regulations will be reconsidered.
United Arab Emirates SCA	No response.
U.K. FSA	No – Currently under Market Abuse Directive (MAD), market authorities only have the power to sanction for actual manipulation. However, the revision of the MAD and proposed Directive and Regulations proposed to address this by providing such powers for attempted, as well as

	actual, manipulation. Under European legislation the RIE's will be able to sanction market participants for breaches which may be a result of attempting to manipulate the market.
U.S. CFTC	Yes – Under Final Rule Part 180.1 – attempted manipulation is covered.

Question 3	Do the relevant Market Authorities have a compliance program, sanctioning policies and powers to detect, deter and refer for enforcement action any such prohibited conduct?
Argentina CNV	No.
Australia ASIC	Yes – ASIC routinely reviews and analyses T+1 trading data and has a scheduled review of individual market participants to ensure their ongoing compliance. Any breaches of Market Integrity Rules or legislative breaches identified are referred to the ASICs Deterrence team and then potentially onto the Market Disciplinary Panel or Director of Public Prosecutions (in the case of criminal offences)
Brazil CVM	Yes – A compliance program is in place with the Market Authorities having the powers needed to assess the self-regulation programs of the supervised DCMs. The CVM also requires a number of reports to be submitted to them from the Self-Regulation Council on a monthly basis, including information on audits completed, and any failures, breaches or deviations including what corrective measures were taken. Article 44 of Instruction 461/07 also instructs the Self-Regulatory Department to send to CVM all details about an event of severe breach of CVM rules.
Canada AMF	Yes – Under the Quebec Derivatives Act R.S.Q., chapter I-14.01 section 115-116 “The Authority may, in accordance with Chapter III of Title I of the Act respecting the Autorité des marchés financiers (chapter A-33.2), inspect the affairs of a dealer, adviser or market participant in order to verify compliance with this Act. In addition to its investigation powers under Chapter III of Title I of the Act respecting the Autorité des marchés financiers (chapter A-33.2), the Authority may, on its own initiative or on request, order an investigation (1) with a view to countering offences under the derivatives legislation of another legislative authority; (2) within the scope of an agreement; or (3) with a view to requesting the Superior Court to order the appointment of a receiver in accordance with section 19.1 of that Act (section 116).
Canada ASC	Yes – The Securities Act (Alberta) provides sanctioning powers (Section 194). Section 197 (1) provides the ability to ASC to apply to the Court of Queen's Bench in the case where any person is not in compliance with any provisions of the Alberta Securities Law. The Court is empowered to impose further sanctions if required. Under Section 199 (1) of the Securities Act, ASC may order further administrative sanctions if it considers in the public interest to do so. The Exchange is also empowered to detect, investigate, and apply appropriate sanctions to any person if the exchange rules have been violated. The presence of a compliance program is necessary for a derivatives exchange under Criterion 6 of the Regulations of Members and Market Participants.
Canada OSC	Yes - Staff could use the powers available under the Securities Act and the Commodity Futures Act to conduct investigations and initiate proceedings. Ontario does not have a commodity futures exchange but does have an over-the-counter derivatives market which would include some commodity derivatives other than commodity futures. The Commission has recently begun consultations and developed principles for the regulation of OTC derivatives (including commodity derivatives).
Canada MSC	Yes – Under ICE Rule 9.09 the regulatory division of ICE include investigations and market surveillance. ICE has a disciplinary committee that acts as the initial body to hear proceedings and under ICE Rule 10H.14 these decisions can be appealed to the Commission. The Commission, as part of the oversight process, conduct periodic on sight reviews of the exchange and clearing house operations.
China CSRC	Yes – The CSRC, the CRMMC and the futures exchange have regulations and rules in place to deter, detect and punish abusive activities. The futures exchange sanctions any violations to the self-regulatory rules and the CSRC has the power to place administrative penalties on violations of regulations. Any breach of the criminal code will be referred to the public securities authorities by the CSRC.

Chinese Taipei	Yes - the CSRC, the CFMMC and the futures exchanges shall establish and improve relevant regulations and rules to detect, punish and deter abusive activities. While the futures exchanges shall give disciplinary sanctions to self-regulatory rule violations, the CSRC will impose administrative penalties on violations of regulations. Any suspected crime will be referred to public security authorities by the CSRC.
Denmark DSFA	Yes – Under the Danish Securities Trading etc. Act, Chapter 28.
Dubai DFSA	Yes – DFSA Rulebook (AMI Module) Licensing Requirement 7.2.9 stipulates that an AMI must have appropriate measure to reduce (deter) the extent to which its facilities can be used for market misconduct, financial crime or money laundering. The AMI is empowered to impose sanctions for violations of the exchange rules but the process is in place for the AMI to refer all matters where further investigation is required, or where there is an evident breach of the DFSA Rules or Federal Laws for action by the DFSA. Under Exchange Rules Chapter 7, the Exchange specifies the disciplinary provision including 7.9 which details the Investigation Process and 7.32 which deals with Sanctions against Authorised Terminal Users. All Exchange disciplinary actions must be notified to DFSA under Exchange Rule 7.37.
France AMF	Yes – Both the AMD and the exchange have market surveillance programs in place designed to detect market manipulation. Market manipulation can either result in administrative sanctions by the AMF or criminal prosecution. As of yet, despite imposing a number of sanctions, the AMF has yet to impose any administrative sanction on commodity derivatives market.
Germany BaFin	Yes – According to §4 (2) of the German Securities Trading Act BaFin monitors compliance with listed rules and may issue orders appropriate and necessary for its enforcement including fines (§39 German Securities Trading Act). The Trading Surveillance Office of the exchange as well as market participants such as asset management companies are obliged to notify BaFin of any relevant facts indicating cases of non-compliance. The draft Regulation of the European Parliament and of the Council on insider dealing and market manipulation (market abuse) proposes an increase of administrative fines
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – A dedicated surveillance department at the SFC is responsible for detecting and monitoring market trading activities on a real-time basis. The SFC also has legal powers to obtain trading information and data from banks and brokerage firms. The exchanges also have comprehensive compliance programs in place. Under HKFE Rule 506 market participants are obligated to inform the exchange if there have been any breaches of the exchange rules. Rule 702 sets out the disciplinary powers of HKFE. Under Section 21 of the SFO, SFC must be immediately notified by HKFE if there is any breach or potential breach of the HKFE Rules or any irregularity or any other matter that affects the financial standing or integrity of the participant. Furthermore, under the MoU between SFC and HKEx, all alleged or suspected violations of any legislation, rules and regulations must be referred to the SFC. For HKMEx, the same referral requirements exist under the ATS Authorization.
Hungary	Yes – HFSA has this ability to detect.
India FMC	Yes – The Exchanges regularly conduct audit and inspections of their Members to ensure compliance through periodical reviews of key areas including trader surveillance, Market Surveillance.
Japan METI	Yes – With regard to sanctions, pursuant to Article 356 of CDA, any person who violates the provisions of Article 116, can be sanctioned by way of imprisonment or a fine (subject to caps of duration and value).
Japan MAFF	Yes – With regard to sanctions, pursuant to Article 356 of CDA, any person who violates the provisions of Article 116, can be sanctioned by way of imprisonment or a fine (subject to caps of duration and value).
Korea	Yes – This is covered by Article 404 (Investigation of Abnormal Trading or Supervision of Members) which prescribes that the Exchange may request that a financial investment firm (limited to a broker or dealer who runs financial investment services for securities or exchange-traded derivatives) submit relevant data after specifying the reasons thereof in writing, and examine business, financial status, books, documents and

	other materials related to the members.
Luxembourg	Yes .
Malaysia	Yes – SC implements a risk-based supervisory approach where a risk assessment model is applied to assets and profiles the risks of the market participants. This compliance program results in deterring and detecting market misconduct. The Exchange also conducts a compliance program on participants, with or without notice whereby the exchange carries out inspections and/or audits of the participants. The SC has a Sanctions Committee in place whose primary role is to deliberate and advise on appropriate administrative sanctions. This Committee has clear procedures and protocols in place to instill integrity in the decision making process. In respect to sanctions, the Exchange has two levels of breaches-based on pre-determined criteria; serious breach or less serious breach (lsb). In the course of its surveillance of the market and inspection of the intermediaries, the exchange is required to refer to the SC for cases where the Securities Law has been breached.
Mexico CNBV	No – Since there is no derivatives law, it is difficult to sanction misconduct.
Netherlands AFM	Yes – Under MTF Article 4:91 (b) and RM Article 5.32 of the Financial Supervision Act, the exchanges are required to report serious violations of their rules and procedures by members and non-members. The AFM has the power to impose orders for an incremental penalty payment on any person manipulating the market and can impose an administrative fine on any person for breaches on the prohibition of market manipulation and insider trading. Serious cases can be referred by the AFM to the Public Prosecutor through an official report.
Norway FSAN	Yes – Suspicious cases must be referred and escalated to FSAN. FSAN will investigate and if required refer to the police for prosecution.
Panama	Yes – Through Art. 272, 273, 274 of the Securities Exchange Act sanctions, both serious and minor are detailed.
Portugal CMVM	Yes - Regarding this question, abusive practices which are criminal offences need to be separated from those which are administrative offences. Regarding the first, the CMVM has powers – under the rules of preliminary investigations (Articles 383 to 387 of the Portuguese Securities Code) – to investigate notice of a potential crime of insider trading or market manipulation, prior to its communication to the competent judicial authority (Public Prosecution). Regarding market abuse administrative offences, the CMVM has sanctioning powers as established in Article 408 of the Portuguese Securities Code, empowering application of administrative sanctions to the offenders.
Romania	Yes – Under Art. 249 of the Capital Markets Law no 297/2004 the market operators must have structural provisions aimed to prevent and detect market manipulation. Referral procedures are in place from the market participant to the CNVM. For example, under Article 165, if any person who performs operations of a professional basis becomes aware of a fact or information that gives reasonable grounds for suspicion of market manipulation or insider trading, he or she shall make notification to CNVM without delay. A compliance program is an obligation on the system operator under Article 70 of the CNVM Regulation no. 2.2006. Under this stipulation a systems operator must report to the CNVM within twenty-four hours any significant breach of the alternative trading system rules or disorderly trading conditions or conduct that may involve market abuse.
Saudi Arabia CMA	Yes – As set out under CML Art 59.
Singapore MAS	Yes – Under Part IX of the SFA MAS has the power to supervise and investigate and any contraventions of section 205-211 of the SFA shall be liable to fines or imprisonment. Sanctioning powers for the exchange are set out in Chapter 7 of the SGX-DT Rules. SMX Rule Chapter 5 covers the trading rules and emergency powers of SMX, Chapter 7 provides SMX with the powers to investigate and Chapter 8 facilitates the application of the disciplinary rules and initiation of disciplinary action.
South Africa	Yes – Both the Exchange, under the Exchange Rules and the Government Regulator, through their division called Directorate of Market Abuse (DMA), have the power to apply sanctions. The DMA is also tasked with the responsibility to investigate, analyze and impose sanction in respect of instances of market abuse. The Regulator also has an administrative enforcement arm in the form of an Enforcement Committee which deals with the matters of non-compliance by the regulated industry. Chapter 8 of the Securities Services Act 2004 deals with the powers of the DMA in civil liability as well as the assessment of fines and penalties.

Switzerland FINMA	Yes – In cases of breaches of supervisory law, FINMA will be informed. FINMA has the sanctioning powers to ban security dealers and confiscate illegally gained money.
Turkey	Yes - A sound surveillance system, detailed examinations and investigations are considered safeguards of the systemic integrity. Also, the CMB has the authority to ask for the relevant information from anyone.
United Arab Emirates SCA	N/A.
U.K. FSA	Yes – This responsibility is split between the various authorities. The FSA has the power to sanction market abuse in the UK under Section 123 (1) of the FSMA Act. The RIEs must have the ability to monitor, detect and deter abusive practices, and also have powers under the market's rules to sanction members for the breaches of these rules. All exchanges have compliance monitoring plans in place. Formal gateways exist to enable RIEs to refer matters where market abuse has been detected to the FSA for formal investigation and enforcement action.
U.S. CFTC	Yes – The CFTC has a Rule Enforcement Review (RER) program in place which is a compliance mechanism whereby each of the DCMs are assessed through detailed examinations. A DCM's self-regulatory programs reviewed include: trade practice surveillance; market surveillance; disciplinary proceedings; and dispute resolution mechanisms.

Principle 16: Framework for Addressing Multi-Market Abusive Trading - *The overall framework for market surveillance and enforcement within a jurisdiction should be structured to provide for active and coordinated detection and enforcement action against manipulative or abusive schemes that might affect trading on multiple exchange and OTC markets, as well as the underlying physical commodity markets.*

Question 1	1. Does a framework exist for market surveillance and enforcement within a jurisdiction that provides for active and coordinated detection and enforcement action against manipulative or abusive schemes that might affect trading. i) on multiple exchanges in a single jurisdiction; ii) OTC markets; iii) the underlying physical commodity markets?
Argentina CNV	No - There is currently no specific method for monitoring and analyzing information. However, the CNV is working on a new organizational structure and a reform bill to change this. Commercial practices in the physical commodity market are regulated by the Secretary of Agriculture, Livestock and Fisheries.
Australia ASIC	No (Yes on iii) - The monitoring of commodity derivatives products is undertaken by ASIC. ASX is the market operator for commodity derivatives and must ensure a fair, orderly and transparent market for its products, in relation to the monitoring of the physical commodity markets. ASIC undertakes such enquiries on an ad hoc basis during the course of individual investigations into potential market misconduct. ASIC conducts annual assessments of overseas licensed markets to ensure they maintain adequate arrangements for the operation and supervision of its markets.
Brazil CVM	Yes - CVM's jurisdictional remit for market surveillance and enforcement extends to both the Exchanges and OTC organized markets, according to Law 6,385/76, Art. 15, IV and V. The Market Authority has the technological and staff capabilities to perform a coordinated detection and enforcement action across markets. The final beneficial owners of all trades are informed to the DCMs in real-time, and to the Market Authority on a post-trade basis. This information is processed by DCM's staff allowing for a cross-market coordinated detection and enforcement action against manipulative or abusive schemes.
Canada AMF	No - The Canadian AMF does not have its own framework as this is undertaken by self-regulatory organizations IIROC and a division of Bourse de Montréal/Montreal Exchange. These organizations generally do not have a framework for addressing multi market abuse trading in OTC markets. At this time the AMF does not have jurisdiction over the physical commodity markets and there is no formal infrastructure to do

	this.
Canada ASC	Yes - There are information sharing arrangements and MoUs for enforcement and investigative assistance in place to monitor and address domestic cross-market trading abuses. Both individual markets and the ASC have these arrangements and some involve foreign markets and regulators. A comprehensive surveillance system does not currently exist for the monitoring of OTC derivatives markets or the physical markets. The Canadian Securities Administrators (CSA), an umbrella organization comprising the 13 Canadian securities regulatory authorities in Canada, established the CSA Derivatives Committee to review the state of the OTC derivatives markets in Canada and to this end the CSA Derivatives Committee has published a consultation paper on surveillance, market conduct and enforcement rules for the OTC derivatives markets.
Canada OSC	N/A - There are no commodity exchanges or commodity derivatives exchanges in Ontario and whilst an OTC derivatives market does exist, there is no regulation of this market, and plans to introduce regulations are at an early stage. There are no underlying physical commodity markets in Ontario and no procedures for identifying manipulations of commodities or commodity derivatives that involve a foreign market. However, The Commission could, if a matter arose, rely on the market surveillance in a foreign jurisdiction. The Commission can take action against Ontario-based participants involved in such schemes under section 126.1 of the Securities Act and section 59.1 of the Commodity Futures Act, or by way of a reciprocal order obtained under section 127(10) of the Securities Act and section 60(9) of the Commodity Futures Act.
Canada MSC	Yes - ICE is the only commodity exchange in Manitoba and the MSC has the authority to conduct compliance reviews as well as investigate and lay charges in court for violations of the Securities Act, including manipulation offences. Whilst an OTC derivatives market does exist, there is no regulation of this market, and plans to introduce regulations are at an early stage. The Canadian Grain Commission has limited responsibility with respect to the regulation of the physical grain handling industry in Manitoba.
China CSRC	Yes - In accordance with the Regulations, the CSRC regulates all futures exchanges in China and has the power to regulate any abusive activities on multiple exchanges. China has yet to establish laws or regulations on the OTC derivatives market, and does not have the power to regulate this market. The CSRC will provide assistance upon the request of physical market authorities relating to market abuse.
Chinese Taipei	N/A.
Denmark DSFA	N/A - There are currently no regulated markets for commodity derivatives in Denmark but any regulation of financial markets is laid down in the Danish Securities Trading, Act. Market surveillance is currently based on transaction reporting of transactions done all EEA exchanges as well as all OTC transactions within the EEA in securities where the DFSA is the relevant competent authority. If manipulation is detected and it involves a foreign market the DFSA will make a notification to the relevant competent authority using either the ESMA MMoU or the IOSCO MMoU to ensure that no confidentiality issues are being violated.
Dubai DFSA	Yes - Although the DIFC has a single commodity derivatives market (Dubai Mercantile Exchange – at present only crude oil derivatives) it has MoU's in place with regulators that supervise exchanges and/or clearing houses that facilitate oil futures trading.
France AMF	No - No two exchanges trade similar or related instruments in France so the issue of multi-market trading abuses doesn't arise. The AMF does not actively supervise OTC commodity market derivatives. However, this will change once EMIR come into effect and relevant trade repositories become supervised. There is no active supervision of the underlying commodity markets (grain). However, the AMF cooperates closely with the national energy regulator and the new pan-European regulator ACER. The AMF conducts daily market supervision work, and conducts onsite inspections as well as investigations.
Germany BaFin	Yes - According to § 6 (2) of the German Securities Trading Act inter alia the BaFin, the stock exchange supervisory authorities, the trading surveillance units, the Federal Network Agency (Bundesnetzagentur) in the course of its activities pursuant to the Energy Industry Act (Energiewirtschaftsgesetz), the Landeskartellbehörden (State Cartel Offices) shall communicate to each other any observations and findings, including personal data, which may be necessary for the performance of their functions. Based on these findings enforcement actions may follow. Currently Bafin does not have jurisdiction over the OTC markets but this will change with the implementation of EMIR. The framework

	described under 15 (1) (§ 20a German Securities Trading Act and REMIT) also applies to manipulation or abuse schemes that involve a market in another member state of the European Union or another signatory to the Agreement on the European Economic Area. REMIT Art. 1 (1) and (3) provides for an Agency for the Cooperation of Energy Regulators (“ACER”) and for the close cooperation of ACER, ESMA and national agencies.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes - In Hong Kong, commodity futures contracts can be traded on a recognized futures exchange or the trading platform of an authorized automated trading services (“ATS”) provider. The SFC is responsible for recognizing futures exchange and authorizing ATS, as well as on-going regulation and supervision of the various aspects of their daily operations. HKFE is an exchange recognized by the SFC pursuant to Section 19 of the SFO to operate a futures market in Hong Kong. HKMEx is an ATS authorized to operate a trade commodity futures market by the SFC pursuant to Section 95 of the SFO. Whilst HKMEx does not operate any OTC market per se, HKMEx Rulebook provides for a framework for market surveillance for EFP and block trades that are executed off-exchange but reportable to HKMEx.
Hungary	Not applicable for BSE unless it is an OTC transaction has an impact on the regulated market.
India FMC	Yes - the FMC has a framework for multi-markets in one jurisdiction. It does not however have jurisdiction over OTC or Physical market.
Japan METI	Yes - METI conducts comparative market performance analyses using daily reports submitted by exchanges trading similar commodity products pursuant to Article 112 of CDA. Article 116 of CDA prohibits the carrying out of transactions of the underlying commodity off exchange with the intent to fluctuate the quotations on a commodity market and with a position on a commodity market, the competent ministers of CDA are responsible to have a framework to conduct comprehensive market surveillance and enforcement including OTC markets and the underlying physical commodity markets.
Japan MAFF	Yes - MAFF conducts comparative market performance analyses using daily reports submitted by exchanges trading similar commodity products pursuant to Article 112 of CDA. Article 116 of CDA prohibits the carrying out of transactions of the underlying commodity off exchange with the intent to fluctuate the quotations on a commodity market and with a position on a Commodity Market, the competent ministers of CDA are responsible to have a framework to conduct comprehensive market surveillance and enforcement including OTC markets and the underlying physical commodity markets.
Korea	Yes - FSCMA prohibits unfair trading under Article 176 (Prohibition on Market Price Manipulation, etc). Pursuant to FSCMA Art.426 (2), the FSC and FSS may request relevant persons to submit information for the purpose of examining price manipulation and other unfair trading. For such examinations, OTC derivatives transaction information can be requested. However, FSCMA is only applicable to financial investment products and the financial regulatory authority cannot request information on the transaction of the underlying physical commodity markets.
Luxembourg	No - For the time being there exists only one stock exchange in Luxembourg (the Luxembourg Stock Exchange operating the regulated market and the EuroMTF) and therefore no coordinated detection is needed.
Malaysia	Yes - For underlying physical commodity markets, but N/A for OTC and multi-market. SC as the oversight regulator of Bursa Malaysia regulates the commodity derivatives market. Bursa Malaysia monitors build up in positions, unusual price movements and irregular delivery patterns in the derivatives market. If there are any trading concerns, Bursa Malaysia initiates an inquiry. Where necessary, the SC may under section 353 of CMSA require any person to disclose to the SC information in relation to any dealing in derivatives contracts. The underlying physical commodity markets are governed by Minister of Plantation Industries and Commodities Malaysia and the Malaysian Palm Oil Board.
Mexico CNBV	No.
Netherlands AFM	N/A - There is only one exchange (APX-ENDEX) which facilitates trading in commodity derivatives in the Netherlands so multi-market abusive trading regimes are not applicable. OTC markets are not supervised by the AFM. However, when EMIR comes into force this will change. The framework described under REMIT (Regulation on Energy Market Transparency and Integrity) caters for coordination between the

