

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

Final Report



IOICU-IOSCO

**The Board
OF THE
INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS**

FR06/2014

SEPTEMBER 2014

Copies of publications are available from:
The International Organization of Securities Commissions website www.iosco.org
© *International Organization of Securities Commissions 2014. All rights reserved. Brief excerpts may be reproduced or translated provided the source is stated.*

Contents

| Chapter | | Page |
|----------------|--|-------------|
| | Abbreviations | iv |
| 1. | Introduction | 1 |
| 2. | Overview of the 2012 Survey Results | 1 |
| 3. | 2014 Update | 5 |
| 4. | Next Steps | 7 |
| Annex A | Summary of 2012 Gaps That Have Been Addressed | 8 |
| Annex B | Summary of Updated Survey Results | 10 |

ABBREVIATIONS

Market Authorities

- Argentina – Comisión Nacional de Valores (CNV)
- Australia – Australian Securities and Investment Commission (ASIC)
- Brazil – Comissão de Valores Mobiliários (CVM)
- Canada – Autorité des Marchés Financiers (AMF)
- Canada – Alberta Securities Commission (ASC)
- Canada – Ontario Securities Commission (OSC)
- China – China Securities Regulatory Commission (CSRC)
- Dubai – Dubai Financial Services Authority (DFSA)
- Hong Kong – Securities and Futures Commission (SFC)
- India – Forward Markets Commission (FMC)
- Japan – Financial Services Agency (FSA Japan)
- Japan – Ministry of Economy, Trade and Industry (METI)
- Korea – Financial Services Commission & Financial Supervisory Service (FSC/FSS)
- Malaysia – Securities Commission Malaysia (SC Malaysia)
- 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)
- United Arab Emirates – Securities and Commodity Authority (SCA)
- United Kingdom – Financial Conduct Authority (FCA)
- United States – Commodity Futures Trading Commission (CFTC)

1. Introduction

At the G20 Summit in Cannes in November 2010, the G20 endorsed IOSCO's final report on the *Principles for the Regulation and Supervision of Commodity Derivatives Markets* (Principles). 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 Market Authorities 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 commodity markets, including over-the-counter markets.

In April 2012, IOSCO commissioned a survey as a means to carry out an implementation review of the Principles to be answered by its members. Answers were received from 37 Market Authorities. The survey review results were collated by the IOSCO Committee on Commodity Derivatives Markets (Committee 7) and reported in October 2012 in the *Survey on the Principles for the Regulation and Supervision of Commodity Derivatives Markets* (2012 report).²

Subsequently, the G20 Finance Ministers Summit declaration in Moscow in February 2013 and the G20 Leaders' Summit declaration in St. Petersburg in September 2013, respectively, called for monitoring, on a regular basis, of the proper implementation of the Principles.

The IOSCO Board Chair and the co-chairs of Committee 7 agreed to prepare an update report in time for the G20 Brisbane Summit in November 2014, including a reprise of the conclusions of the 2012 review, with particular focus on supervision and enforcement and those principles where members' were yet to achieve full compliance. In order to carry this forward, on 27 June 2014, the co-chairs requested the 37 Market Authorities that submitted answers to the 2012 Report to update IOSCO as to their progress to full implementation of the Principles using a three-question survey. The questions provided a mechanism for the Market Authorities to set out current and future regulatory developments since the 2012 Report toward progress against the Principles.³

2. Overview of the 2012 Survey Results

The results of the 2012 Report showed that the majority of respondents were broadly compliant with the Principles. The following summary from that Report focuses on the regulatory areas that most directly respond to concerns articulated by the G20 in its prior Communiqués:

Principles for Transparency

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

² Attached as Annex "A."

³ Attached as Annex "B."

- Principle 6: *Transparency* - The vast majority of respondents have rules requiring that relevant information concerning physical commodity derivatives contracts be made available to Market Authorities.

Principles for Surveillance of Commodity Derivatives Markets

- Principle 7: *Framework for Undertaking Market Surveillance* – 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.
- Principle 8: *Monitoring, Collecting and Analyzing Information* – 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.
- Principle 9: *Authority to Access information* – 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. Some respondents lacked access to individual participants’ positions and transactions. The 2012 survey noted that in Europe, EMIR would 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* – 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. 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 be available only 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.
- Principle 11: *Collection of OTC Information* – The majority of respondents collect specifically defined information on a regular basis and would have an obligation to report post-trade data in line with global and local regulatory rule-making. The 2012 survey indicated the developments are underway that would bring many countries into compliance with the Principle.
- Principle 12: *Large Positions* – The vast majority of respondents that have a regulated commodity market in their jurisdictions note that they have the means to identify large trader positions for the relevant on-exchange commodity derivatives contracts. At that

time, India's FMC and a large number of European Union countries were in the process of implementing these provisions (either through discussion with the exchanges, or by completing legislation).