	AFM and the Dutch Energy Chamber, the supervisory body that oversees physical energy markets.
Norway FSAN	Yes - All OTC trades linked to listed products must be reported to the regulated listed market. The market surveillance teams at the regulated market will then be able to do surveillance on the OTC market as well. In non-listed OTC transactions FSAN may still ask for data, but there is no disclosure regime.
Panama	N/A - Very few entities trade commodity derivatives and those that do usually trade derivatives in foreign jurisdictions for hedging purposes. If the Panama authorities need to exchange information with domestic or foreign authorities, memorandums of understanding are in place for this type of information exchange.
Portugal CMVM	Yes - There is only one commodity derivatives market in Portugal (OMIP). Please refer to the MIBEL Regulators Council taking into account Cross-border activity is regulated by the MIBEL Regulators Council of the MIBEL markets. The surveillance of the electricity spot market is conducted directly by the energy regulators. CMVM receives information related to OTC transactions registered with OMIP to be cleared by OMIClear and OTC transactions executed by financial intermediaries on similar derivatives contracts admitted to trading on the OMIP derivatives.
Romania CNVM	Yes - CNVM supervises all regulated markets including cross-surveillance. CNVM supervises only the OTC trades performed by authorized investment firms and only with instruments admitted to trading on a regulated market. CNVM does not supervise the physical commodity markets. According to the provisions of Article 166 (6) from CNVM Regulation no 32/2006 where CNVM has grounds for a suspicious transaction it has to submit the information to the competent authorities where the financial instruments subject of a suspicious transaction are traded.
Saudi Arabia CMA	N/A - There is only one exchange in the KSA so a multi-market abuse regime does not apply. Currently there is no commodity derivatives market. Supervision of OTCs as a product does fall within the remit of the CMA. CMA is a party of the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information which allows it to cooperate with non-Saudi Arabian regulators.
Singapore MAS	Yes - AEs have the obligation to notify MAS of any financial irregularity and to assist MAS with any information requested under sections 17 and 20 of the SFA. Under sections 36 and 38 of the Commodity Trading Act, International Enterprise Singapore has powers to obtain information from the physical commodity market trades as it may require and to gather information from any person upon a determination that such information concerning accounts may be relevant to determine whether manipulation, corner, squeeze or other market disorders exists in the physical commodity markets
South Africa	No.
Switzerland	Yes - All trading venues are taken into account by FINMA staff. The self-regulatory bodies of SIX Swiss Exchange and EUREX do only take into account products traded on their respective platforms. Yes - The definition of market abuse includes OTC and underlying physical markets as long as there is a link to a financial product from a regulated market. In order to obtain information on trades on foreign exchanges, legal and administrative assistance channels between countries are used.
Turkey	No – There is only one exchange in Turkey.
United Arab Emirates SCA	No - SCA is only the regulator for the Dubai Gold Exchange so a multi-market abusive trading framework does not apply.
U.K. FSA	Yes - The Market Abuse regime (MAD) governs the rules of market abuse and enforcement of those rules. The market abuse regime does cover OTC and physical markets if manipulation is shown to have affected prices in the exchange-traded regulated market. Market surveillance is undertaken by both the FSA and by the Exchanges. In the case of wholesale electricity and gas markets, FSA cooperates with its physical market counterpart, the Office of the Gas and Electricity Markets Regulator (OFGEM). Appropriate gateways for exchange of information are available and a MMoU defining the cooperation arrangements is in place. There is no relevant counterpart for any other physical market.

	Exercise of power in support of an overseas regulator is set out in the Financial Services and Markets Act Section 13.
U.S. CFTC	Yes - The CFTC has the authority to examine related cash market and OTC positions, and operates a monitoring mechanism which allows surveillance economists to investigate the positions of large traders. The CFTC has the authority and techniques to investigate and discover the identities of the true account owners and controllers of trading positions, whether domestic or foreign, listed, OTC or the underlying physical contracts.

Question 2	Do procedures exist in this context for identifying and taking action with regard to manipulation or abuse schemes that involve a foreign market?
Argentina CNV	No.
Australia ASIC	Yes - ASIC conducts annual assessments of overseas licensed markets to ensure they maintain adequate arrangements for the operation and supervision of its markets. ASIC uses the licensee's self-assessment reports, our observation of the licensee's performance, market intelligence and other aspects to form a view of how well the licensee has operated its market.
Brazil CVM	Yes - Law 6,385/76, Art.9, paragraph 6, I, provides the regulatory framework for investigations involving foreign markets: CVM is a signatory to the IOSCO MMoU, which ensures full cooperation from all major foreign jurisdictions when investigating manipulation or abuse schemes.
Canada AMF	Yes.
Canada ASC	Yes - The ASC participates in cross-border regulation and information sharing programs. Additionally, foreign-based derivatives exchanges must seek recognition from the ASC in order to gain market access. The application will be required to include the information and documentation necessary, at the discretion of the ASC, to effectively demonstrate that the foreign-based derivatives exchange and its clearing agency satisfy the recognition requirements, both at the time of application and on an ongoing basis after recognition.
Canada OSC	Yes - The Commission can take action against Ontario-based participants involved in such schemes under section 126.1 of the Securities Act and section 59.1 of the Commodity Futures Act, or by way of a reciprocal order obtained under section 127(10) of the Securities Act and section 60(9) of the Commodity Futures Act.
Canada MSC	Yes - Commission has authority to conduct compliance reviews as well as investigate and lay charges in court for violations of the Act, including manipulation offences.
China CSRC	Yes. The CSRC may conduct cross-border regulatory cooperation in accordance with the Regulations, the IOSCO MMoU and bilateral MoUs between overseas regulators and the CSRC.
Chinese Taipei	N/A.
Denmark DSFA	Yes - If manipulation is detected and it involves a foreign market the DFSA will make a notification to the relevant competent authority using either the ESMA MMoU or the IOSCO MMoU.
Dubai DFSA	Yes - Derivatives exchanges or clearing houses operating outside of the DIFC but offering their services in the DIFC and to DIFC Authorised Firms must seek recognition from the DFSA prior to offering their financial services. The application as a Recognised Body will need to include the information and documentation necessary to effectively demonstrate that the exchange and/or a clearing house satisfy the recognition requirements, both initially and on an ongoing basis. There are certain notifications with regard to conduct by DIFC Authorised Firms on the Recognised Body.
France AMF	Yes - The AMF has MoU arrangements for information exchange as well as supervisory and enforcement-related cooperation.

Germany BaFin	Yes -The framework described under 15 (1) (§ 20a German Securities Trading Act and REMIT) applies to manipulation or abuse schemes that involve a market in another member state of the European Union or another signatory to the Agreement on the European Economic Area.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes - In accordance with IOSCO MMoU, the SFC works closely with foreign regulators regarding suspected manipulation of overseas markets by Hong Kong traders licensed by the SFC.
Hungary	Yes - If the transaction has an impact on the regulated market.
India FMC	No.
Japan METI	Yes - Article 349-2 of CDA empowers the METI to order a person (including both registrants and non-registrants) to submit a report or materials that provide information, as assistance to a Foreign Market Regulatory Authority. METI is a signatory of both IOSCO"s Multilateral MMoU and the Declaration on Cooperation and Supervision of International Futures Markets and Clearing Organizations (Boca Declaration),
Japan MAFF	Yes - Article 349-2 of CDA empowers MAFF to order a person (including both registrants and non-registrants) to submit a report or materials that provide information, as assistance to a Foreign Market Regulatory Authority. MAFF is a signatory of both IOSCO"s Multilateral MMoU and the Declaration on Cooperation and Supervision of International Futures Markets and Clearing Organizations (Boca Declaration),
Korea	No.
Luxembourg	Yes - Under Article 12 (6) of the MAD law CSSF shall immediately transfer any information required to a foreign regulator.
Malaysia	Yes - The SC is a signatory to the IOSCO MMoU and works closely with foreign regulators in identifying and taking action with regard to manipulation or abuse schemes that involve a foreign market. The SC also has bilateral MoUs with foreign regulatory counterparts which include general provisions on enforcement cooperation. It is also a signatory to the Boca Declaration on Cooperation and Supervision of International Futures Markets and Clearing Organisations.
Mexico CNBV	No.
Netherlands AFM	Yes - The framework described under REMIT (Regulation on Energy Market Transparency and Integrity) does also apply to manipulation or abuse schemes that involve a market in another member state of the European Union or another signatory to the Agreement on the European Economic Area.
Norway FSAN	Yes - FSAN do have a formal obligation of cooperation in the EEA (EU) cross border in all member states. It is possible to ask for information as part of an investigation.
Panama	No.
Portugal CMVM	No.
Romania	Yes - Under provisions of Article 166 (6) of the CNVM Regulation no 32/2006 where CNVM has grounds for a suspicious transaction it will submit the information to the competent authorities.
Saudi Arabia CMA	Yes - CMA is a party to the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information.

Singapore MAS	Yes - MAS is a signatory to the IOSCO MMoU. For any manipulative or abusive schemes that involve a foreign market, MAS shall work closely with foreign regulators in accordance with the IOSCO MMoU. Rules of AEs allow disclosure of confidential information for any regulatory sharing arrangement.
South Africa	No.
Switzerland FINMA	Yes - All trading venues are taken into account by FINMA staff. The self-regulatory bodies of SIX Swiss Exchange and EUREX do only take into account products traded on their respective platforms. Yes - The definition of market abuse includes OTC and underlying physical markets as long as there is a link to a financial product from a regulated market. In order to obtain information on trades on foreign exchanges, legal and administrative assistance channels between countries are used. Foreign traders on Swiss exchanges have to register as remote members at FINMA.
Turkey	No.
United Arab Emirates SCA	N/A - SCA is only the regulator for the Dubai Gold Exchange so a multi-market abusive trading framework does not apply.
U.K. FSA	Yes - Exercise of power in support of an overseas regulator is set out in Part XIII FSMA. Article 195 of the Act states that ‘The Authority may exercise its power of intervention in respect of an incoming firm at the request of or for the purpose of assisting an overseas regulator. An overseas regulator means an authority in a country or territory outside the United Kingdom. The FSA is a signatory to the IOSCO MMoU.
U.S. CFTC	Yes - The CFTC thus has the authority and techniques to investigate and discover the identities of the true account owners and controllers of large positions, whether domestic or foreign.

Principle 17: Powers and Capacity to Respond to Market Abuse - *Market Authorities should have adequate powers and capacity to investigate and prosecute actual or suspected market abuse, including attempted manipulation. IOSCO members that are responsible for the oversight of commodity derivatives markets should have all of the powers required by the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMoU).*

Question 1 Does the relevant Market Authority have:	i) investigative and compulsory powers to obtain documents and information (including proprietary systems and software), take statements and/or question persons involved in suspected market abuse?	ii) the power to initiate or to refer appropriate matters for criminal prosecution?	Is the governmental regulator a signatory to the IOSCO MMoU? If “Yes”. How does it qualify as “A” or “B” signatory?
Argentina CNV	Yes – Self-regulated markets will have a procedure for the exercise of disciplinary authority in respect to agents and others involved in the market. This procedure must be approved by the Commission.	No - The CNV does not have this power.	The CNV is not a signatory to the IOSCO MMoU.
Australia ASIC	Yes - ASIC has the power to investigate suspected market abuse and has compulsory powers to act against persons involved in suspected market misconduct and other prohibited conduct relating to commodity derivative	Yes - ASIC has the power to initiate and/or refer matters for criminal prosecution to the Commonwealth Department of Public Prosecutions (the responsible Australian	ASIC is an ‘A’ signatory to the IOSCO MMoU.

	contracts.	government body) for prosecution of market misconduct and other prohibited conduct in relation to financial products and services including commodity derivatives.	
Brazil CVM	Yes - Law 6,385/76 Art. 9, I, II and III provides a broad set of such investigative and compulsory powers which allows the CVM to examine and extract samples of accounting records, books or documents, including electronic programs, magnetic and optical files, It also allows the CVM to issue subpoenas requesting information or clarifications under penalty of a fine if this is not adhered to penalties set out in Article 11.	Yes - CVM has the power to refer matters of violations of federal laws that involve commodity futures trading for criminal prosecution to the Federal or State Prosecutor (Ministério Público - MP), according to Law 6,385/76.	CVM is an 'A' signatory to the IOSCO MMoU.
Canada AMF	Yes - The Authority or its appointed agent may require any document or information it considers expedient for the discharge of its functions to be submitted to it by SROs, market participants, exchanges and/or any other organizations it deems relevant to the market. In addition, the Authority or its agent may require such persons to confirm by affidavit the authenticity of submitted documents or information.	Yes - Under the Québec Derivatives Act Section 160 any contravention constitutes an offense punishable by fines and penal proceedings. Punishment for an offence under the Act may be instituted by the AMF. In particular those participants found guilty of inside information, market manipulation of a derivative or its underlying interest, creating or contributing to a misleading appearance of trading activity, artificial pricing, otherwise defrauding or attempting to influence the market price or value of a derivative or underlying interest are subject to the greater of C\$5 million, four times the profit realized or four times the amount invested in the transaction or series of transactions. If the AMF considers it to be in the public interest it may apply to the court for a declaration to the effect that a person has failed to discharge under the Act or a regulation, and that the person be condemned to pay damages up to the amount of the damage caused to the other persons.	AMF is an 'A' signatory to the IOSCO MMoU.
Canada ASC	Yes - Under subsection 41(a) of the Securities Act (Alberta), the Executive Director of the ASC may appoint a person to make any investigation considered necessary for the administration of Alberta securities laws. Under subsection 41, 3 the Executive Director shall prescribe the	Yes - The Securities Act (Alberta) provides that a person or company, and any director or officer or other authorized person with respect to such person or company, who breaches, or permits or acquiesces with respect to a breach	ASC is an 'A' Signatory to the IOSCO MMoU.

	scope of the investigation that is to be carried out under the order. The person appointed to conduct the investigation has the power to investigate, inquire into, and examine: (a) the affairs of that person or company, (b) documents, records, correspondence, communications, negotiations, trades, transactions, investigations, loans, borrowings and payments to, by, on behalf of, or in relation to or connected with that person or company.	of Alberta securities laws can be subject to one or both of a fine of up to C\$5 million and imprisonment for up to one day less than five years. The court also has the authority to require any person who is guilty of a breach of the Alberta securities laws to compensate or make restitution to a person or company that has been harmed by its actions and may make any other order that the court considers appropriate in the circumstances under section 194 of the Act.	
Canada OSC	Yes - In addition to its ability to request and receive information on a voluntary basis, the Commission has broad powers of compulsion. Under s. 11(1) of the Securities Act, the Commission may, by order, appoint persons to make “such investigation with a respect to a matter as it considers expedient”, Section 11(3) of the Securities Act and 7(3) of the Commodity Futures Act (the provisions in both acts are very similar) set forth the matters which a person appointed to make an investigation may inquire into. Section 13 of the Securities Act and section 9 of the Commodity Futures Act contain similar provisions, and allow persons appointed to make investigations.	Yes - Under section 122 of the Securities Act and section 55 of the Commodity Futures Act Staff of the Ontario Securities Commission may conduct quasi-criminal proceedings for contraventions of Ontario securities law (Securities Act) and Ontario commodity futures law (Commodity Futures Act). Both statutes set forth the sanctions that may be imposed by the courts (which include fines of up to C\$5 million or imprisonment of up to five years less a day). Staff are required to obtain the consent of the Commission prior to commencing such proceedings.	OSC is an ‘A’ Signatory to the IOSCO MMoU.
Canada MSC	Yes - The Commission as well as the regulated Exchange (ICE) have full investigative powers, allowing them to compel information and interviews. Section 21.1(1) of the Securities Act allows the Director to appoint an investigator for the purpose of administering and enforcing the Act. Through ss. 6(4), 7(1), and 7(3), such an investigator has the authority to access any record, document, or thing; interview any witness; and attend any premises they wish to inspect.	Yes -The Commission has the authority to authorize the release of otherwise confidential information to the police if the conduct under investigation appears to be criminal.	MSC is not a signatory to the IOSCO MMoU.
China CSRC	Yes - In accordance with the Regulations, the CSRC may take measures such as on-site inspection, evidence collection, investigation, interrogation, retention of relevant information and documentation related to the investigation. Entities and individuals under investigation must fully cooperate and provide accurate documentation and information	Yes - The CSRC will not initiate any criminal prosecution, but will refer the case to public security authorities.	CRSC is a signatory to the IOSCO MMoU

Chinese Taipei	FTA §98,99 and Taifex Operating Rules §20, 21	N/A.	N/A.
Denmark DSFA	No - The DFSA does not have this authority.	Yes.	The DFSA is an 'A' signatory to the IOSCO MMoU.
Dubai DFSA	Yes - The DFSA has broad powers to obtain information as set out under Art 73 of Regulatory Law. This includes powers to require an authorised Firm (market intermediary), AMI, Ancillary Service Provider (auditor, law firm) officer or employee of such person by way of written notice to give or procure the giving of such specified information or documents.	Yes - DFSA does not have direct powers with respect to criminal prosecution. These powers are with the UAE federal authorities. However, DFSA has entered into a MoU with the Dubai Police for the sharing of information that involves possible criminal contraventions in its markets.	The DFSA is an 'A' signatory to the IOSCO MMoU.
France AMF	Yes - The AMF does daily market supervision work, and regularly does onsite inspections as well as in-depth investigations.	Yes. The AMF is required by law to send any evidence or other information about a potential criminal offense to the public prosecutor.	The AMF is an ('A') signatory to the IOSCO MMoU.
Germany BaFin	Yes - The Exchange Supervisory Authorities and the Trading Surveillance Office have investigative and compulsory powers to obtain documents and information (including proprietary systems and software), take statements and question any persons according to §§3 (4), 7 (3) German Exchange Act. BaFin has the same powers within its competency according to §4 (3) of the German Securities Trading Act.	Yes - Any legal person is entitled to inform the prosecutor's office about criminal actions. According to §4 (5) German Securities Trading Act BaFin must without undue delay report facts giving rise to suspicion of a criminal offence pursuant to §38 to the competent public prosecutor's office which decides on the necessary investigatory measures to be pursued.	BaFin is an 'A' signatory to the IOSCO MMoU. Moreover, there are similar cooperation mechanisms within the EU. These provide even broader cooperation tools than the IOSCO MMoU.
Greece HCMC	See response to Principle 1, Question 1.	See response to Principle 1, Question 1.	HMCN is not a signatory to the IOSCO MMoU
Gibraltar FSC	See response to Principle 1, Question 1.	See response to Principle 1, Question 1.	FSC is not a signatory to the IOSCO MMoU.
Hong Kong SFC	Yes - Under Sections 183 (1) to 183 (3) of SFO, the SFC may require the person under investigation or any person whom the SFC is reasonably believed to have in his/her possession any record or document to produce that record or document; explain any particular in the record and document; or attend an interview to answer questions put to him/her.	Yes - The SFC has power to initiate criminal prosecution at the magistrate's courts or refer the matter to the Department of Justice of Hong Kong for prosecution in District Court or the Court of First Instance.	Yes, the SFC is an 'A' signatory to the IOSCO MMoU.
Hungary	Yes.	Yes - Under the criminal proceedings Act 171 (2)	Yes - HFSA is an 'A' singantory to IOSCO MMoU.

India FMC	Yes.	Yes.	FMC is not a signatory to the IOSCO MMoU.
Japan METI	Yes - METI may, pursuant to Article 157 of CDA, (1) order a commodity exchange or its market participants to submit a report or materials that provide information about its business and/or (2) enter into the commodity exchange's office to inspect the books, documents and other Articles related to its business.	Yes - Pursuant to Article 239 of Code of Criminal Procedure, a government official shall file an accusation when they believe an offense has been committed.	METI is an 'A' signatory to the IOSCO MMoU.
Japan MAFF	Yes - MAFF may, pursuant to Article 157 of CDA, (1) order a commodity exchange or its market participants to submit a report or materials that provide information about its business and/or (2) enter into the commodity exchange's office to inspect the books, documents and other Articles related to its business.	Yes. Pursuant to Article 239 of Code of Criminal Procedure, a government official shall file an accusation when they believe an offense has been committed.	MAFF is an 'A' signatory to the IOSCO MMoU.
Korea	Yes - Pursuant to Art.426 (2), the FSC and FSS may request to relevant person the submission of information for the purpose of examining price manipulation and other unfair trading. For such examinations, OTC derivatives transaction information can be requested.	No response.	The FSC/FSS is an 'A' signatory to the IOSCO MMoU.
Luxembourg	Yes - Article 29 (1) of the MAD law	Yes. Article 33 (4) of the MAD law	Yes - The CSSF is an "A" signatory.
Malaysia	Yes - Section 126 of the SCA - empowers the SC to examine a regulated entity's business operations, including its books and records together with accounts and other documents, without giving any prior notice.	Yes - SC has the power to initiate criminal prosecution for offenses under section 375 of the CMSA and section 136 of the SCA with the written consent of the Public Prosecutor.	The SC is an 'A' signatory to the IOSCO MMoU.
Mexico CNBV	No.	No.	CNBV is an 'A' signatory to the IOSCO MMoU.
Netherlands AFM	The AFM is empowered to enter all places without permission of the owner, with the exception of personal residences, if necessary in collaboration with the criminal law authorities and by the use of force under section 5:15 Awb (Dutch General Administrative Law Act). The AFM is empowered to claim information (section 5:16 Awb). This information includes all the information that is reasonably necessary for the due fulfillment of the responsibilities and exercise of the powers it has. This also includes taking or compelling a person's statement	Yes - With regard to the investigation of potential violations, the AFM conducts roughly 75 investigations on market abuse on a yearly basis. The possible outcomes of an investigation range from finding no violation, to writing an informal letter to the party concerned, imposing an administrative fine, or refer the matter to the Public Prosecution Service. In the case of imposing an administrative fine, legislation requires that the fine be made public unless the publication would be contrary to our supervisory duties.	Yes, as 'A' signatory. to the IOSCO MMoU.

		The amount of the fine for violations of the market abuse provisions range from €2 million to €4 million (potentially more if the unlawful acquired returns exceed €4 million), but the fine can also be mitigated based on factors such as the financial means of the party and the seriousness of the offense (i.e. market impact).	
Norway FSAN	Yes.	Yes.	FSAN is an 'A' signatory to the IOSCO MMoU.
Panama	Yes - Panama has a wide range of regulation in relation to the taking of statements, obtaining evidence, the obligation to record telephone transaction orders, including by ensuring transparency and fair dealing with customers.	Yes - The CMVM will communicate any element and/or evidence found during an investigation to the Public Prosecutor, who will be in charge of conducting the investigation phase of the criminal procedure.	Panama is a 'B' signatory to the IOSCO MMoU.
Portugal CMVM	Yes - The CMVM has the power to obtain documents, elements, information or enquire of any persons involved in such case in any phase of the procedure, whether in the supervision phase or during the administrative sanctioning procedure, or preliminary investigations,	Yes.	Portugal is an 'A' signatory to the IOSCO MMoU.
Romania	Yes.	Yes - The breach of the provisions of the capital market legislation is sanctioned administratively, disciplinary, contraventionally or penal, as the case may be.	CNVM is signatory of the IOSCO MMoU.
Saudi Arabia CMA	Yes - These powers are granted to the CMA under CML Art.5.c.	Yes - As per CML Chpt.10 'Sanctions and Penalties for Violations'.	CMA is an 'A' Signatory of the IOSCO MMoU.
Singapore MAS	MAS has regulatory and investigative power to obtain all data, information, documents, statements and records from persons (whether regulated or unregulated) who may have information relevant to the inquiry or investigation concerning regulated futures markets pursuant to sections 142, 144, 154 and 163 of the SFA.	Yes - MAS may refer suspected criminal offences to the Commercial Affairs Department (CAD) which is the primary governmental enforcement agency for the criminal investigation and prosecution of offences in relation to market misconduct.	MAS is an 'A' Signatory to the IOSCO MMoU.
South Africa	Yes.	Yes.	JSE is an 'A' Signatory to IOSCO MMoU.
Switzerland FINMA	Yes.	Yes.	FINMA is an 'A' signatory to IOSCO MMoU.
Turkey	Yes - The CMB has investigative and compulsory powers to obtain documents and information (including proprietary systems and software), take statements and/or question	Yes - The CMB has the power to initiate or to refer appropriate matters for criminal prosecution.	CMB is an "A" signatory to IOSCO MMoU.

	persons involved in suspected market abuse.		
United Arab Emirates SCA	N/A.	N/A.	SCA is a signatory to IOSCO MMoU.
U.K. FSA	Yes - The Financial Services and Markets Act allow officers of the FSA to require information from regulated entities/people on an informal basis prior to any enforcement investigation of suspected market abuse. If a formal enforcement investigation is launched Section 167 of FSMA allows the FSA investigators to request information under, regardless of whether the requestee is regulated or not.	Yes - Under section 52 of the criminal justice act on insider trading, the market regulator has the power to refer matters for criminal prosecution.	The FSA is an 'A' Signatory to the IOSCO MMoU.
U.S. CFTC	Yes - Registrants are required to make certain filings with and disclose certain information to the CFTC, and keep a variety of books, records, and other information on their futures and options related activities open to inspection by CFTC representatives, as set forth below. These filings, disclosures, books and records are required to be readily available to the CFTC and DOJ without compulsory process or notice. In addition to its inspection powers, the CFTC has broad subpoena powers and may obtain information from any individual or entity, whether registered or not, in connection with possible violations of futures laws. Section 6(c) of the CEA authorizes the CFTC to subpoena the production of documentary and testimonial evidence "from any place in the United States, any State, or any foreign country or jurisdiction".	Yes.	The CFTC is an 'A' Signatory to the IOSCO MMoU.

Principle 18: Disciplinary Sanctions Against Market Members - *The relevant Market Authority should have and use effective powers to discipline its members or other authorized market participants if an abusive practice has occurred in the market. There should be clarity as to the types of disciplinary actions which can be taken.*

Sanctions should, amongst other things, include some or all of the following measures:

- i) warnings (public and private);*
- ii) reprimands;*
- iii) re-training;*

- iv) *restitution;*
- v) *disgorgement of illicit gains;*
- vi) *finest;*
- vii) *conditions on trading;*
- viii) *trading prohibitions;*
- ix) *suspension from membership;*
- x) *expulsion from membership; and*
- xi) *where appropriate, a criminal referral.*

Question 1	Do relevant Market Authorities (i.e. exchanges and SROs) have and use powers to discipline members or other market participants if an abusive practice has occurred in the market?
Argentina CNV	Yes – <u>Exchanges</u> - Self-regulated markets can apply disciplinary sanctions to intermediaries' members who do not meet the standards. These sanctions range from warning, fines, suspension, to revocation of authorization. <u>CNV</u> controls the exercise of disciplinary power by self-regulated markets, and has itself powers to apply disciplinary sanctions to markets and their agents.
Australia ASIC	Yes – <u>ASIC</u> can take criminal, civil and administrative action resulting in suspension of license, fines or remedial education programs. Criminal authority is under Part 7.10 of the ASIC Act; civil authority is under s.50 of the ASIC Act, s12GBA ASIC Act, s1317E and 7.2A of the Corporations Act and Administration Action; guidance can be found in RG98. <u>ASX</u> - The ASX Enforcement and Appeals Rulebook has the effect of a contract under seal between the exchange and trading participants. If ASX considers that a relevant person has contravened the operating rules or breached a condition imposed by ASX under the operating rules, under rule 2.2.1 of ASX Enforcement and Appeals Rulebook ASX may exercise a number of powers including: censure, monetary penalty, education and compliance program, and suspend or terminate a person's role. <u>ASIC Markets Disciplinary Panel</u> - ASIC has established a Market Disciplinary Panel for disciplinary action against participant and market operators for alleged breaches of the market integrity rules. It is a peer review body, consisting of part-time members with relevant market or professional experience. This body has the authority to impose a number of penalties including: fines, educational programs and public censure.
Brazil CVM	Yes – <u>CVM</u> Law 6,385/76, Art. 11 provides the list of powers available to, and often used by, the Market Authority to discipline member and/or market participants, or any persons that fail to act in accordance with the Law, in the event of abusive practices in the market. <u>SRO</u> - the by-laws of the SRO of the Exchange ("BSM") specifies in Art. 30 the applicable sanctions that can be used to discipline members or other market participants, which are very similar to CVM's.
Canada AMF	Yes – <u>AMF</u> Under the Québec Derivatives Act Section 160 any contravention of the Act constitutes an offense punishable by fines. Bourse de Montréal/ <u>Montreal Exchange</u> through its regulations can dispense a number of penalties including: fines, suspension or revocations rights, expulsion of the approved participant or obligation to take courses deemed appropriate.
Canada ASC	Yes – <u>ASC</u> -Breaches of Alberta securities law can result in a fine of C\$5 million and imprisonment for up to five years minus one day. The Executive Director may apply to the Court of the Queen's Bench for a declaration that a person or company is not in compliance with Alberta

	securities law (s. 197(1) of Securities Act). This can result in the cancelling of a transaction or restitution for loss. ASC may also restrict or prohibit a person/entity from taking certain action with respect to securities and exchange contracts (s. 198(1) of Securities Act). <u>Exchange</u> – Criterion 5 (Protection of Markets) requires a derivatives exchange to establish and enforce rules to protect markets and market participants from fraudulent, manipulative and abusive acts and practices, including abusive trading practices by any party on the derivatives exchange and any party acting as an agent for a market participant, and promote fair, orderly, just and equitable trading on the derivatives exchange. Criterion 6 (regulation of Members and Market Participants) requires that a derivatives exchange must appropriately enforce disciplinary procedures that authorize the derivatives exchange to discipline, suspend, or expel members or market participants that violate the rules.
Canada OSC	Yes – Although there are no commodity derivatives exchanges in Ontario, a person or firm registered with OSC that engages in wrongful activity involving commodity derivatives could be sanctioned by the Commission if they are found guilty of a violation. An order under Section 127 of the Securities Act and Section 60 of the Commodity Futures Act could be made if the OSC found that it was in the public interest to do so. In addition, quasi-criminal proceedings can be taken under Section 122 of the Securities Act or Section 55 of the Commodity Futures Act (as described in the response to Principle 17).
Canada MSC	Yes - ICE, IIROC and the MSC have the powers enumerated above as required to carry out each organization's respective mandate. ICE acts as the initial disciplinary panel and where their decisions are appealed, the MSC will look into the matter. The MSC's authority is provided by the Act, while ICE's authority comes from their rules.
China CSRC	Yes – <u>Exchanges</u> - For the abusive activities of members, the futures exchanges may take disciplinary actions such as warning, forced liquidation, position reduction, membership expulsion and penalties in accordance with their rules. <u>CSRC</u> - In case of the violations of the Regulations, the futures exchanges shall refer the case to CSRC so that the CSRC will impose administrative penalties.
Chinese Taipei	Yes – <u>Exchange</u> – under Taifex Operating rules Chapter 17 and Taifex Position rules, Taifex may impose sanctions on its members commensurate with the severity of the violations.
Denmark DSFA	Yes – For the abusive activities of members the exchanges can issues warnings, reprimands and fines in accordance with the Exchange's Membership Rules. Furthermore the exchange shall notify the DSFA of any abusive activities. The DSFA will then decide if this abusive activity should result in a criminal referral.
Dubai DFSA	Yes - <u>DME</u> Members are subject to the DME rules and in particular the Membership Rules (Chapter 2). DME can bring breaches of its rules to an internal Disciplinary Committee which is responsible for the discharge of all matters attributed to it under the Rules. The access by Guaranteed Customer is set out under Business Rule 4.15. This access is granted through a DME Clearing Member and is "under the Clearing Member's guarantee". As such the Clearing Member must enter into a written agreement with the Guaranteed Customer which requires the Guaranteed Customer to undertake to be bound by the DME's Business Rules. The agreement also needs to include a provision for the termination of the agreement if the Guaranteed Customer fails to comply with any of the Exchange's Rules or if the Clearing Member's membership is cancelled or terminated for any reason. <u>DFSA</u> - Markets Law Part 3, Chapter 1 addresses the supervision of AMIs by the DFSA. Pursuant to Art 26 of the Markets Law the DFSA may by written notice, direct an AMI to do or not do specified things that the DFSA considers necessary or desirable or to ensure the integrity of the DIFC financial markets. This includes Membership matters and the removal of trading privileges or access to the market or activity in the DIFC.
France AMF	Yes – Although the exchanges have the power to discipline their members, in practice it's almost always the AMF that sanctions misconduct by members. The Monetary and Financial Code has given to the AMF all the powers mentioned in the key question except “retraining” and “conditions on trading”. The maximum possible fine is €100 million or a multiple of any profit made.
Germany BaFin	Under the Exchange Rules, <u>the Board of Management</u> is entitled to withdraw the admission of an Exchange participant or Exchange trader in full, or partially should one of the admission requirements not exist upon the granting of the admission. In addition, <u>Disciplinary Committee of the Exchange</u> (§22 (2) German Exchange Act) may make use of reprimands, administrative fines or suspensions from trading up to thirty trading days. Finally, BaFin may impose fines (see above). The draft Regulation of the European Parliament and of the Council on insider dealing and

	market manipulation (market abuse) proposes increased administrative fines.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – <u>SFC</u> is empowered to impose a number of sanctions including: revocations and suspensions of licenses, prohibitions of applications for licenses, fines and reprimands. SFC is also able to enter into settlements/resolutions under Section 201 of the SFO or refer relevant matters to the police or Independent Commission Against Corruption. For non-licensees, the SFC can commence criminal actions against them in court or refer their misconduct to the Market Misconduct Tribunal or bring charges in civil court. <u>HKFE</u> - Rule 702(a) of the HKFE Rules sets out the disciplinary power of HKFE against an Exchange Participant which includes revocation or suspension of exchange participant, issuance of a reprimand, public censure or warning, imposition of a fine, prohibition or restriction of access to and/or using HKFE's facilities. Rule 702(b) of the HKFE Rules sets out the disciplinary power of HKFE against the individual registered by HKFE as a responsible officer for an Exchange Participant which includes revocation or suspension of registration, issuance of a reprimand or warning, imposition of a fine and prohibition or restriction of access to and/or using HKFE's facilities. The SFC is required to be notified of any summary action or the result of any disciplinary proceeding pursuant to Rule 731(a) of the HKFE Rules. <u>HKMEX</u> - Rule 7.3.1 of HKMEX rulebook provides that for any other breach of the Rules, or for a breach of the Rules which, although falling within the provisions of Rule 7.2.1, is, in the opinion of the Exchange to be more serious and one which may bring the Exchange or its Members into disrepute or is likely to be contrary to the integrity of the Exchange, the Exchange can impose sanctions.
Hungary FSA	Yes – <u>Exchange</u> BSE has the power to effectuate warnings, fines, suspensions of membership and expulsion of membership.
India FMC	Yes - <u>Exchanges</u> as per their bye-laws, rules and regulation have disciplinary powers. Further, <u>government regulator</u> has disciplinary powers through Act, FCRA, 1952.
Japan METI	Yes - Article 165 of CDA requires a commodity exchange to stipulate in its articles of incorporation that in the event that a market participant violates the CDA or the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules or if such person commits an act contrary to the fair and equitable principles of transactions, a commodity exchange will impose a fine or suspend or restrain part of the participant's transactions on the commodity market or a commodity exchange will rescind the trading qualifications of the market participants. TOCOM stipulates its sanction rules in its articles of incorporation.
Japan MAFF	Yes - Article 165 of CDA requires a commodity exchange to stipulate in its articles of incorporation that in the event that a market participant violates the CDA or the articles of incorporation, market rules, brokerage contract rules, dispute resolution rules or if such person commits an act contrary to the fair and equitable principles of transactions, a commodity exchange will impose a fine or suspend or restrain part of the participant's transactions on the commodity market or a commodity exchange will rescind the trading qualifications of the market participants.
Korea	Yes - <u>FSC</u> and <u>FSS</u> have the authority to issue the sanctions listed in Principle 18. <u>Exchange</u> - Pursuant to FSCMA Art.402, KRX may, through its Market Supervision Committee, as a result of violation of unfair trading regulations, expel membership, suspend the operation of business, issue fines and also take disciplinary actions against executives and employees. <u>SRO</u> - Pursuant to FSCMA Art.286, the Financial Investment Association has the authority to self-regulate its members. The Financial Investment Association may expel memberships, suspend members, suspend business operation, issue fines, and issue warnings.
Luxembourg	Yes - Article 6.3 of the rules and regulations of the Luxembourg Stock Exchange and Article 32 and 33 of the MAD law. <u>Regulator</u> – Criminal sanctions are covered under Article 32 of MAD. CSSF administrative fines and temporary prohibition of providing services are covered under Article 33 of MAD. <u>Exchange</u> – Chapter 6 of the Rules and Regulation of the Luxembourg Stock Exchange can impose sanctions including fines and suspension of trading or membership rights.
Malaysia	Yes – <u>Regulator</u> - Part V of the CMSA provides the penalties for the different market misconduct offences. The SC can institute civil or criminal proceedings or it can impose administrative sanctions. These include civil penalties not exceeding RM1 million (Section 211 of CMSA) and criminal punishment up to 10 years and fined no less than RM1 million (Section 209 of CMSA). Section 354 of CMSA provides a wide range

	of administrative sanctions including rules, provisions, written notices, conditions or guidelines to comply with, fines up to RM500,000, reprimands and restitution. <u>Exchange</u> - Section 8(2)(d) of the CMSA requires Bursa Malaysia to take appropriate action against its participants or affiliates for any breach of its rules. Rule 508 and 511 of Rules of BMD provides for Bursa Malaysia to also take action against its participants, Head of Dealing and Dealer's Representatives for breaching its Rules.
Mexico CNBV	Yes – <u>Exchange</u> - Pursuant to the derivatives exchange internal rules, when a person commits an act contrary to the rules thereunder, the derivatives exchange has powers to impose a fine or suspend or restrain the whole or a part of the market participant's transactions or services (Asigna, Internal rules 1100.00, and Rule 40 of the Rules for companies and trusts that intervene in the establishment and operation of the futures and options market).
Netherlands AFM	Yes – Under the Financial Supervision Act <u>AFM</u> as a regulator has the power to issue warnings (Article 1:94), reprimands, disgorgement of illicit gains (Article 1:81), fines (Article 1:80 and 1:91), criminal referrals and withdrawal of licenses. <u>Exchange</u> - Following APX-ENDEX Derivatives B.V. Rulebook, APX-ENDEX reserves the right to sanction a member where a member's behavior is conflicting with any of the rules. The disciplinary powers are laid down in Rule I-8.1 and I-8.2 state that if APX-ENDEX determines that a member's behavior is in violation with the rules laid down in the rulebook, or is in a manner that is potentially detrimental to the interests of ENDEX or to the interests of another member, APX-ENDEX may deliver a warning, suspend the member, impose a fine or terminate the Membership Agreement.
Norway FSAN	Yes – Sanctions can be handed down by the regulated market and are regulated in the exchange rules. The exchange rules are proven by the Ministry of Finance and changes in these rules must be submitted to FSAN. FSAN may refuse these changes.
Panama	Yes – Sanctions include warnings, reprimands, re-training, fines, conditions on trading, trading prohibitions, suspension from authorization, and where appropriate a criminal referral.
Portugal CMVM	Yes – <u>CMVM</u> – According to Portuguese Securities Code, CMVM may impose fines related to special administrative offenses. Additionally, it may apply sanctions including temporary suspension of the infringer, disqualification from the exercise of administration or supervision, publication by the CMVM of the sanction imposed, and revocation of authorization or cancellation of registration. <u>Exchanges</u> – According to the trading rules in case of infringements, the OMIP may apply different sanctions, such as warning; financial penalty; suspension for a maximum period of six months and exclusion. <u>CCP</u> – According to the clearing rules, in case of infringements, OMIClear may apply different sanctions, such as warning; financial penalty; suspension for a maximum period of six months and exclusion.
Romania	Yes – <u>Regulator</u> - Abusive practices in relation with commodities are sanctioned as per any financial instrument (see Capital Market Law no. 297/2004, Title X – Liabilities and sanctions and Title VII - Market abuse). The breach of the provisions of the capital market legislation is sanctioned administratively, disciplinarily, or penally. Offences are sanctioned by warnings, fines, and complementary sanctions including suspension of authorization, withdrawal of authorization or temporary prohibition from carrying out certain activities. <u>Exchanges</u> - For <u>BVB</u> , the powers are stipulated by the BVB Rulebook, Chapter V, section 3- Sanctions. Art. 38 of the BVB rulebook provides that an illegal act qualified as such by the BVB is subject to sanctions imposed by the market operator, as elaborated upon in this chapter. The <u>Sibex</u> Book provides in Art. 166 that Sibex will apply appropriate sanctions provided for in Chapter VIII "Sanctions" of the Book, if it considers that the illegal acts took place in the legal regime in the regulated market administered by Sibex and notify the CNVM in the shortest time. Art 177 of the Sibex Book II provides that intentional or accidental action or lack of it, qualified as an illegal act will be sanctioned with fines or remuneration.
Saudi Arabia CMA	Yes - The CMA would either bring a legal action before the Committee for the Resolution of Securities Disputes to seek an order for the appropriate sanction, or the CMA Board would directly impose financial fines. When needed, Tadawul would be involved in any investigation. The list of sanctions is detailed in CML Arts. 59 & 60.
Singapore MAS	Yes - <u>MAS</u> has emergency powers under section 34 of the SFA including directing AEs to take actions it considers necessary. <u>SGX-DT</u> - Chapter 7 of SGX-DT Rules empowers SGX-DT to issue warning letters, make an offer of composition for compoundable offences or charge an offender before a disciplinary committee. <u>SMX</u> Rule Chapter 8 lists the application of the disciplinary rules and initiation of the disciplinary

	action.
South Africa	Yes – <u>Regulator</u> - The regulator has powers to impose sanctions, fines and penalties for all instances of non-compliance with the legislation. In that regard the regulator may impose monetary sanctions/fines, suspend operating licenses and may also instigate criminal charges against offenders. An example relates to a specific sunflower seed case where the client was fined a cash penalty for manipulative trading practices. <u>Exchange</u> - see JSE Derivatives Rules sections 3, 5 and 7. An example is the sanction of a trading member and then identified traders that were fined and then sanctioned from registered as an officer due to inappropriate managing of client positions.
Switzerland FINMA	Yes – FINMA and Exchanges have the authority to impose, warnings, reprimands, trading prohibitions, suspension from securities dealership, expulsion from securities dealership or a criminal referral. Additionally, FINMA can impose restitution or disgorgement of illicit gains and exchanges can order retraining, fines, or conditions on trading.
Turkey	Yes – <u>Regulators</u> and <u>Exchanges</u> can impose warnings, reprimands and conditions on trading. The <u>regulator</u> can impose fines and the <u>exchange</u> can impose suspensions and expulsions from membership. The <u>regulator</u> , CMB, can impose pecuniary administrative penalties and trading prohibitions and cancel any authorization or license that it has extended.
United Arab Emirates SCA	Yes- The <u>Exchange</u> has powers via By-Law F.2.1 ‘General Disciplinary Powers of Board and Business Conduct Committee’, “for breaches of Exchange By-Laws or other misconduct”. The Exchange can warn, reprimand fine, suspend and terminate members and would inform the SCA regarding all actions taken against Members.
U.K. FSA	Yes – <u>Market Authority</u> - LIFFE, LME and ICE Futures Europe state their disciplinary procedures for breaches of the rules which may include abusive behaviour in their rulebooks which are published on their respective websites. Sanctions can include fines and trading bans and ultimately loss of membership. <u>Regulatory Enforcement</u> - If a formal Enforcement investigation is launched by the FSA, Section 167 of FSMA allows the FSA investigators to request information under section 171 FSMA. If any person doesn't comply with a s.167 or s.168 request then they may be found in contempt of court, which could mean a fine, imprisonment or both if found guilty of the offence. Section 52 of the Criminal Justice Act on Insider Trading can be used to prosecute an individual and/or firm if market abuse is deemed to have taken place.
U.S. CFTC	Yes – In addition to the CFTC enforcement authority detailed in the response to Principle 17, exchanges and the National Futures Association (NFA) are required to have rules to discipline its members. <u>Exchanges</u> – CEA Section 5(d)(2), Core Principle 2, requires a Designated Contract Market (DCM) to establish, monitor and enforce compliance with its rules. CEA Section 5(d)(12) requires DCMs to establish and enforce rules to protect markets and participants from abusive practices committed by any party and to promote fair and equitable trading on the contract market. CEA Section 5(d)(13) requires the board of trade to establish and enforce disciplinary proceedings that authorize the board of trade to discipline, suspend or expel members or participants that violate rules of the board of trade. <u>NFA</u> CEA Section 17(b)(8) requires that an RFA develop rules that provide for the appropriate discipline of its members, whether by expulsion, suspension, fine, censure, or other penalty, for violation of its rules. Section 17(i) gives CFTC authority to review disciplinary action taken by an RFA.

Question 2	the types of disciplinary actions that can be taken identified and accessible to market participants?
Argentina CNV	Yes - Information is public and available on the website of self-regulated markets and in the CNV website in the section "regulatory frame"
Australia ASIC	Yes - The public can view these disciplinary actions at the following websites, ASX http://www.asxgroup.com.au/asx-enforcement-and-appeals-rulebook.htm ASIC http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/rg216-29July2010.pdf/\$file/rg216-29July2010.pdf ASIC http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/rg225-published-25-May-2011.pdf/\$file/rg225-published-25-May-2011.pdf ASIC http://www.asic.gov.au/asic/ASIC.NSF/byHeadline/New%20regulatory%20documents

Brazil CVM	Yes - Law 6,385/76 is a public document, and can be found on several websites on the internet, including the CVM homepage . By the same token, all CVM Instructions are accessible on the internet, therefore market participants can identify all possible disciplinary actions that can be taken by the Market Authority in case of irregularities or rule violations.
Canada AMF	Yes - The information is made public through either IIROC's website http://www.iiroc.ca/industry/enforcement/Pages/Search-Disciplinary-Cases.aspx or the Montreal Exchange's website. http://reg.m-x.ca/en/regulation/disciplinary
Canada ASC	Yes - The exchanges need to make such information available to the public on its Web site, as set out in Paragraph 3 (Availability of General Information) of the Conditions for Maintaining Recognition as a Derivatives Exchange
Canada OSC	Yes – These are located on the OSC website at, http://www.osc.gov.on.ca/en/Proceedings_all-commission_index.htm
Canada MSC	Yes - The Act, as well as the ICE Rules, are publically available through each organization's respective website.
China CSRC	Yes - All futures exchanges should publish their rules including the disciplinary actions on their websites or by other means; therefore, market participants can access to such information.
Chinese Taipei	Yes – The list of disciplinary actions are available in FTA Chapter 8.
Denmark DSFA	Yes - This can be found on the Denmark FSA website.
Dubai DFSA	Yes - Market participants can access the disciplinary powers described in the DIFC laws, DFSA rules or rules of the DME through the website of the DFSA (www.dfsa.ae) and/or through the website of the DME (www.dubaimerc.com).
France AMF	Yes – The sanctioning power of the AMF is defined by law. The sanctioning power of the exchanges is defined by the rules of each exchange, which are publicly available on the exchange website.
Germany BaFin	Yes - Disciplinary sanctions based on laws are available via http://www.gesetze-im-internet.de . Disciplinary sanctions based on Exchange Rules are accessible via www.eex.com and www.eurexchange.com .
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes - The SFC has published a booklet titled “Disciplinary Proceedings at a Glance” summarizing its disciplinary procedures and powers. This booklet has been posted on the SFC's webpage. All completed enforcement actions, including disciplinary sanctions, are also published in SFC's press releases publicly available on its website. HKFE/HKMEx - They are stipulated in the HKFE and HKMEx Rules. Investors can access the information via internet
Hungary FSA	Yes – This exchange published this information at: http://client.bse.hu/data/cms61388/Regulation_on_Section_Membership_eng_06062011.pdf
India FMC	Yes - The powers provided to regulator and Exchanges are placed on their websites in public domain.
Japan METI	Yes – Pursuant to Article 57 of CDA and Article 31(1) of the Companies Act, a Member Commodity Exchange and Incorporated Commodity Exchange shall keep copies of the articles of incorporation at each business office, respectively. The types of disciplinary actions that can be taken are identified in the articles of incorporation and are therefore accessible to market participants.
Japan MAFF	Yes – Pursuant to Article 57 of CDA and Article 31(1) of the Companies Act, a Member Commodity Exchange and Incorporated Commodity Exchange shall keep copies of the articles of incorporation at each business office, respectively. The types of disciplinary actions that can be taken are identified in the articles of incorporation and are therefore accessible to market participants.
Korea	Yes - Pursuant to FSCMA Art.426 and its regulation Art.377, the FSC/FSS may disclose to the public the investigation performance on unfair trading, result of the investigation, and any other information which may assist in the prevention of the relevant person(s) from committing further violation. In addition, when the FSC/FSS refers the matter to the prosecutor's office, a press release of the case summary is provided.
Luxembourg	Yes – Under Article 33(6) of the MAD, CSSF may disclose to the public administrative sanctions imposed. The Luxembourg Stock Exchange may publish all or part of the decision taken by the Luxembourg Stock Exchange under the Rules and Regulations. The Luxembourg Stock

	Exchange shall prepare and publish a general report on the application of Chapter 6 of the Rules and Regulations on measures in case of violations of the Rules from time to time but at least once a year. Article 32 of the law of 9 May 2006 on market abuse provides for the criminal sanctions and the administrative sanctions are laid down in Article 33. The list of potential sanctions is publicly available.
Malaysia	Yes - The CMSA and Business Rules of Bursa Malaysia are accessible via the SC's website and Bursa Malaysia's website respectively.
Mexico CNBV	Yes - The derivatives exchange rules are available for all the public, as well as the Rules for companies and trusts that intervene in the establishment and operation of the futures and options market. http://www.asigna.com.mx and www.cnbv.gob.mx
Netherlands AFM	Yes - Information on disciplinary actions can be accessed in the Financial Supervision Act and relevant market abuse brochures on the AFM website and in the rule book of the exchanges.
Norway FSAN	Yes – These are public in the exchange rules at the regulated market.
Panama	Yes – The public can find this information in the Panamanian Securities Law.
Portugal CMVM	Yes - Financial legislation, including the Portuguese Securities Code, CMVM Regulations and CMVM Instructions, is published on the CMVM's Website (www.cmvm.pt). The rules concerning trading, clearing and settlement related to the OMIP derivatives market are published on the OMIP Website (http://www.omip.pt) and the on the OMIClear Website (http://www.omiclear.pt).
Romania	Yes - The market participants can access the information using the CNVM Bulletin and website. The types of disciplinary actions are stipulated in the regulatory framework (laws, rules and regulations, rulebooks of CNVM and of the exchanges and clearing houses). All the information may be consulted on the websites of every entity mentioned in Principle 18 question 1. Also for CNVM regulations, the CNVM Bulletin may be consulted as well.
Saudi Arabia CMA	Yes – Market participants can access this information at www.cma.org.sa .
Singapore MAS	Yes - The list of disciplinary actions that can be taken is clearly specified under SGX-DT Rule 7.2 and SMX Rule 8.1.1 respectively. The types of disciplinary actions that can be taken against market members are set out in the SFA, and include an issuance of written directions (section 101 of the SFA), making of a prohibition order (section 101A of the SFA), an issuance of a letter of reprimand (section 334 of the SFA), a removal of officer of the market member (section 97 of the SFA), and an offer of composition.
South Africa	Yes - Via a published market notice that is made available on the web page of the exchange and/ or the regulator.
Switzerland FINMA	Yes – This information is partially available on the FINMA Bulletin and SIX Website.
Turkey	Yes – The rules and regulations about the types of disciplinary actions (the Capital Markets Law, the Regulation on the Turkish Derivatives Exchange, the Regulation on the Principles Regarding the Establishment and Operation of Futures and Options Exchanges) can be found on the web pages of both the CMB and the Exchange.
United Arab Emirates SCA	N/A.
U.K. FSA	Yes – Disciplinary actions are publicly available via the exchange rulebooks on Market Authority websites, for example ICE Futures Europe , https://www.theice.com/FuturesEuropeRegulations.shtml (section E - Disciplinary), LIFFE https://globalderivatives.nyx.com/regulation/nyse-liffe/london-handbook/disciplinary , and LME http://www.lme.com/rulebook.asp
U.S. CFTC	Yes – The CEA as well as exchange rules enumerate the types of disciplinary actions that can be taken. CEA Section 5(d)(13) as well as the NFA website, http://www.nfa.futures.org/nfamanual/NFAManual.aspx provide examples.

Principle 19: Disciplinary Sanctions Against Non-Members of the Market

The relevant Market Authority should have power to take action against non-members of regulated commodity derivatives markets or other market participants if they have engaged in abusive or manipulative practices, or are suspected of doing so. Market authorities may require contractual relationships between members and customers that enable action to be taken. It is anticipated that enforcement powers will usually be embedded in statute and would be exercised by a government body, including a public prosecutor or the courts.

In addition, Market Authorities should be able to intervene, or cause the exchange to intervene, in the market to address or to prevent an abuse by non-members, using appropriate measures - through members - such as for example by raising the level of margin, imposing trading limits and liquidating positions, as well as removing trading privileges. Any intervention action should be timely.

Question 1	Does a relevant Market Authority have power to take action against Non-members of regulated commodity derivatives markets or other market participants if they have engaged in abusive or manipulative practices, or are suspected of doing so?
Argentina CNV	Yes - CNV may take action against those who have violated the provisions of Chapter XVII of CNV Transparency Regulations. This power can be applied to any intervener in the Public Offering.
Australia ASIC	Yes – ASIC has the power to take action against non-members of regulated commodity derivatives markets suspected of engaging in market misconduct or other prohibited conduct in Part 7.10 of the Corporations Act in this jurisdiction.
Brazil CVM	Yes - The Market Authority has powers to take action against any person who acts in disregard of the Law, regardless of membership in regulated markets, according to Law 6,385/76 Art. 11. On the other hand, the SRO of the DCMs can only take action against members and supervised entities, not against the final beneficial owners.
Canada AMF	Yes – The QDA provides that any person who contravenes the QDA is guilty of an offence and, as a consequence, actions that can be taken by the AMF are embedded in the QDA. In all cases, the guilty person is liable to a fine, the QDA sets out both a minimum and a maximum fine. In addition to the fine, a person guilty of the above-mentioned offences is liable to imprisonment for a period not exceeding five years less one day.
Canada ASC	No – response covers members, their representatives and former members.
Canada OSC	Yes – See response to Principle 15 key question 1 to see actions that can be taken against a non-member. No contractual relationships are required for action to be taken.
Canada MSC	Yes - Anyone trading over the counter derivatives in Manitoba is required to register with the Commission as per s. 6(1) of the Securities Act. Section 6(8) of the Securities Act requires registrants to comply with terms and conditions of registration, and the Director has authority to create terms and conditions, suspend, or cancel registration. Section 24(1) of the Act requires that anyone trading in an exchange-traded future or option must register with the Commission. ICE further requires that anyone trading on its exchange must register as a participant under Rule 4A.01. Further, the Act grants the Commission the power to take action investigate any person or company conducting commodity futures trading activity in Manitoba, regardless of registration status.
China CSRC	Yes - The futures exchanges can take disciplinary actions against non-members, as stipulated in Regulations and the Futures Exchanges Regulations. Such actions include, but are not limited to, imposing limits on funds withdrawal or deposit, imposing limits on position opening or liquidation, raising margin and forced position liquidation.
Chinese Taipei	Yes – FTA Chapter 8.
Denmark DSFA	Yes – Chapter 10 in the Danish Securities Trading Act authorizes these actions regardless of who has carried out manipulative practices.

Dubai DFSA	Yes - Action can be taken against non-Members by the DFSA under the Regulatory Law and pursuant to <i>inter alia</i> the Markets Law against <u>any person</u> breaching the Markets Law. The Markets Law would apply to any participant directly or indirectly dealing in Investment in the DIFC markets.
France AMF	Yes – The AMF can take enforcement action directly against any person, exchange member or not, responsible for market abuse including market manipulation. A serious suspicion will lead to the opening of an investigation. If the suspicion is confirmed the case will be brought to the Enforcement Committee or can be prosecuted in criminal courts, if appropriate.
Germany BaFin	Yes - The Exchange Rules are binding only for trade participants. However, BaFin has the power to take actions against anyone engaging in abusive or manipulative practices including non-members of regulated commodity derivatives markets or other market participants. According to § 39 (1) and § 39 (2)(11) German Securities Trading Act an administrative offence is deemed to be committed by a person who in contravention of § 20a (1).
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes - The <u>SFC</u> can take action against any person, including any non-member of market, who engages in abusive market practices/manipulative trading activities. For breaches of criminal provisions in the SFO, the SFC can take criminal actions against the person by itself or through the Hong Kong Department of Justice. For breaches of market misconduct provisions, the SFC can refer the matter to the Market Misconduct Tribunal. The SFC can also apply to the civil court for remedial orders or injunctive reliefs against any person who has committed misconduct.
Hungary FSA	Yes. This regulator, HFSA, has this authority under the Capital Market Act Sections 201-202. The exchange, BSE, has no such power to discipline non-market members.
India FMC	No.
Japan METI	Yes - Article 116 of CDA stipulates trading activities that no person may conduct. Therefore, a competent minister has power to take action against non-members of regulated commodity derivatives markets or other market participants if they have engaged in abusive or manipulative practices, or are suspected of doing so. Additionally, TOCOM has contractual relationships with each omnibus account holder to take necessary actions which include the submission of information to identify each position holder, position liquidation, and trading restriction.
Japan MAFF	Yes - Article 116 of CDA stipulates trading activities that no person may conduct. Therefore, a competent minister has power to take action against non-members of regulated commodity derivatives markets or other market participants if they have engaged in abusive or manipulative practices, or are suspected of doing so. Additionally, TOCOM has contractual relationships with each omnibus account holder to take necessary actions which include the submission of information to identify each position holder, position liquidation, and trading restriction.
Korea	Yes - The KRX cannot take any disciplinary actions against non-member market participants. However, pursuant to the FSCMA, should the KRX find any abnormal transactions or violation of the FSCMA, it is required to report to the FSC, which in turn can issue disciplinary sanctions.
Luxembourg	Yes - The <u>CSSF</u> has authority over non-members because the MAD law is applicable to any person and does thus not make a distinction between members of the Luxembourg Stock Exchange and non-members. The <u>Luxembourg Stock Exchange</u> does not have enforcement authority over non-members.
Malaysia	Yes - The SC is empowered to take action on any person including non-members of regulated commodity derivatives market, of breaches of securities laws, including the rules of the stock and derivatives exchanges, approved clearing house or central depository; any written notice, guidelines issued or conditions imposed by the SC; or any rule of a recognized SRO. Part V of the CMSA provides the penalties for the different market misconduct offences. The SC can institute civil or criminal proceedings or it can impose administrative sanctions. Section 8(2)(d) of the CMSA requires Bursa Malaysia to take appropriate action against its participants or affiliates for any breach of its rules. Rule 508 and 511 of Rules of BMD provides for Bursa Malaysia to also take action against its participants, Head of Dealing and Dealer's Representatives

	for breaching its Rules.
Mexico CNBV	N/A.
Netherlands AFM	Yes – AFM has the power to discipline non-members through warnings (Article 1:94 and 1:75), reprimands, disgorgement of illicit gains (Article 1:81), fines (Articles 1:80 and 1:81) and through criminal referral. Exchanges are only able to take action against members. They are required to report serious violations of the rules and procedures by members and non-members to the AFM.
Norway FSAN	Yes - FSAN may ask anybody for relevant information when it is related to trading in listed financial instruments. If the information is connected to the underlying physical market we may ask the regulator for this market to collect such data, if necessary.
Panama	Yes- Under the Securities Law of Panama, the regulator investigates whether unauthorized brokerage is occurring, and refers any alerted criminal activity to the Attorney General to initiate an investigation for criminal misconduct. This procedure would extend to commodities if such a market existed.
Portugal CMVM	Yes - According to the Portuguese Securities Code (Article 311), sanctions apply to any person who takes part in transactions, or carries out other actions capable of putting at risk the market's orderly functioning, transparency and credibility. The rules referring to insider trading and market manipulation apply to all persons who perform such actions (Article 378 and 379).
Romania	Yes – Under the Capital Markets law CNVM has the power to require the cessation of any practice that is contrary to the provisions laid down in the Capital Markets law, and request the temporary prohibition of professional activity. Additionally, CNVM may take appropriate administrative measures or may impose administrative sanctions against the persons responsible where the provisions laid down in this title and the provisions adopted for its implementation have not been complied with.
Saudi Arabia CMA	Yes - Although there is currently no commodity derivatives market in the KSA, non-members are subject to the same policies as those which are applied to market members, with the exception of the Authorised Persons Regulations which apply to market members or financial advisors. A contractual agreement is required between a market member (Authorized Person) and his client, but the application of enforcement powers is independent of this agreement.
Singapore MAS	Yes - If AEs detect any suspicious activities by non-members, they would refer such cases to MAS for further investigation. MAS can undertake civil penalty actions against any person who contravenes the market conduct provisions under Part XII of the SFA, with the consent of the Public Prosecutor. MAS may also refer suspected criminal offences to the CAD for investigation and subsequent prosecution by the Attorney-General's Chambers.
South Africa	No.
Switzerland FINMA	Yes - The Exchange only admits registered securities dealers. It may prohibit a registered dealer from trading. If FINMA detects a serious violation of supervisory provisions, it may prohibit the person responsible from acting in a management capacity for up to five years (prohibition from practicing a profession, Art. 33 FINMAG). FINMA may revoke the license of a securities dealer.
Turkey	No - However, after the introduction of the New Capital Markets Law the issue will be reconsidered.
United Arab Emirates SCA	No Response.
U.K. FSA	Yes - Under sections 165 and 170 of FSMA, the FSA has the power to investigate members and non-members of the market. See response to Principle 17 for FSA remit over non-regulated individual or entities.
U.S. CFTC	Yes - Part 38 Appendix B Core Principle 2 – Compliance with Rules says that a “board of trade shall have the capacity to detect, investigate and apply appropriate sanctions to any person that violates any rule of the contracts market.” As such, Core Principle 2 requires that contract markets have the ability to enforce any rule violation in their market whether conducted by a member or non-member.

Question 2	Are relevant Market Authorities able to intervene, or cause the exchange to intervene, in the market to address or to prevent an abuse by Non-members, using appropriate measures - through members - such as for example by raising the level of margin, imposing trading limits and liquidating positions, as well as removing trading privileges?
Argentina CNV	Yes - Self-regulated markets have broad powers to increase margins, set trading limits, limit open positions, close positions and take any other corrective action deemed necessary to prevent conditions or practices that are contrary to the normal development of the market.
Australia ASIC	Yes – ASIC has the power to intervene to advise an entity to suspend dealing in a product or class of products (s 798J(1) of Corporation Act), direct a licensed market to suspend dealings of a financial product or class of products for up to 21 days (s 794D), and power to prohibit the operator of a clearing and settlement facility from acting in a manner inconsistent with s 794D and 794E.
Brazil CVM	Yes - The Market Authority can cancel operations, according to Instruction CVM 461/07 Article 118, III. Trades that might be regarded as a breach of the law or as a violation of any rules in the organized market, performed by either members or non-members, can be canceled by the Market Authority; CVM can also order a halt to the settlement in such cases. The SROs of the DCMs also execute market surveillance and compliance over members and non-members, according to the terms set forth throughout Instruction CVM 461/07, notably in Articles 42, 43 and 60. Instruction CVM 283/98, Art. 3, I, “a” and “b” grants powers to the SROs to set position limits and concentration limits per final beneficial owner, in order to ensure the seamless functioning of the markets. The limits are applicable to both member and non-members. Law 6,385/76, Art.11, sets the applicable sanctions that can be imposed by the Market Authority, to anyone who violates the Law, both members and non-members.
Canada AMF	Yes - The QDA seeks to foster honest, fair, efficient and transparent derivatives markets and to protect the public from unfair, improper or fraudulent practices and market manipulation. Key provisions of the QDA for regulated entities include that the operating rules of a published market must, to ensure its proper operation, include measures prohibiting and aimed at countering market abuse and manipulation, fraud and deceptive trading.
Canada ASC	Yes - Where the ASC considers it in the public interest to do so, it may restrict or prohibit a person or entity from taking certain actions with respect to securities and exchange contracts, as well as with respect to entities that are registered or recognized under the Alberta securities laws (section 198(1) of the Securities Act (Alberta)). This includes a cease trading order and emergency authority under Criterion 12 to liquidate or transfer open positions in a contract, suspend or curtail trading in any contract, or require market participants to meet special margin requirements.
Canada OSC	Yes - An order (under section 127 of the Securities Act and section 60 of the Commodity Futures Act) could be made in respect of wrongful activity if the Commission found that it was in the public interest to do so. Such orders include revoking the acceptance of the form a commodity futures contract or removing the ability to rely on exemption under Ontario commodity futures law. In addition to the foregoing, quasi-criminal proceedings can be taken under section 122 of the Securities Act or section 55 of the Commodity Futures Act.
Canada MSC	Yes - Section 14(1) of the Act recognizes an exchange, and s. 14(4) allows the Commission to make a direction with respect to the regulations and administration of that exchange. ICE Rule 8B.05 also allows the exchange to set and alter reasonability limits, and price interval limits. Trades that attempt to exceed these limits will not be executed on the exchange.
China CSRC	Yes - The CSRC or the futures exchanges can, directly or through members, take action against market participants, as stipulated in the Regulations and the Futures Exchanges Regulations. Such actions include, but not limited to, imposing limits on fund withdrawal or deposit, imposing limits on position opening or liquidation, raising margin or forced position liquidation. Such actions are normally first taken by members, and can be taken by the futures exchanges and the CSRC when necessary.
Chinese Taipei	Yes – This authority is provided in FTA Section 16, 96 and Taifex Operating Rules 116 and 117. Please see the response to Principle 13 for examples of where Market Authorities can intervene in the market.
Denmark DSFA	Yes - The exchange’s rules are only applicable to the members of the exchange. Under those rules, the members are responsible for the conduct of business of their clients with regard to their market activity, and are required to have appropriate systems and controls to ensure this.

Dubai DFSA	Yes - Without limiting the application of Article 75 of the Regulatory Law 2004, the DFSA may, by written notice direct an Authorised Market Institution to a number of actions including closing a market operated by an Authorised Market Institution, suspending transactions on the market, suspend transactions in Investments conducted on the market, prohibit trading in Investments conducted on the market, defer for a specified period the completion date of transactions conducted on the market, do any act or thing in order to ensure an orderly market or reduce risk to the DFSA's objectives.
France	Yes – The exchange rules provide for the types of measures mentioned in this key question, although there is little experience in the use of such measures as a means to address abuse.
Germany BaFin	Yes - According to § 4(2) German Securities Trading Act BaFin may issue all orders appropriate and necessary to prevent disorderly trading. Any such measures are market related and may affect members and non-members alike. The pending MiFID revision aims at granting national competent authorities within the EU pertinent powers to be exercised against members and non-members alike.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – <u>HKFE</u> According to the rules of HKFE and its clearing house, HKFE (or its clearing house) can raise the level of margin, impose trading limits and liquidate positions, as well as removing trading privileges. <u>HKMEx</u> - Rule 5.16.2 of HKMEx rulebook provides that the Emergency Committee may direct any Member without limitation to take certain actions or desist from any action, including but not limited to closing out all or part of any positions held by it for its own or a client's account, action in relation to physical positions held and/or imposing higher margin requirements for any Exchange Contracts on any client or type of clients. A failure by a Member to follow such a direction will constitute a breach of the Rules and conduct detrimental to the Exchange. In general, exchange/clearing houses in Hong Kong do not deal with non-members directly. Non-members are clients of clearing members and they must deposit client margin to the clearing members, and the clearing members then deposit clearing house margin to the clearing house. However, clearing houses would determine the amount of margin that a clearing member should collect from its client (which is a non-member). If the client fails to meet the margin requirement, the clearing member can take action against the client including closing out of position.
Hungary FSA	Yes – The regulator, HFSA, has the power to require the exchange to intervene and use its authority that was described in the answer to Principle 18, question 1.
India FMC	Yes - Powers are provided to Market Authorities (Exchanges) as per their bye-laws, rules and regulations. Powers are provided to Regulator through FCRA, 1952.
Japan METI	Yes - Pursuant to Article 118 of CDA, when an excessive volume of transactions is carried out or is likely to be carried out through cornering, bear raids or any other method or an unfair amount of consideration or contract price is formed or is likely to be formed on a Commodity Market, if the competent minister finds it necessary to maintain the order of the commodity market and to protect the public interest, he/she may order restrictions on a market participant to accept consignment of transactions directly or through a commodity exchange. TOCOM also may order their market participants to restrict their accepting consignment of transactions.
Japan MAFF	Yes - Pursuant to Article 118 of CDA, when an excessive volume of transactions is carried out or is likely to be carried out through cornering, bear raids or any other method or an unfair aMoUnt of consideration or contract price is formed or is likely to be formed on a commodity market, if the competent minister finds it necessary to maintain the order of the Commodity Market and to protect the public interest, he/she may order restrictions on a market participant to accept consignment of transactions directly or through a commodity exchange. TOCOM also may order their market participants to restrict their accepting consignment of transactions.
Korea	Yes - Pursuant to Art.413, the FSC may in case of emergency, order the alternation of opening hours of the KRX, suspension of transactions or temporary closing of the securities market, or take other necessary measures.
Luxembourg	Yes - The <u>CSSF</u> may order the cessation of any practice contrary to the law on market abuse, suspend trading of the financial instruments

	concerned or pronounce professional activity in the financial sector by persons subject to its prudential supervision (Article 29 of the MAD law). See also answers to key question key question 1 principle 18 and to key question 2 of principle 1 for <u>Luxembourg Stock Exchange</u> .
Malaysia	Yes - <u>Margin</u> will be determined by the Derivatives Clearing House for the purpose of managing foreseeable risk using a risk-based algorithm. (Rule 613 of the Rules of BMDC). The Derivatives Clearing House may also determine the margin required from each Clearing Participant having regard to the open position of that Clearing Participant. <u>Liquidating Positions</u> - The Exchange can order the participant to liquidate such portion of the participant's open position on its proprietary and/or client's account or to transfer existing positions to another Clearing Participant or prescribe restrictions on positions. (Rule 401.4 (i)(j) of the Rules of BMD). <u>Trading Limits</u> - The SC and the Exchange may impose a limit on the positions that any one person may hold or control in any one contract or all contracts combined. (Section 101 of the CMSA and Rule 613 of the Rules of BMD). <u>Trading Privileges</u> – The Exchange can caution or reprimand, fine, suspend or restrict activities and strike off or terminate its participants for breaches of the provisions in the business rule (Section 101 of the CMSA and Rule 613 of the Rules of BMD).
Mexico CNBV	Yes - In general terms, the Commission and the Central Counterparty have powers to order the derivatives exchange to suspend transactions of market participants (Rule 40 of the Rules for companies and trusts that intervene in the establishment and operation of the futures and options market).
Netherlands AFM	Yes - The exchange's rules are only applicable to the members of the exchange. Under those rules, the members are responsible for the conduct of business of their clients with regard to their market activity, and are required to have appropriate systems and controls to ensure this. The AFM has the possibility to sanction or intervene against non-compliant behavior by a member or non-member directly.
Norway FSAN	Yes. In general this is covered by the Norwegian Exchange Act and the Securities Trading Act. This is normally regulated through the trading/clearing rules. FSAN may require changes in these rules. Issues related to the risk of exchange and/or clearing business will be reported to/monitored by FSAN.
Panama	Yes – Same response as for Principle 19, question 1.
Portugal CMVM	Yes - The CMVM may direct orders to market operators, including replacement of any market operator or CCP where those entities do not adopt the necessary measures to address any irregularities that put at risk the regular functioning of the market. Market operators may also restrict market access to certain players (see answer in Principle 19, question 1).
Romania	Yes - The CMVM may direct orders to market operators, including replacement of any market operator or CCP where those entities do not adopt the necessary measures to address any irregularities that put at risk the regular functioning of the market. Market operators may also restrict market access to certain players (see answers to Principle 19 Q1).
Saudi Arabia CMA	Yes - See response above to Principle 18.1. based on CML Art.59. The powers listed there apply accordingly to non-members.
Singapore MAS	Yes - MAS has powers to direct AEs to take action (including the actions listed above) to maintain or restore orderly trading in the markets under section 34 of the SFA.
South Africa	No.
Switzerland FINMA	Yes - FINMA is empowered to intervene based on Art. 1 and 6 of Sesta and Art. 5 of FINMAG.
Turkey	Yes - TurkDEX is able to intervene in such situations by executive management decision.
United Arab Emirates SCA	No Response.
U.K. FSA	Yes - The exchange's rules are only applicable to the members of the exchange. Under those rules, the members are responsible for the conduct of business of their clients with regard to their market activity, and are required to have appropriate systems and controls to ensure this. As

	such, an RIE has more limited grip on the client of members than it does on the members themselves. Where a client performs abusive practices, the RIE can step in and sanction the member through which it trades, who remain ultimately responsible for the conduct of the client. The FSA could, after due process and in appropriate circumstances, use its power of direction under section 297 of FSMA as set out in REC [4.6.] to compel a RIE to take appropriate action if the FSA judged it necessary and the RIE took a different view.
U.S. CFTC	Yes - Section 8a(9) of the Act gives the CFTC emergency powers to direct an exchange, whenever it has reason to believe that an emergency exists, to take such action as in the CFTC's judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including, but not limited to, the settling of temporary emergency margin levels on any futures contract, and the fixing of limits that may apply to a market position acquired in good faith prior to the effective date of the CFTC's action.

Principle 20: Information Sharing - *Market Authorities should cooperate with one another, both domestically and outside the jurisdiction, to share information for surveillance and disciplinary purposes. In particular Market Authorities should have arrangements that allow them to share information on large exposures in linked markets and on supplies relative to these markets. These arrangements should take account of (as applicable):*

- i. The Exchange International Information Sharing Memorandum of Understanding and Agreement (Exchange International MoU and the Declaration on Cooperation and Supervision of International Futures Exchanges and Clearing Organizations (Declaration), which facilitate the identification of large exposures by firms that could have a potentially adverse effect on multiple markets;*
- ii. The IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMoU); and*
- iii. Guidance issued by IOSCO in respect of information sharing, such as IOSCO's Principles Regarding Cross-Border Supervisory Cooperation, Report on Multi-jurisdictional Information Sharing for Market Oversight, and Guidance on Information Sharing.*

Question 1	Are Market Authorities able to cooperate with one another, both domestically, including spot market regulators, and outside the jurisdiction, to share information for surveillance and enforcement purposes?
Argentina CNV	Yes - CNV has signed over than 27 bilateral MoUs, the most recent with the European Securities and Market Authority in April 2012. These agreements allow the Commission to have an adequate level of international cooperation. Currently, CNV is implementing courses of action for the signature of MMoU.
Australia ASIC	Yes - In general, ASIC can provide domestic regulators/authorities and foreign governments/agencies with information pursuant to section 127 of the Australian Securities and Investments Commission Act 2001 (ASIC Act). Section 127 ASIC Act requires ASIC to take reasonable measures to prevent unauthorized use and disclosure of confidential information. However, section 127 ASIC Act also provides that, in certain circumstances, ASIC is authorized to use and disclose confidential and protected information in its possession. The type of information that ASIC is authorised to release pursuant to s127 ASIC Act is not prescribed. It may relate to, but is not limited to, information on matters of investigation and enforcement, licensing, surveillance activities, market conditions and events, client identification, regulated entities including companies, financial service providers, market operators and operators of collective investment schemes.
Brazil CVM	Yes - CVM qualifies as an 'A' signatory to the IOSCO MMoU, which ensures full cooperation with foreign jurisdictions. Within the domestic jurisdiction, the Market Authority signed information-sharing agreements with several local authorities, such as the Central Bank, Private Insurance Authority (SUSEP), Pension Funds Authority (PREVIC), Internal Revenue Service (SRF), among others. Such agreements

	streamline information sharing for surveillance and enforcement purposes.
Canada AMF	Yes - The Memoranda of Understanding currently in place between the AMF and other signatories allow it to share information and cooperate with other jurisdictions under the Québec Derivatives Act.
Canada ASC	Yes - ASC participates in cross-border regulation and information sharing, specifically by involvement in compliance discussion with other domestic regulators and memoranda of understanding with IOSCO, the U.S. Securities and Exchange Commission (SEC), Australian Securities & Investments Commission (ASIC) and the U.S. Commodity Futures Trading Commission (CFTC). The Canadian provincial authorities have in place information sharing agreements, so the coordination of surveillance and enforcement issues is possible throughout Canada.
Canada OSC	Yes - As an animating principle, section 153 of the Securities Act and s. 85 of the Commodity Futures Act stipulate that the Ontario Securities Commission can, notwithstanding privacy legislation, provide information to and receive information from a variety of bodies, both in Canada and elsewhere including, other securities, derivatives and financial regulatory authorities, exchanges, SROs, law enforcement agencies, and other governmental authorities. The Commission will first determine the appropriateness of another authority's request. The Commission may consider the 'status' of the requesting authority. Another consideration will be the use to which the requested information will be put. In the absence of a formal MoU between the Commission and the requesting authority, the Commission may first require that the requesting authority to set forth a written request containing confidentiality provisions and agree to restrictions that the Commission may impose. <u>MoUs</u> -The Commission has entered into a variety of bilateral MoUs; however, for purposes of information-sharing, the most utilized information-sharing gateway is the IOSCO MMoU to which the Commission became a signatory in October 2002.
Canada MSC	Yes - s. 2(4) of the Act allows for the Commission to make arrangements with any other regulatory authorities, including the sharing of information and other assistance. Section 6(1)(b) also provides that the Commission may appoint or make an order for an investigator to assist in administering the securities laws of another jurisdiction.
China CSRC	Yes - In the Regulations, the CSRC can establish information sharing and a cooperative mechanism with other authorities under the State Council and with futures market regulators in other jurisdictions in order to enhance cross-border regulation. The CSRC has long been promoting and strengthening its cooperation with financial market regulatory authorities in other jurisdictions. By the end of April 2012, the CSRC has signed 52 MOUs with regulatory authorities in 48 jurisdictions.
Chinese Taipei	Yes – Under FTA 6 and Taifex Operating rules and Taifex Positions rules the Competent Authority may, with the approval by the Executive, enter into cooperation agreements with foreign government agencies, institutions, or international organizations to facilitate matters such as information exchange, technical cooperation, and investigation assistance. The Competent Authority may, with the approval by the Executive Yuan, authorize other agencies, institutions or associations to enter into the cooperation agreements as referred to in the preceding paragraph. Unless otherwise conflicting with the interests of the state or the rights of the investing public, the Competent Authority may request the provision of the necessary information and records from related regulatory authorities or financial institutions, and provide them to the requesting foreign government agency, institution, or international organization which has executed cooperation agreements based on the principles of reciprocity and confidentiality.
Denmark DSFA	Yes – Denmark is party to the IOSCO MMoU, CESR MMoU, and bilateral MoU's and can share information pursuant to these agreements.
Dubai DFSA	Yes - Article 7 (8) (i) of Dubai Law No. 9 of 2004 provides the DFSA with the authority to enter into information sharing memoranda of understanding to facilitate that function. DFSA now has 55 bilateral Memoranda of Understanding with regulatory authorities in different jurisdictions. The DFSA has also signed 4 Multi-lateral MoUs which are: the International Organisation of Securities Commissions (IOSCO), the Boca Declaration, the Asian-Oceanian Standard-Setters Group (AOSSG) and the International Association of Insurance Supervisors (IAIS).
France AMF	Yes - <u>Regulator</u> – the AMF is a signatory "A" to the IOSCO MMoU. The AMF also complies with the IOSCO Principles regarding cross-border supervisory cooperation. The monetary and financial code foresees international cooperation in line with the IOSCO principles and MMoU.

Germany BaFin	Yes - <u>Domestically</u> , according to §6 (2) German Securities Trading Act the BaFin and a variety of other German regulators shall communicate to each other any observations and findings, including personal data, which may be necessary for the performance of their functions. Section §7(1) and (2) of German Securities Trading Act require BaFin to cooperate with competent European Union and European Economic Area authorities and transmit information without delay. BaFin may also share information for surveillance and enforcement purposes with competent authorities of countries other than those mentioned above. According to §7 (7) German Securities Trading Act BaFin may work in cooperation with them and conclude agreements on the exchange of information. This framework concerns also memoranda of understanding.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	Yes – <u>SFC</u> has signed a number of MoUs with HKEx including the MoU on Matters Relating to SFC Oversight, Supervision of Exchange Participants and Market Surveillance. In respect of international cooperation, the SFC is a signatory to the IOSCO MMoU since March 2003. Moreover, the SFC has signed a number of bilateral MoUs with regulators around the world.
Hungary FSA	Yes – <u>Regulator</u> : The HFSA is a signatory to the IOSCO MMoU and can share information with other regulators through that document.
India FMC	No.
Japan METI	Yes – <u>Domestic</u> - In Japan, the regulation of derivative trading is conducted by the regulator of the underlying commodity. In the case of METI, the divisions responsible for physical commodities and for commodity derivatives have a daily exchange of information which includes quotations and market conditions. <u>Foreign Regulators</u> - Article 349-2 of CDA empowers METI to order a person (including both registrants and non-registrants) to submit a report or materials that provide information, as assistance to a Foreign Market Regulatory Authority making administrative investigation of violations or potential violations of the laws, rules or regulations relating to commodity derivatives matters administered or enforced by that authority. Since METI is a signatory of both IOSCO's Multilateral Memorandum of Understanding concerning Consultation and Cooperation and the Exchange of Information (IOSCO MMOU) and the Declaration on Cooperation and Supervision of International Futures Markets and Clearing Organizations (Boca Declaration), METI is able to coordinate to detect and enforce action against manipulation or abuse schemes that involve a foreign market.
Japan MAFF	Yes – <u>Domestic</u> - In Japan, the regulation of derivative trading is conducted by the regulator of the underlying commodity. In the case of MAFF, the divisions responsible for physical commodities and for commodity derivatives have a daily exchange of information which includes quotations and market conditions. <u>Foreign Regulators</u> - Article 349-2 of CDA empowers MAFF to order a person (including both registrants and non-registrants) to submit a report or materials that provide information, as assistance to a Foreign Market Regulatory Authority making administrative investigation of violations or potential violations of the laws, rules or regulations relating to commodity derivatives matters administered or enforced by that authority. Since MAFF is a signatory of both IOSCO's Multilateral Memorandum of Understanding concerning Consultation and Cooperation and the Exchange of Information (IOSCO MMOU) and the Declaration on Cooperation and Supervision of International Futures Markets and Clearing Organizations (Boca Declaration), MAFF is able to coordinate to detect and enforce action against manipulation or abuse schemes that involve a foreign market.
Korea	Yes – <u>Domestic</u> - The FSC/FSS regulates both the securities and derivatives/commodity derivatives market; therefore, problems do not arise with regard to the sharing of information. <u>Foreign Regulator</u> - the FSC/FSS may exchange information with the supervisory authority of financial investment business in a foreign country. However, information can only be supplied to a foreign regulator when such materials shall not be used for any purpose other than the intended purpose of furnishing them and material relevant to the investigation shall be kept confidential.
Luxembourg	Yes - The CSSF signed the CESR MoU and is an “A” signatory of the IOSCO MMoU
Malaysia	Yes - The SC is able to engage with market regulators of the CPO market if necessary in order to share information for surveillance and enforcement purposes. The SC also has bilateral MoUs with foreign regulatory counterparts which include general provisions on information sharing. It is also a signatory to the Boca Declaration on Cooperation and Supervision of International Futures Markets and Clearing

	Organisations. In addition, as a signatory to the IOSCO Multilateral MOU, the SC is obligated to share information with other MMOU signatories in relation to enforcement activities. Bursa Malaysia also has bilateral MOUs with established exchanges to share information generally.
Mexico CNBV	Yes – <u>Domestic</u> - In Mexico, the regulation of derivatives transactions is shared between the Commission, the Ministry of Finance and the Central Bank. The Rules for companies and trusts that intervene in the establishment and operation of the futures and options market establishes the powers of each authority in relation to market participants and activities. There are agreements of understanding between these authorities in order to facilitate cooperation in relation to their respective powers. <u>Foreign Regulator</u> - Since the Commission is a signatory of both IOSCO's Multilateral Memorandum of Understanding concerning Consultation and Cooperation and the Exchange of Information (IOSCO MMOU), it could be able to coordinate to detect and help enforcement actions against manipulation or abuse schemes that involve a foreign market.
Netherlands AFM	Yes - The AFM is a signatory to the IOSCO and CESR MoUs. A system of memoranda of understanding' (MoUs) supports this bilateral exchange of information. Overall MoUs have been established in the context of ESMA (CESR) and IOSCO, and bilateral MoU are established between the AFM and other Market Authorities. Information requests come in the form of questionnaires or direct questions. A large number of these requests concern the practical application of European regulations, IOSCO, MoU or bilateral agreements. Apart from supervision information, the exchange of information involves general issues, such as information on the day-to-day exercise of supervision, the interpretation of regulations and on the internal organization.
Norway FSN	Yes - FSN is a signatory of the IOSCO MMOU. FSN may also ask for information directly if it is a member of a Norwegian Regulated market and in cases related to products listed in Norway. FSN also has a formal obligation of cooperation in EEA-EU cross-border issues with all member states. It is possible to ask for information as part of an investigation. FSN has a MoU with the authority for physical electricity market and the competition authority in order to do joint investigations and market development where necessary.
Panama	Yes - The Superintendency of Securities Market has an MoU with national and international authorities to cooperate, to share information whenever it is published and is not covered by the character of confidentiality.
Portugal CMVM	Yes - According to the Portuguese Securities Code, the CMVM shall cooperate with other domestic authorities and institutions, as well as with foreign counterparts. The cooperation carried out by the CMVM shall conform to the principles of reciprocity, duty of professional secrecy and restricted use of the information for the purposes of supervision/enforcement. Regarding the MIBEL markets, there is a MIBEL Regulators Council, which 4 authorities have signed a MoU, both the financial and energy authorities from Portugal and Spain. The CMVM has signed the IOSCO and CESR /ESMA MMOUs.
Romania	Yes - Based on its Statute (Law 514/2002), CNVM may collaborate with any domestic and international authorities/entities in order to fulfill its objective of supervision and enforcement. Also, CNVM is signatory of the IOSCO MMOU, Annex A. Within the framework of this Memorandum of Understanding, CNVM provides for mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws and Regulations of its jurisdiction.
Saudi Arabia CMA	Yes - The CMA is the only domestic regulator in the KSA. As far as international cooperation is concerned, the CMA is a full signatory to the IOSCO MMOU. It is not a signatory to the International Exchange MoU or the Declaration, as the KSA does not yet have a listed futures and options market.
Singapore MAS	Yes – <u>Foreign regulator</u> - MAS is a signatory to the IOSCO MMOU and MAS can provide assistance to a regulatory authority of a foreign country subject to conditions under sections 170 to 172 of the SFA. <u>Exchanges</u> - SGX-DT Rule 1.3.2 allows SGX-DT to enter into arrangements with other exchanges or regulators both domestically and outside Singapore. SGX-DT Rule 1.4.4 permits SGX-DT to disclose confidential information concerning its member pursuant to any cross-border regulatory sharing arrangement. <u>Domestic</u> - SMX Rule 7.5 allows SMX to cooperate with MAS, any governmental or statutory body, self-regulatory organisation or enforcement agency in Singapore. SMX Rule 2.13 allows SMX to disclose confidential information for any regulatory sharing arrangement.
South Africa	Yes - JSE has a number of MoUs signed with other exchanges to share information for surveillance and other information. The FSB is a

	signatory to the IOSCO MMoU as well as the CISNA MMoU. The FSB has also signed over 50 bilateral MoUs with various jurisdictions.
Switzerland FINMA	Yes –FINMA respects the Principles Regarding Cross-Border Supervisory Cooperation from 2010. For specific cases of supervisory cooperation, MoUs are concluded with the relevant foreign authorities (e.g. MoU with SEC regarding EUREX participation in ISE). Furthermore, as already mentioned, FINMA is a signatory of the IOSCO MMoU of 2002 which relates to enforcement issues. Regarding supervisory issues, Swiss law permits cooperation with foreign authorities on a case per case basis.
Turkey	No.
United Arab Emirates SCA	No Response.
U.K. FSA	Yes - Exercise of power in support of an overseas regulator is set out in the Financial Services and Markets Act section XIII. Article 195 of the Act states that ‘The Authority may exercise its power of intervention in respect of an incoming firm at the request of or for the purpose of assisting an overseas regulator. An overseas regulator means an authority in a country or territory outside the United Kingdom. <u>MoUs</u> - The UK Financial Services Authority is an ‘A’ signatory to the IOSCO MMoU. Section 7 of the MMoU details the provisions for sharing information in the section titled ‘Scope of Assistance’. In addition our Exchanges are signatories to the International Exchange MMoU.
U.S. CFTC	Yes - The CFTC can share information with domestic and foreign regulators on: i) Matters of investigation and enforcement; ii) Determinations in connection with authorization, licensing or approvals; iii) Surveillance; iv) Market conditions and events; v) Client identification; vi) Regulated entities; vii) Listed companies and companies that go public. For <u>domestic information sharing</u> , the CFTC has the authority to share all of the information enumerated in (a)-(g) in the key question which is obtained in the course of its administration of the CEA or pursuant to the exercise of its subpoena powers under Section 6(c) of the CEA, 7 U.S.C. 15, subject to the restrictions set forth in Section 8(e). That is, no information furnished to any domestic regulator, department or agency shall be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, the CFTC, or the United States is a party. For <u>foreign regulators</u> , The CFTC has the authority to share the information enumerated in (a)-(g) above with foreign futures authorities and certain other foreign authorities, subject to certain conditions. The CFTC may communicate public information without restriction. Section 8(e) of the CEA places certain restrictions on the ability of the CFTC to provide access to its existing non-public files to foreign futures authorities and certain other foreign authorities. MoUs - The CFTC has entered into numerous information-sharing arrangements with non-US regulatory authorities. In addition, the CFTC is a signatory to the Boca Declaration and IOSCO MMoU.

Question 2	Do Market Authorities have arrangements that allow them to share information on large exposures in linked markets and on supplies relative to these markets?
Argentina CNV	N/A.
Australia ASIC	Yes - ASIC is authorized to use and disclose confidential and protected information in its possession, subject to certain restrictions and conditions, pursuant to section 127 ASIC Act. Please see the response to Question 1 above for authorized disclosures and response to Question 3 for restrictions and conditions.
Brazil CVM	N/A.
Canada AMF	Yes - The AMF has memoranda signed with most international jurisdictions but not all.
Canada ASC	Yes - The ASC participates in cross-border regulation and information sharing and has entered into memoranda of understanding with IOSCO,

	the U.S. Commodity Futures Trading Commission (CFTC) and the U.S. Securities and Exchange Commission (SEC). The ASC has arrangements, formal and informal, with other appropriate Alberta, Canadian and international regulators for sharing information on large exposures of common market participants and on related products.
Canada OSC	N/A.
Canada MSC	N/A.
China CSRC	N/A.
Chinese Taipei	N/A.
Denmark DSFA	N/A.
Dubai DFSA	Yes - DFSA has such arrangements in place pursuant to bilateral and IOSCO multilateral MoU's to share this information ahead of developing volumes. These circumstances of volume may change and in such an event DFSA can and may change its scope of monitoring.
France AMF	N/A.
Germany BaFin	Yes – See response to Principle 20, question 1, above.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	N/A.
Hungary FSA	N/A.
India FMC	No.
Japan METI	N/A.
Japan MAFF	N/A.
Korea	N/A.
Luxembourg	Yes - The CSSF shares any confidential information within the scope of IOSCO MMoU.
Malaysia	N/A.
Mexico CNBV	N/A.
Netherlands AFM	Yes - The AFM is able to share information with ESMA authorities following the requirements of the CESR Memorandum of Understanding ('MoU') signed on January 26, 1999. Any information received from such ESMA supervisor will be treated in accordance with section 6 of the MoU. The AFM is able to share information with IOSCO members following the requirements of IOSCO Memorandum of Understanding concerning consultation, cooperation, the exchange of information, confidentiality and the Dutch Financial Supervision Act.
Norway FSAN	Yes – see response to Principle 20, question 1.
Panama	N/A.
Portugal CMVM	Yes - Regarding the OMIP derivatives market, besides the arrangements within the MIBEL Regulators Council, a MoU between the 4 authorities has been signed, establishing mechanisms for cooperation and exchange of information regarding the spot and the derivatives markets, the management companies and the markets participants of MIBEL market.
Romania	N/A.
Saudi Arabia CMA	N/A.
Singapore	Yes - For a product traded in linked markets, MAS shall consider whether a formal information sharing arrangement exists between MAS and

MAS	the foreign regulator or whether the foreign regulator is also a signatory to the IOSCO MMOU before approving the product.
South Africa	N/A.
Switzerland FINMA	N/A.
Turkey	N/A.
United Arab Emirates SCA	No Response
U.K. FSA	Yes - The FSA is signatory to an MoU with the CFTC which covers information sharing in the case of contracts that are linked on UK RIEs and US DCMs. The US is the only jurisdiction with which the FSA has this arrangement due to being the only jurisdiction in which there are linked contracts in effect (energy contracts traded on both ICE and NYMEX).
U.S. CFTC	Yes – The CFTC has attached additional conditions to staff direct access no-action letters issued to foreign boards of trade that elect to list for direct access from the U.S. contracts which settle against any price, including the daily or final settlement price, of a contract listed for trading on a registered entity linked contract. Regulation 48.8(c) sets conditions for linked contracts, such that the FBOT must make public certain daily trading information regarding the linked contract; (ii) the FBOT (or its regulatory authority) must (A) adopt position limits for the linked contract that are comparable to the position limits adopted by the registered entity; (B) have the authority to require or direct market participants to limit, reduce, or liquidate any position the FBOT; (C) agree to promptly notify the Commission, with regard to the linked contract, of any changes with respect to (i) and (ii) above and any other area of interest expressed by the Commission to the FBOT or its regulatory authority; (D) provide information to the Commission regarding large trader positions in the linked contract that is comparable to the large trader position information collected by the Commission for the contract to which it is linked; and (E) provide the Commission such information as is necessary to publish reports on aggregate trader positions for the linked contract that are comparable to such reports on aggregate trader positions for the contract to which it is linked.

Question 3	Please indicate if there are any blocking laws or other restrictions or conditions on the sharing of information. If Yes, please explain.
Argentina CNV	Yes - CNV has made a proposal to amend the Public Offering of Securities Law N° 17,811 that is under analysis in the Ministry of Economy. The draft reform proposes in terms of mechanisms for cooperation and exchange of information, among other things, disabling bank secrecy which currently exists in the Financial Institutions Act.
Australia ASIC	Yes – ASIC has Section 127 which requires ASIC take reasonable measures to prevent the unauthorized use and disclosure of confidential information. Additionally, the Chairman may impose conditions on the releases of information that require the information only be used internally, that SCIA be notified before the information is published or that the information only be used for certain purposes. The ASIC Act only empowers ASIC to share information that is already in our possession or that we are able to collect for our own purposes. If ASIC does not have information in its possession, but has an independent interest in the matter because of suspected contraventions of legislation it administers, ASIC may require information and documents to be produced to it under the ASIC Act.
Brazil CVM	No.
Canada AMF	Yes – The Act respecting the Autorité des marchés financiers R.S.Q., Chapter A-33.2 stipulates in Article 16 that “No person employed by the Authority or authorized by the Authority to exercise the powers to make an inspection or inquiry shall communicate or allow to be communicated to anyone information obtained under this Act... unless the person is authorized to do so by the Authority.” The Quebec Securities Act L.R.Q., Chapter V-1.1 under section 297 and 297.1 states further that, “Investigation reports, inspection reports and supporting evidence may be inspected only with the authorization of the Authority, notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information” (QSA 297)

Canada ASC	No.
Canada OSC	No.
Canada MSC	Yes - Yes, provincial privacy legislation places limits on the collection and use of personal information. However, privacy legislation and the Act do allow for the sharing of personal information for certain specified purposes, including enforcement.
China CSRC	Yes - Information sharing in futures market regulation has certain legal limitations and pre-conditions. The Law of Guarding State Secrets stipulates that, “Any information shall, concerning national security or interests, or that could harm the national security or interests in areas including but not limited to politics, economy, national defense and diplomacy, be regarded as state secrets.” “When state secrets need to be provided for the benefits of international communication and co-operation, it shall be approved by the related governmental department at the state, province, autonomous region or a municipality directly under the Central Government level, and confidentiality agreement shall be signed with this regard.” As set forth in the Information Disclosure Regulations of CSRC, the CSRC and its regional offices shall preview and examine the regulatory information to be disclosed, pursuant to the Law of Guarding State Secrets and the CSRC regulations on confidentiality. Also, as provided in the Regulations for Information Disclosure of CSRC, the CSRC can decline to provide regulatory information when the information request is not related to the needs of its business, life or R&D by citizens, legal entities, or any other organizations. The CSRC can also decline to respond to any request for regulatory information, which may harm futures market operation, legitimate interests of investors, national security, public security, economic security or social stability.
Chinese Taipei	No Response.
Denmark DSFA	No.
Dubai DFSA	No.
France AMF	Yes. A legislative provision restricts the possibility to communicate certain information to foreign persons, including foreign regulators. The law provides however, for a number of exceptions that allow for international supervisory and enforcement cooperation in line with the international standards.
Germany BaFin	No - With respect to the communication of personal data the restrictions of the Federal Data Protection Act (Bundesdatenschutzgesetz) apply. However, these do not interfere with the exchange of information as required under the IOSCO MMoU.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	No.
Hungary FSA	Yes – the Act on HFSA Section 112 (1)-(3) defines the purposes that HFSA is allowed to share information.
India FMC	No.
Japan METI	N/A.
Japan MAFF	N/A.
Korea	No.
Luxembourg	No.
Malaysia	No
Mexico CNBV	Yes - Derivative transactions are performed through financial entities, and those are subject to protection under the banking, fiduciary or secrecy regulation. This impedes free information sharing about their transactions and establishes cases, procedures, and persons to whom the information could be revealed.
Netherlands	Yes - Our duty of confidentiality can stand in the way of the sharing of information (Art. 1:89 Wft). To be able to share information, certain

AFM	conditions need to be met, as stipulated in Chapter 1.3 Wft (on the provisions for national, and European cooperation).
Norway FSAN	No - Blocking laws that prevent sharing formation related to trading in financial instruments.
Panama	No.
Portugal CMVM	No.
Romania	No.
Saudi Arabia CMA	No.
Singapore MAS	No.
South Africa	No.
Switzerland FINMA	Yes – Banking secrecy laws.
Turkey	No.
United Arab Emirates SCA	No Response.
U.K. FSA	No.
U.S. CFTC	No.

Principle 21: Commodity Derivatives Market Transparency. Market Authorities should publish the aggregate exposures of different classes of large traders, especially commercial and non-commercial participants, within the bounds of maintaining trader confidence.

Question 1	Do Market Authorities publish the aggregate positions of different classes of large traders, especially commercial and Non-commercial participants, within the bounds of maintaining confidentiality?
Argentina CNV	No.
Australia ASIC	No. At present ASX 24, as the market operator for the commodity derivatives, publishes a "Monthly Volume and Open Interest Report". This report includes data of volumes and total open interest for the commodity derivatives but does not break into further detail for different classes and traders and aggregate positions.
Brazil CVM	Yes - The Exchange publishes a Daily Bulletin that informs the aggregate position, per contract, of different classes of participants. Currently, the class breakdown for commodities derivatives contracts is for: i) Financial Institutions; ii) Local Institutional Investors; iii) Nonresident Investors (broken down between those regulated by Resolution 2689 and Resolution 2687); iv) Corporations; v) Individuals.
Canada AMF	No.
Canada ASC	No. However, publication of aggregate positions will be addressed by the regulation of trade repositories in Canada, the proposed rules for which are expected to be finalized by in late 2012.
Canada OSC	N/A.
Canada MSC	No.
China CSRC	No – The futures exchanges publish their members' open interest and trading volumes which aggregated from traders, pursuant to the

	<i>Regulations and the Futures Exchanges Regulations.</i> The CSRC is considering studying the feasibility of CFTC COT reports.
Chinese Taipei	Yes – Taifex publishes the aggregated buy side and sell side positions of the top 5 and top 10 largest positions in each contract available at, http://www.taifex.com.tw/eng/eng3/eng7_8.asp
Denmark DSFA	No.
Dubai DFSA	No.
France AMF	No. However, such publications are provided for in MiFID II, which is currently under negotiation. Pending entry into force of MiFID II in the EU, the AMF is discussing with the relevant exchanges and clearing houses the possibility to introduce such a regime in France.
Germany BaFin	No. However, Art. 60 of the proposed MiFID amendment Member States shall ensure that regulated markets, MTFs, and OTFs which admit to trading or trade commodity derivatives or emission allowances or derivatives thereof: make public a weekly report with the aggregate positions held by the different categories of traders for the different financial instruments traded on their platforms.
Greece HCMC	See response to Principle 1, Question 1.
Gibraltar FSC	See response to Principle 1, Question 1.
Hong Kong SFC	No. While SFC and HKFE said there are no plans for this type of report, HKMEx said it will consider this at an appropriate juncture after market activities and open interest have built up.
Hungary FSA	No.
India FMC	No = However, Such plans are being finalized and will be very soon implemented by SROs.
Japan METI	Yes - <u>TOCOM</u> publishes, on the websites below, the aggregate positions of different classes of traders by two categories and by seven categories every business day. http://www.tocom.or.jp/souba/torikumi2/index.html and http://www.tocom.or.jp/souba/torikumi/index.html .
Japan MAFF	Yes - <u>TGE</u> publishes, on the websites below, the aggregate positions of different classes of traders by two categories and by seven categories every business day. http://www.tge.or.jp/english/trading/kumi_2.shtml and http://www.tge.or.jp/english/trading/kumi_7.shtml .
Korea	No.
Luxembourg	No.
Malaysia	No.
Mexico CNBV	No.
Netherlands AFM	No. However, Art. 60 of the proposed MiFID amendment Member States shall ensure that regulated markets, MTFs, and OTFs which admit to trading or trade commodity derivatives or emission allowances or derivatives thereof: (a) make public a weekly report with the aggregate positions held by the different categories of traders for the different financial instruments traded on their platforms.
Norway FSAN	No.
Panama	No.
Portugal CMVM	No.
Romania	No = However, Article 48 of the Romanian Clearing House requires that the it must be reported to the clearing house when: i) a client account reaches 5% open interest for an individual contract and settlement date and ii) when a house account accumulates over 10% open interest for an individual contract and settlement date. These reports will be made public by posting them on the website www.sibex.ro/crc under the “Announcements” section, without showing the names of the owners, but showing the percentages owned.
Saudi Arabia CMA	No - At present there is no commodity derivatives market in Saudi Arabia.
Singapore	No.

MAS	
South Africa	No - However, this is under investigation taking into account the size of the market and number of participants involved in the commodity market.
Switzerland FINMA	No.
Turkey	No - However, after the introduction of the New Capital Markets Law the issue will be reconsidered.
United Arab Emirates SCA	No Response.
U.K. FSA	Yes – <u>LIFFE</u> provides a commitment of trader report (COT) every Monday at 12.00. In relation to positions held and reported to the Exchange as at the close of business on the previous Tuesday. The COT reports show a breakdown of open interest across certain pre-defined categories of position. The classifications used by the Exchange are compatible with the CFTC definitions. <u>ICE</u> publishes weekly commitment of Trader (COT) reports which provide weekly data on categories of traders holding open interest in futures contracts with more than 20 participants. ICE provides the CFTC with data on U.S. based contracts including the US Dollar Index, benchmark agriculture products, and several OTC power contracts. From June last year, ICE Futures Europe began publishing weekly COT reports on Brent and Gasoil. These reports are based on the reporting levels set by the CFTC. <u>LME</u> does not currently provide COT reports which split commercial and non-commercial participants. However, under MiFID II, this reporting will be mandatory.
U.S. CFTC	Yes - CFTC publishes weekly aggregate exposures for different classes of large traders for contracts with twenty or more traders above the reportable level for that contract. The COT reports provide a breakdown of each Tuesday's open interest for markets in which twenty or more traders hold positions equal to or above the reporting levels established by the CFTC. The weekly reports for Futures-Only Commitments of Traders and for Futures-and-Options-Combined Commitments of Traders are released every Friday at 3:30 p.m. Eastern time. Since 2009 traders are classified into four categories: (1) producers and merchants; (2) swap dealers; (3) managed funds; and (4) other market participants. The enhanced data will keep market participants and the public better informed about the positions of various types of traders.

Principle 22: OTC transparency – IOSCO Members should promote the reporting of OTC commodity derivatives contracts to trade repositories in order to improve transparency, mitigate systemic risk, and protect against market abuse in commodity derivatives markets. The relevant governmental regulator of commodity derivatives markets should work with regulators responsible for trade repositories to (1) evaluate what improvements are appropriate to enhance the usefulness of, and access by regulators to and disclosure to the public of, OTC commodity derivatives market data that is reported to trade repositories and (2) take affirmative steps such as encouraging ongoing work by the industry, rulemaking or recommending legislative changes to achieve these objectives.

No Key Questions.

I. Background for this Survey

In September 2011, the IOSCO Technical Committee adopted the report “*Principles for the Regulation and Supervision of Commodity Derivatives Markets*”¹ (“Principles”). The Technical Committee also approved a mandate submitted by the Task Force on Commodity Futures Markets (Task Force).

That mandate included a comparative analysis of the scope of regulation in the commodity derivatives market by Task Force members, in order to describe the specific means by which, and by whom, the principles for Regulation and Supervision of Commodity Derivatives Markets are implemented in their jurisdictions.

In the Cannes Summit Final Declaration (November 4, 2011), subsequent to IOSCO’s approval, the Leaders called on IOSCO to report on the implementation of its recommendations by the end of 2012:²

Commodity markets. *We welcome the G20 study group report on commodities and endorse IOSCO’s report and its common principles for the regulation and supervision of commodity derivatives markets. We need to ensure enhanced market transparency, both on cash and financial commodity markets, including OTC, and achieve appropriate regulation and supervision of participants in these markets. Market regulators and authorities should be granted effective intervention powers to address disorderly markets and prevent market abuses. In particular, market regulators should have, and use formal position management powers, including the power to set ex-ante position limits, particularly in the delivery month where appropriate, among other powers of intervention. We call on IOSCO to report on the implementation of its recommendations by the end of 2012.*

This survey is the first step in meeting the above referenced Technical Committee mandate and the G20 expectations.

II. Questions and Answers to Guide Completion of this Survey

Q.1 Who is expected to complete the survey?

Answer: The IOSCO ordinary and associate member as the governmental “Market Authority,” to complete the survey. Note however, that the survey adopts the convention of the Principles report that defines “Market Authority” broadly as follows:

¹ <http://www.iosco.org/library/index.cfm?section=pubdocs> .

² See ¶32 Cannes Summit Final
<http://www.g20.org/Documents2011/11/Cannes%20Declaration%204%20November%202011.pdf>

Unless otherwise specifically noted, the term “Market Authority” used in these Principles means either: i) the governmental regulator, ii) an SRO or iii) the regulated market. This broad definition is used in order to accommodate the varied supervisory practices used by IOSCO members. Accordingly, these Principles do not prescribe what type of Market Authority or combination of Authorities should be responsible for the regulation and supervision of commodity derivatives markets in a particular jurisdiction.

Accordingly, throughout the survey the IOSCO member will, depending upon the structure in its jurisdiction, need to identify or explain the role played by other relevant Market Authorities in its jurisdiction (*i.e.*, regulated exchanges and self-regulatory organizations). For example, if exchanges initiate contract design, the IOSCO member should explain what review or approval procedures are carried out by the overseeing regulator (governmental or SRO).

Q.2 Which commodity derivatives contracts should be addressed in completing my answers?

Answer: The Principles report adopted a two-tier view with respect to the applicability of the Principles. As a general matter, the Principles are intended to apply primarily to exchange-traded futures contracts, options on futures contracts and options, for which the underlying reference interest is a physical commodity or physical commodity index or price series and which may settle in cash or by physical delivery. Accordingly the supervision of these markets should be viewed as the primary “target” of your responses.

The Report recognized, however, that in some cases, these Principles could also be applied to contracts where the underlying interest is a financial instrument or an intangible (*e.g.*, carbon credits).³ Accordingly, if your jurisdictional remit includes, and the principles are in fact being applied to, such “other” commodity derivatives contracts, you should indicate this in the first survey question.

The Report further recognized that it was being issued at a time of ongoing developments with respect to OTC derivatives regulation and that the extent of implementation of the G20 commitments on OTC derivatives varied substantially across jurisdictions. Although the Report stated that:

“The Principles for surveillance, disorderly markets, enforcement and information sharing and enhancing price discovery are generally applicable to Market Authorities’ oversight of OTC physical commodity derivatives markets.”

it made clear that:

“the extent to which the Principles can be specifically applied to OTC physical commodity derivatives and OTC physical commodity derivatives that will be executed on an electronic trading or execution facility in a particular IOSCO member’s jurisdiction

³ The Principles Report recognized that how a particular trading product is characterized will be determined by a jurisdiction’s national legislation

will depend upon the legislation and OTC derivatives infrastructure in a particular IOSCO member's jurisdiction."

Accordingly, if your jurisdictional remit includes, and the Principles are in fact being applied to, OTC derivatives – whether true OTC or OTC that are deemed to be “standardized” and required to be executed on an electronic trading platform -- you should indicate this in your response to the first question. You should mention any pending legislation or rules in this regard.

Q.3 What discussion is expected to support a “Yes” or “No” response.

Answer: As a general matter, you should provide a brief, but sufficiently comprehensive, discussion that supports a “Yes” response. A “No” response should indicate whether any actions have been or will be taken to correct any deficiencies. Further guidance may be set out below.

III. Survey Questions

A. Preliminary

Market Authority Completing the Survey

Question: Please identify the Market Authority completing this survey.

Please include a brief overview of the overall supervisory structure in your jurisdiction for commodity derivatives markets (e.g., a governmental regulator, a self-regulatory organization is responsible for market oversight, the exchanges (indicate whether they have self-regulatory responsibilities) and the governmental regulator exercises oversight compliance functions.

Jurisdictional Remit

Question: Please describe the types of commodity derivatives contracts that are within your jurisdictional remit and which are addressed in your responses. For purposes of this survey, you should consider references to “commodity derivatives contracts” as referring to such contracts that are within your jurisdictional remit and for which you are the primary regulator and “commodity derivatives market” as applying only to markets/exchanges offering those types of contracts.

B. Contract Design Principles

Principle 1: Accountability – Market Authorities should establish a clear framework as to design and review criteria or procedures for commodity derivatives contracts. Market Authorities should be accountable for compliance with statutory and/or self-regulatory standards on a continuing basis and should retain powers to address the provisions of existing contracts which produce manipulative or disorderly conditions. At a minimum a statutory Market Authority should have legal powers to address and where necessary to vary contract provisions which produce, or are deemed likely to produce, manipulative or disorderly conditions.

Key Questions:

1.

- (a) Is there a clear set of regulations, policy statements and/or guidelines, which in their totality, establish the framework that governs the design and/or review of commodity derivatives contracts in your jurisdiction?

Yes ____ No ____

If “Yes,” describe briefly how the framework operates and identify those statutes, rules or policies statements and/or guidelines (with internet links if possible).

- (b) Are there statutes, rules or other policies that impose a legal obligation on the relevant Market Authority to comply with relevant contract design standards on a continuing basis?

Yes ____ No ____

If “Yes,” identify the statute, rule or policy that imposes such obligation.

2.

- (a) Does the Market Authority have powers to address contract provisions which produce, or are deemed likely to produce, manipulative or disorderly conditions including, at a minimum, the power to vary contract provisions or suspend or even to terminate trading in a contract based on market integrity concerns?

Yes ____ No ____

If “Yes,” identify those statutes, rules or policies.

3.

- (a) How does the Market Authority that is responsible for analyzing commodity derivatives products monitor commercial practices in the physical commodity market that underlies a commodity derivatives contract?

Yes ____ No ____

If “Yes,” describe briefly the functions of such staff and whether that staff is responsible for recommending appropriate action if those commercial practices are believed to vary from the initial terms and conditions of the commodity derivatives contract.

(b) Are there rules, guidelines or policies concerning the circumstances that will trigger a reevaluation of a commodity derivatives contract’s terms and conditions?

Yes ____ No ____

If “Yes,” identify the guideline and describe briefly. If “No,” explain whether there is an informal process that triggers such a reevaluation.

(c) Do the relevant Market Authorities have a procedure by which the concerns of commercial participants in the commodity derivatives contract are dealt with?

Yes ____ No ____

If “Yes,” explain how those concerns are addressed.

Principle 2: Economic Utility - Contracts should meet the risk management needs of potential users and promote price discovery of the underlying commodity.

The design and/or review of commodity derivatives contracts should include a determination that the contract can meet the risk management needs of potential users of the contract and/or promote price discovery of the underlying commodity. The determination of economic utility may be supported by surveys of potential contract users or may be implied - for example, from an analysis of the physical market.

The regulator should, as a minimum requirement, be informed of the type of products to be traded on an exchange or trading system and should review and/or approve the rules governing the trading of the product.

Key Questions:

1. Does the relevant design or review process for commodity derivatives contracts include a determination that the contract can meet the risk management needs of potential users of the contract and promote price discovery of the underlying commodity?

Yes ____ No ____

If “Yes,” explain briefly how that determination is made.

2. Is the relevant governmental regulator informed of the type of products to be traded on an exchange or trading system and does the regulator review and/or approve the rules governing the admission to and trading of the product?

Yes ____ No ____

If “Yes,” explain briefly how that determination is made.

Principle 3: Correlation with Physical Market - Contract terms and conditions generally should, to the extent possible, reflect the operation of (*i.e.*, the trading in) the underlying physical market and avoid impediments to delivery.

Key Questions:

1. Does the exchange design futures contracts to conform to prevailing physical market commercial practices, including commodity grade and quality specifications, to avoid impediments to delivery and reduce the likelihood of non-convergence of physical and commodity derivatives prices, manipulation or a disorderly market? What role, if any, does the government regulator play with respect to the review of contracts?

Yes ____ No ____

If “Yes,” explain any relevant rules or guidelines.

Principle 4: Promotion of Price Convergence through Settlement Reliability - Settlement and delivery procedures should reflect the underlying physical market and promote reliable pricing relationships and price convergence and should be regularly evaluated to ensure that they meet this standard. Settlement and delivery terms should be specified and made available to market participants.

Key Questions:

1. Is the relevant Market Authority responsible for contract design required to demonstrate that the price series or index that is referenced as a settlement price in a physical commodity derivatives contract is a reliable indicator of transactions in the underlying physical market, publicly available and timely?

Yes ____ No ____

If “Yes,” explain briefly. If “no,” indicate whether there have been any discussions or proposals to institute such a requirement.

Principle 5: Responsiveness - The views of potential contract users should be taken into account in designing commodity contracts.

Key Questions:

1. Do relevant Market Authorities take into account the views of potential contract users on matters including contract specifications when designing commodity contracts?

Yes ____ No ____

If “Yes,” what are the primary points on which Market Authorities focus? Describe any formalized process that the Market Authority undertakes.

If “No,” indicate whether there have been any discussions or proposals to institute such a requirement.

Principle 6: Transparency - Information concerning a physical commodity derivatives contract's terms and conditions, as well as other relevant information concerning delivery and pricing, should be readily available to Market Authorities with respect to all derivatives transactions within its jurisdiction and to market participants in organized derivatives markets.

Without limiting the factors that a Market Authority includes in those terms and conditions, market rules should specify, for example:

- i. Minimum price fluctuations (price ticks);
- ii. Maximum price fluctuations (daily price limits), if any;
- iii. Last trading day;
- iv. Settlement and delivery procedures;
- v. Trading months;
- vi. Position limits, if any;
- vii. Reportable levels at end-user level; and
- vii. Trading hours.

Key Questions:

1. Is information concerning a commodity derivatives contract's terms and conditions, as well as other relevant information concerning delivery and pricing readily available to the regulators with respect to commodity derivatives transactions within their jurisdiction and to market participants in commodity derivatives markets? Are margin and clearing arrangements transparent to market participants⁴?

Yes ____ No ____

If “Yes,” explain briefly the types of information that are generally made available.

2. When commodity derivatives markets operate incentive schemes or their incentive arrangements promote trading in a contract, is the existence of such programs and their main features made available to the public and to market participants, and are such incentive programs subject to regulatory oversight?

Yes ____ No ____

If “Yes,” explain the type of disclosure that is made available to market participants.

C. Principles for the Surveillance of Commodity Derivatives Markets

1. Appropriate framework and resources

Principle 7: Framework for Undertaking Market Surveillance - Market Authorities should have a clear and robust framework for conducting market surveillance, compliance and enforcement activities and there should be oversight of these activities. A market surveillance program should take account of a trader’s related derivatives and physical market positions and transactions. Market surveillance programs should be supported by sufficient resources, access to physical market data and analytical capabilities.

Key Questions:

1. Does a clear and robust framework exist for conducting market surveillance and monitoring compliance with applicable laws, regulations and rules?

Yes ____ No ____

⁴ Explanation of arrangement for “Position limits” should include position management or other alternative approaches.

If “Yes,” elaborate on the Market Authority which has the responsibility and which Authority executes the surveillance or compliance. If “No,” are there any plans to institute necessary changes?

2. Does the program include monitoring the day-to-day, real-time trading activity in the markets (both real time as well as post-trade)?

Yes ____ No ____

If “Yes,” explain. If “No,” are there any plans to institute necessary changes?

3. Does the program include monitoring the conduct of market intermediaries through examination of business operations and collecting and analyzing trading information, typically analyzed on a T+1 basis?

Yes ____ No ____

If “Yes,” explain. If “No,” are there any plans to institute necessary changes?

4. Are arrangements in place to permit Market Authorities to analyze on-exchange and related physical market and OTC derivatives activities, when needed, on an aggregated basis (*i.e.*, these arrangements permit the identification of positions under common ownership and control and to identify such aggregate exposures)?

Yes ____ No ____

If “Yes,” explain. If “No,” are there any plans to institute necessary changes?

5. Are the relevant surveillance programs adequately resourced to achieve the above goals, having adequately skilled staff and information technology taking into account the size, structure and complexity of a jurisdiction’s markets?

Yes ____ No ____

If “Yes,” explain and provide data regarding the number of staff and resources made available. If “No,” are there any extenuating circumstances to explain such underfunding? Are any measures being taken to correct such deficiencies?

Principle 8: Monitoring, Collecting and Analyzing Information – Market Authorities should develop, employ and maintain methods for monitoring of trading activity on the markets they supervise, collecting needed information and analyzing the information they collect that are efficient and suitable for the type of market being supervised. Effective monitoring of orders and electronic transactions requires real-time monitoring capabilities, supported by automated systems that detect trading anomalies. Monitoring, collection and analysis should also focus on intra-day trading.

Key Questions:

1. Do relevant Market Authorities employ methods for monitoring, collecting and analyzing information that are suitable for the type of market trading platform and the amount of data to be monitored (e.g., for electronic markets, monitoring in real-time using technology that is commensurate with the speed and volumes of the electronic platform supervised)?

Yes ____ No ____

If “Yes,” explain briefly the universe of data that is being monitored and analyzed. If “no,” explain whether steps have been initiated to correct this deficiency.

2. Are such methods supported by automated systems which collect and analyze data for trading patterns and trading anomalies?

Yes ____ No ____

If “Yes,” explain briefly and include information about the frequency of surveillance and whether the order book is also examined. If “no,” explain whether steps have been initiated to correct this deficiency.

3. Does the market surveillance program take into account intra-day trading?

Yes ____ No ____

If “Yes,” explain briefly, including the frequency of such surveillance or day-to-day surveillance that takes place. If “no,” explain whether steps have been initiated to correct this deficiency.

2. Authority to Access and Collect Information and the Types of Information that are Needed for the Surveillance of Physical Commodity Derivatives Markets

Principle 9: Authority to Access information - Market Authorities should have the authority to access information on a routine and non-routine basis for regulated commodity derivatives markets as well as the power to obtain information on a market participant’s positions in related over-the-counter (OTC) commodity derivatives and the underlying physical commodity markets. In particular, Market Authorities should have the power to:

- i) access information that allows the reconstruction of all transactions on a regulated commodity derivatives market (audit trail);
- ii) access information that permits them to identify large positions (i.e., “large exposures” or “concentrations”) and the composition of the market in question;
- iii) access information, if needed, on the size and beneficial ownership of positions held by a market participant in order to aggregate positions held under common ownership and control;

- iv) access information about a market participant's transactions and positions in related OTC and physical commodity markets; and
- v) take appropriate action where a commodity derivatives market participant does not make requested market information available to the Market Authority.

Market Authorities should review the scope of their authority to obtain such information and if necessary to request such power from the relevant legislature or other appropriate governmental bodies.

Key Questions:

Do relevant Market Authorities have the power to:

- i) access information that allows the reconstruction of all transactions on a regulated commodity derivatives market (audit trail)?;
- ii) access information that permits them to identify large positions (i.e., "large exposures" or "concentrations") and the composition of the market in question?;
- iii) access information, if needed, on the size and beneficial ownership of positions held by a market participant in order to aggregate positions held under common ownership and control?⁵;
- iv) access information about a market participant's transactions and positions in related OTC and physical commodity markets?; and
- v) take appropriate action where a commodity derivatives market participant does not make requested market information available to the Market Authority?

Yes ____ No ____

If "Yes", please provide the relevant statute or legal authority for each. If any of the above are "No," have steps been initiated to request such power from the relevant legislature or other appropriate governmental bodies?

⁵ As explained in the Principles, in cases where omnibus accounts are used by an intermediary "A", the intermediary's omnibus account is the "first level" customer of the clearing firm "B." The omnibus account information submitted by the clearing member "B" to a Market Authority therefore will show only the aggregate positions held in the omnibus account owned by intermediary "A." (the clearing member's client). However, information on the individual holdings of the intermediary's individual clients could be obtained by accessing the information directly from the omnibus account owner "A." Nothing in this Report should be interpreted as requiring an omnibus account to be structured so as to disclose separately to the clearing member in the ordinary course of business the individual clients who submitted the trades for execution.

Principle 10: Collection of Information on On-Exchange Transactions – *In respect to on-exchange commodity derivatives transactions, a Market Authority should collect information on a routine and regular basis on:*

- i) pricing of contracts throughout the trading day in real time;*
- ii) daily transactional information including time and date of trade, commodity contract, delivery month, expiry date, buy/sell, quantity, counterparties to the contract, and price of the contract;*
- iii) daily reports of end-of-day positions held by market intermediaries (both "whole firm" and by individual trader) and by other market participants, where the size of the position is above a specified level ("large position"). Information collected should permit a Market Authority to identify each position holder (by name or code) down to the first customer level, and the size of position, by contract month, for each position holder;*

The Market Authority should have the capability to aggregate position holder information promptly in order to identify positions under common ownership or control; and

- iv) where appropriate, warehouse stocks or other deliverable supply.*

Key Questions:

1. In respect to on-exchange commodity derivatives transactions, does the relevant Market Authority collect information on a routine and regular basis on:

- i) pricing of contracts throughout the trading day in real time;

Yes ____ No ____

- ii) daily transactional information including time and date of trade, commodity contract, delivery month, expiry date, buy/sell, quantity, counterparties to the contract, and price of the contract;

Yes ____ No ____

If yes, provide details as to the classification used.

- iii) daily reports of end-of-day positions held by market intermediaries (both "whole firm" and by individual trader) and by other market participants, where the size of the position is above a specified level ("large position"). Do you clearly identify the type of trading, so that true customer transactions are clearly distinguished from member or member's affiliates' proprietary trading?

Yes ____ No ____

vi) where appropriate, underlying warehouse stocks or other deliverable supply.

Yes ____ No ____

If “Yes”, please provide the relevant statute or legal authority for each. If any of the above are “No,” have steps been initiated to request such power from the relevant legislature or other appropriate governmental bodies?

2. Does the information collected permit a Market Authority to identify each position holder (by name or code) down to the first customer level, and the size of position, by contract month, for each position holder?

Yes ____ No ____

3. Does information identify the type of trading (e.g. commercial, non-commercial)?

Yes ____ No ____

If yes, provide classifications definitions.

Principle 11: Collection of OTC Information – In respect of OTC commodity derivatives transactions and positions, a Market Authority should consider what information it should collect on a routine basis and what it should collect on an “as needed” basis. A Market Authority that has access to a relevant Trade Repository’s (‘TR’) data should take such broader access into account, as well as its statutory obligations with respect to the TR, in constructing its data collection policies.

Information could include, as appropriate:

For information collected on a routine basis:

- i) transactional information including time and date of transaction, contract terms, counterparties to the contract and price of contract; and
- ii) position information.

For information collected on an “as needed” basis:

- i) delivery intentions;
- ii) beneficial owners;

iii) positions under common control; and

iv) for contracts other than forwards, additional information may also need to be sought on notional values, replacement cost, valuation methodology or duration of the contracts.

Key Questions:

1. Has the relevant Market Authority considered what information it should collect on a routine basis and what it should collect on an "as needed" basis?

Yes ____ **No** ____

If "Yes," please describe the types of information identified for possible collection. If "No," discuss whether there are any plans to do so or otherwise explain (e.g. pending adoption of OTC derivatives reforms legislation).

Principle 12: Large Positions – Market Authorities should require the reporting of large trader positions for the relevant on-exchange commodity derivatives contracts. The Market Authority should have the ability to aggregate positions owned by, or beneficially controlled on behalf of, a common owner.

Key Questions:

1. Do Market Authorities require the reporting of large trader positions for relevant on-exchange commodity derivatives contracts?

Yes ____ **No** ____

If "Yes," please describe the mechanism by which this is achieved. If "No," explain whether there are any steps being taken to institute this Principle.

2. Does the Market Authority have the ability to aggregate positions owned by, or beneficially controlled on behalf of, a common owner?

Yes ____ **No** ____

If "Yes," please explain the method used to aggregate positions. If "No," explain whether there are any steps being taken to institute this Principle.

D. Principles to Address Disorderly Commodity Derivatives Markets

Principle 13: Intervention Powers in the Market - *Market Authorities should have, and use, effective powers to intervene in commodity derivatives markets to prevent or address disorderly markets and to ensure the efficiency of the markets. These powers should include the following:*

1) Position Management Powers, Including the Power to Set Position Limits - *Market Authorities should have and use formal position management powers, including the power to set ex-ante position limits, particularly in the delivery month,.*

These should necessarily include position management powers that:

(a) Establish a trader's automatic consent to follow an order of the Market Authority when that trader's position reaches a defined threshold size or any size, which the Market Authority considers prejudicial to orderly market functioning, taking into account all relevant circumstances. They should also require such a trader to comply with the Market Authority's order, either not to increase a position or to decrease a position; and

(b) Authorize a Market Authority to place ex-ante restrictions on the size of a position a market participant can take in a commodity derivatives contract (i.e., position limits).

2) Other Discretionary Powers - *Market Authorities should also have the powers to employ any of the following measures, as appropriate to address market disruption or the perceived threat of such disruption or to assist market surveillance efforts:*

a) the imposition of price movement limits;

b) calling for additional margin, either from customers or from clearing members on behalf of their clients;

c) ordering the liquidation or transfer of open positions;

d) suspending or curtailing trading on the market (e.g., trading halts and circuit breakers);

e) altering the delivery terms or conditions;

f) cancelling trades;

g) requiring owners of positions to specify delivery intentions; and

h) requiring traders to disclose related OTC derivatives or large physical market

positions.

Key Questions:

1. (a) Do Market Authorities have formal position management powers, including the power to set ex-ante position limits, particularly in the delivery month, which include powers that:

- (a) Market participants must comply with the Market Authority's order, either not to increase a position or to decrease a position; and
- (b) Authorize a Market Authority to place ex-ante restrictions on the size of a position a market participant can take in a commodity derivatives contract (i.e., position limits).

Yes ____ No ____

If "Yes", please provide the relevant statute or legal authority for each. If "No," please explain which powers are not available and explain whether any steps are being taken to acquire such power(s).

2. (b) Do Market Authorities also have the following powers that permit:

- a. the imposition of price movement limits;*
- b. calling for additional margin, either from customers or from clearing members on behalf of their clients;*
- c. ordering the liquidation or transfer of open positions;*
- d. suspending or curtailing trading on the market (e.g., trading halts and circuit breakers);*
- e. altering the delivery terms or conditions;*
- f. cancelling trades;*
- g. requiring owners of positions to specify delivery intentions; and*
- h. requiring traders to disclose related OTC derivatives or large physical market positions.*

Yes ____ No ____

In each case please specify which Market Authority has the relevant powers. If "No," please explain which powers are not available and explain whether any steps are being taken to acquire such power(s).

3. Have Market Authorities demonstrated actual use of these powers, listed in 2(b)?

Yes ___ No ___

If “Yes,” please provide illustrative instances that reflect the use of such powers. Description of these instances can be generic; the aim is to show that Market Authorities use their authorized powers when necessary.

If “No,” please explain.

Principle 14: Review of Evolving Practices - Market Authorities should have or contribute to a process to review the perimeter of regulation to ensure that they have the power to address evolving trading practices that might result in a disorderly market. Exchanges and self-regulatory organizations play a critical and complementary role with governmental regulators in identifying such practices.

Key Question:

1. Does the governmental regulator have or contribute to a process to review the perimeter of regulation to ensure that they have the power to address evolving trading practices that might result in a disorderly market? Does the Regulator review the perimeter of regulation on a regular basis to ensure that they have the proper power to address trade practice issues?⁶

Yes ___ No ___

If “Yes,” please explain. If “No,” please explain whether any steps are being taken to put such a process in place.

E. Principles for Enforcement and Information Sharing

Principle 15: Rules and Compliance Programs - *Market Authorities should have rules, compliance programs, sanctioning policies and powers to prohibit, detect, prevent and deter abusive practices on their markets, including manipulation or attempted manipulation of the market. The rules and compliance programs should take account of the whole position of the market participant (i.e., all positions under common ownership and control). There should be clarity as to what constitutes manipulative, abusive conduct or other prohibited conduct.*

Specific practices which Market Authorities should seek to detect and prevent include, among others:

⁶ Principles for the Regulation and Supervision of Commodity Derivatives Markets, Technical Committee of the International Organization of Securities Commissions, September 2011, p.45-46 available at, <http://iosco.org/library/pubdocs/pdf/IOSCOPD358.pdf>.

- i) *causing, or attempting to cause, artificial pricing in the market;*
- ii) *creating a false or misleading appearance of active trading;*
- iii) *disseminating false or misleading information in respect of the market or conditions that affect the price of any commodity derivatives contract;*
- iv) *creating, or attempting to create, a corner or squeeze, in which an abusive controlling position is accumulated in the physical and/or futures or OTC markets, forcing those holding short positions to settle their obligations, by purchase or offset or otherwise, to their detriment;*
- v) *abuse relating to customer orders;*
- vi) *"wash trades", involving no change of beneficial ownership or economic purpose;*
- vii) *collusive trades, which seek improperly to avoid exposure to the pricing mechanism of the market;*
- viii) *violation of applicable position limits;*
- ix) *concealment of a position holder's identity and,*
- x) *misuse of information.*

Key Questions:

1. Do the relevant Market Authorities provide through law or applicable market rules, statutes and regulations which determine what constitutes manipulative, abusive or other prohibited conduct? Please detail any permitted exclusions, e.g. "block trades".

Yes ____ No ____

If "Yes," please explain and include the necessary elements to prove manipulation if such a standard exists. If "No," please explain whether any steps are being taken to introduce such provisions.

2. Do such statutes or rules prohibit manipulation and attempted manipulation⁷?

⁷ Parties involved in manipulation may not succeed with the scheme to influence the price of a derivatives contract and it may be difficult for regulators to prove perfected manipulation, therefore it is important for market regulators to request the necessary powers to enforce against attempted manipulation, see Task Force on Commodity Futures Markets Final Report at p.18, March 2009, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD285.pdf>.

Yes ____ No ____

If “Yes,” please identify the statute or rule. If “no,” please explain whether there are any plans to institute such a prohibition – please indicate the schedule for any legislative proposal?

3. Do the relevant Market Authorities have a compliance program, sanctioning policies and powers to detect, deter and refer for enforcement action any such prohibited conduct?

Yes ____ No ____

If “Yes,” please describe briefly the structure of such program and policies

Principle 16: Framework for Addressing Multi-Market Abusive Trading - *The overall framework for market surveillance and enforcement within a jurisdiction should be structured to provide for active and coordinated detection and enforcement action against manipulative or abusive schemes that might affect trading on multiple exchange and OTC markets, as well as the underlying physical commodity markets.*

Key Questions:

1. Does a framework exist for market surveillance and enforcement within a jurisdiction that provides for active and coordinated detection and enforcement action against manipulative or abusive schemes that might affect trading:

i) on multiple exchanges in a single jurisdiction;

Yes ____ No ____

ii) OTC markets; and

Yes ____ No ____

iii) the underlying physical commodity markets?

.

Yes ____ No ____

If “Yes,” please describe briefly the structure of such program, the inter-play among relevant Market Authorities or other governmental authorities. Describe any representative actions that have been taken against any such multi-market abusive schemes.

2. Do procedures exist in this context for identifying and taking action with regard to manipulation or abuse schemes that involve a foreign market?

Yes ____ No ____

Principle 17: Powers and Capacity to Respond to Market Abuse - Market Authorities should have adequate powers and capacity to investigate and prosecute actual or suspected market abuse, including attempted manipulation. IOSCO members that are responsible for the oversight of commodity derivatives markets should have all of the powers required by the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMOU).⁸

Key Questions:

Does the relevant Market Authority have:

i) investigative and compulsory powers to obtain documents and information (including proprietary systems and software), take statements and/or question persons involved in suspected market abuse?

Yes ____ No ____

ii) the power to initiate or to refer appropriate matters for criminal prosecution?

Yes ____ No ____

Is the governmental regulator a signatory to the IOSCO MMOU? If 'yes'. How does it qualify as 'A' or 'B' signatory?

In order to demonstrate "capacity" to exercise such powers, also briefly explain how powers are exercised by describing, among other things, a representative sample of:

- The regulatory actions undertaken in the jurisdiction;
- The type of on-going and ad hoc monitoring activities (including onsite inspections) performed;
- The investigation and enforcement actions undertaken in the jurisdiction; and
- Sanctions imposed with respect to misconduct detected within the jurisdiction

If "No," indicate which powers are not available and whether action has been taken or is planned to acquire such powers.

⁸

See *Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information*, Report of the Executive Committee of IOSCO, May 2002, available at, <http://www.iosco.org/pubdos/pdf/ioscopd126.pdf>.

Powers over Market Members and Non-Members

Principle 18: Disciplinary Sanctions Against Market Members - *The relevant Market Authority should have and use effective powers to discipline its members or other authorized market participants if an abusive practice has occurred in the market. There should be clarity as to the types of disciplinary actions which can be taken.*

Sanctions should, amongst other things, include some or all of the following measures:

- i) warnings (public and private);*
- ii) reprimands;*
- iii) re-training;*
- iv) restitution;*
- v) disgorgement of illicit gains;*
- vi) fines;*
- vii) conditions on trading;*
- viii) trading prohibitions;*
- ix) suspension from membership;*
- x) expulsion from membership; and*
- xi) where appropriate, a criminal referral.*

Key Questions:

1. Do relevant Market Authorities (i.e. exchanges and SROs) have and use powers to discipline members or other market participants if an abusive practice has occurred in the market?

Yes ____ No ____

If “Yes,” provide a list of the above powers that Market Authorities have and provide relevant examples of disciplinary powers from your jurisdiction. The response should be broken out to explain the role of the exchanges and the role of the regulator.

2. Are the types of disciplinary actions that can be taken identified and accessible to market participants?

Yes ____ No ____

If “Yes,” indicate where a market participant can access this information.

Principle 19: Disciplinary Sanctions Against Non-Members of the Market

The relevant Market Authority should have power to take action against non-members of regulated commodity derivatives markets or other market participants if they have engaged in abusive or manipulative practices, or are suspected of doing so. Market authorities may require contractual relationships between members and customers that enable action to be taken. It is anticipated that enforcement powers will usually be embedded in statute and would be exercised by a government body, including a public prosecutor or the courts.

In addition, Market Authorities should be able to intervene, or cause the exchange to intervene, in the market to address or to prevent an abuse by non-members, using appropriate measures - through members - such as for example by raising the level of margin, imposing trading limits and liquidating positions, as well as removing trading privileges. Any intervention action should be timely.

Key Questions:

1. Does a relevant Market Authority have power to take action against non-members of regulated commodity derivatives markets or other market participants if they have engaged in abusive or manipulative practices, or are suspected of doing so?

Yes ____ No ____

If “Yes,” indicate the rules or other policies that authorize such actions. Indicate whether the market Authority requires contractual relationships between members and customers that enable action to be taken. Note: It is anticipated that enforcement powers will usually be embedded in statute and would be exercised by a government body, including a public prosecutor or the courts.

2. Are relevant Market Authorities able to intervene, or cause the exchange to intervene, in the market to address or to prevent an abuse by non-members, using appropriate measures - through members - such as for example by raising the level of margin, imposing trading limits and liquidating positions, as well as removing trading privileges?

Yes ____ No ____

If “Yes,” indicate the mechanisms that Market Authorities are able to use to intervene.

Principle 20: Information Sharing - Market Authorities should cooperate with one another,

both domestically and outside the jurisdiction, to share information for surveillance and disciplinary purposes. In particular Market Authorities should have arrangements that allow them to share information on large exposures in linked markets and on supplies relative to these markets. These arrangements should take account of (as applicable):

- i. *The Exchange International Information Sharing Memorandum of Understanding and Agreement (Exchange International MOU)*⁹ and the *Declaration on Cooperation and Supervision of International Futures Exchanges and Clearing Organizations (Declaration)*,¹⁰ which facilitate the identification of large exposures by firms that could have a potentially adverse effect on multiple markets;
- ii. *The IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMOU)*; and
- iii. *Guidance issued by IOSCO in respect of information sharing, such as IOSCO's Principles Regarding Cross-Border Supervisory Cooperation*,¹¹ *Report on Multi-jurisdictional Information Sharing for Market Oversight*,¹² and *Guidance on Information Sharing*.¹³

⁹ The development of the *Exchange International MOU* was one of the achievements that resulted from the FIA sponsored Global Task Force on Financial Integrity, which was convened to address the cross-border issues that were identified in connection with the failure of Barings Plc.

¹⁰ The *Declaration* was developed through discussions at the CFTC's international regulators conference, and was motivated by work recommendations issued from the Windsor Conference and Tokyo Conference, which were convened by the CFTC, the U.K. FSA and Japanese regulators (Ministry of International Trade and Industry (MITI) and the Ministry of Agriculture, Forestry and Fisheries (MAFF)) to respond to the cross-border issues raised by the failure of Barings Plc. The *Declaration* was developed to address instances in which an exchange would not be able to share information directly with another exchange under the *Exchange International MOU*.

¹¹ See *Principles Regarding Cross-Border Supervisory Cooperation*, Final Report of the Technical Committee of IOSCO, May 2010, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD322.pdf>.

¹² See p.11 *Multi-jurisdictional Information Sharing for Market Oversight*, Final Report of the Technical Committee of IOSCO, April 2007, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD248.pdf>. Among the information cited as possibly being useful is: transaction information e.g., details of trader's positions, large positions, and related underlying market positions and inventory levels and locations of delivery stocks and details of related warehouse information.

¹³ *Guidance on Information Sharing* (IOSCO 1997) – Internal Document. The Guidance provides that in dealing with unusual price movements or market volatility, markets and regulators should be prepared to share the following information: i) firms/customers controlling or owning the largest long/short positions in relevant securities or derivatives; (ii) concentration and composition of positions in the relevant securities or derivatives, including Firm positions or Customer positions, both on organized markets and in the OTC markets; and (iii) characteristics of related instruments, such as terms of the underlying physical market instrument or physical commodity, procedures for delivery or cash settlement, and deliverable supply of the relevant physical market instrument or physical commodity.

Information sharing to facilitate heightened surveillance is warranted where physical commodity derivatives contracts trade on different exchanges and are linked economically, such as where one contract's settlement price is determined by reference to the settlement price of the other contract.

Key Questions:

1. Are Market Authorities able to cooperate with one another, both domestically, including spot market regulators, and outside the jurisdiction, to share information for surveillance and enforcement purposes?

Yes ____ No ____

If “Yes,” illustrate by referencing the existence of necessary powers, signed MOUs noted above, etc. where particularly relevant.

2. Do Market Authorities have arrangements that allow them to share information on large exposures in linked markets¹⁴ and on supplies relative to these markets?

Not Applicable _____

Yes _____

If “Yes,” illustrate by referencing any of the signed MOUs noted above or other arrangements.

3. Please indicate if there are any blocking laws or other restrictions or conditions on the sharing of information. If yes, please explain.

Yes _____

See also *Principles of Memoranda of Understanding*, Report of the Technical Committee of IOSCO, September 1991, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD17.pdf>

Mechanisms to Enhance Open and Timely Communication Between Market Authorities of Related Cash and Derivative Markets During Periods of Market Disruption, Report of the Technical Committee of IOSCO, October 1993, available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD29.pdf>.

Report on Cooperation Between Market Authorities and Default Procedures, Report of the Technical Committee of IOSCO, March 1996 available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD49.pdf>.

¹⁴ Linked markets are those markets where there is cross-border trading of contracts that are linked directly through reliance by one contract on the settlement price of another contract traded on another exchange in a different jurisdiction. See *Principles for the Regulation and Supervision of Commodity Derivatives Markets*, September 2011 at p.9

F. Principles for Enhancing Price Discovery on Commodity Derivatives Markets

Principle 21: Commodity Derivatives Market Transparency. Market Authorities should publish the aggregate exposures of different classes of large traders, especially commercial and non-commercial participants, within the bounds of maintaining trader confidence.

Key Questions:

1. Do Market Authorities publish the aggregate positions of different classes of large traders, especially commercial and non-commercial participants, within the bounds of maintaining confidentiality?

Yes ____ No ____

If “Yes,” indicate whether, how and where such information is published and how often.

If “No,” indicate whether there are any plans to institute such publication.

Principle 22: OTC transparency – IOSCO Members should promote the reporting of OTC commodity derivatives contracts to trade repositories in order to improve transparency, mitigate systemic risk, and protect against market abuse in commodity derivatives markets. The relevant governmental regulator of commodity derivatives markets should work with regulators responsible for trade repositories to (1) evaluate what improvements are appropriate to enhance the usefulness of, and access by regulators to and disclosure to the public of, OTC commodity derivatives market data that is reported to trade repositories and (2) take affirmative steps such as encouraging ongoing work by the industry, rulemaking or recommending legislative changes to achieve these objectives.

Key Questions:

None – the IOSCO Task Force defers to the ongoing efforts by the Financial Stability Board to measure international progress on implementation of the G20 OTC derivatives recommendations

The Financial Stability Board (FSB) publishes progress reports that provide a detailed review of progress toward meeting the commitment of G20 Leaders at the Pittsburgh 2009 Summit that, by end-2012, among other things, all standardized OTC derivative contracts be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties; and that OTC derivative contracts be reported to trade repositories. *See press release*

announcing publication of the second progress report.

http://www.financialstabilityboard.org/press/pr_111011b.pdf See second progress report dated October 2011 at http://www.financialstabilityboard.org/publications/r_111011b.pdf