Principles to Address Disorderly Commodity Derivatives Markets

- Principle 13: *Intervention Powers in the Market* – The vast majority of respondents answered that Market Authorities have the power to set ex-ante position limits. For those respondents without formal position management powers for commodity derivatives, this was either due to not having a commodity derivatives market (e.g., Mexico, Saudi Arabia) or to not having explicit legislation (e.g., Norway). A majority of the respondents has powers that permit various measures of intervention, either at the Market Authority level or at the exchanges and clearing houses. 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. In times of high volatility, the Market Authorities exercise the powers of setting price limits.

Principles for Enforcement and Information Sharing

- Principle 15: *Rules and Compliance Programs* – Most of the respondents 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. Most jurisdictions where statutes and rules prohibit manipulation also cover attempted manipulation by virtue of the terminologies used in the definitions. However, there were some jurisdictions where attempted manipulation was not covered. The report noted however that the proposed European Commission revision of the Market Abuse Directive and resulting new Directive of the European Parliament and of the Council proposed to address this by providing the power to sanction attempted manipulation.
- Principle 16: *Framework for Addressing Multi-Market Abusive Trading* – Where there are multiple exchanges in a jurisdiction, the majority of the respondents has a framework in place to share information across exchanges. However, most jurisdictions 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 terms of the reach of regulation into the OTC markets, many European financial regulators reported they would 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. The 2012 report also noted that 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.

- Principle 17: *Powers and Capacity to Respond to Market Abuse* – 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.
- Principle 18: *Disciplinary Sanctions against Market Members* – The majority of respondents to this question do not have self-regulatory regimes for their financial markets. In jurisdictions without self-regulatory regimes, 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 also can impose conditions on, and even prohibition of, trading, as well as order suspension or expulsion from membership, and, where appropriate, a criminal referral. In self-regulated derivatives markets such as Argentina, Canada (Québec), and Norway, the SROs may apply disciplinary sanctions to both members and intermediaries’ members that engage in abusive behavior. Each of these self-regulated derivatives markets 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.
- Principle 19: *Disciplinary Sanctions Against Non-Members of the Market* – 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. Nearly all Market Authorities are able to intervene in the market to address or prevent abuse by non-members.
- Principle 20: *Information Sharing* – 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 enforcement inquiries related to derivatives. As a restriction on information sharing, twelve jurisdictions cited blocking laws or other restrictions on information sharing. The 2012 report noted that some jurisdictions were proposing to amend their rules to allow for more expansive information sharing with regulators. Argentina CNV had 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* – At the time of the 2012 report, aggregate public reporting of positions by class of trader was only undertaken in Brazil, Japan, Chinese Taipei, U.K., and U.S. The report noted that the European Union had plans to adopt this type of reporting and that other regulators that responded had expressed an interest in examining this Principle to see how it could be implemented in their jurisdictions.

3. 2014 Update

Of the 37 market Authorities approached to respond to this survey, IOSCO received 34 submissions. The 2014 survey update results should be read with due regard to the high level nature of the questions posed that were intended to capture the changes undertaken and changes expected from each jurisdiction against the Principles since the 2012 Report. Nonetheless, sufficient responses were obtained from major derivatives market jurisdictions, as well as jurisdictions that are in the process of developing such markets, which provide meaningful indications of further progress with respect to the implementation of IOSCO's Principles.

Achieving full compliance with Principles

As observed in the 2012 survey, the majority of respondents were broadly compliant with the Principles and where commodity derivative markets exist and market authorities acknowledged non-compliance, many of those market authorities have proposed or enacted initiatives aimed at achieving full compliance over time.

Annex "A" reveals that IOSCO members that responded to the 2014 survey update have in fact made substantial progress towards achieving full compliance and, in many cases, strengthened those Principles with which they were in compliance in 2012. Significantly, the areas of non-compliance that have now been addressed by most Market Authorities include requiring reporting of large positions (including the ability to aggregate positions owned or controlled by a common owner) (Principle 12), the integration of OTC markets into the market authority's framework for addressing multi-market abuse (Principle 16), and the ability to publish the aggregated positions of different classes of large traders (Principle 21). Overall, all of the EU member states, Norway, Switzerland, Argentina, and Australia, indicate that they have or will soon have implemented initiatives that will bring them into compliance with these Principles.

Annex "B" below, which provides the responding IOSCO members' complete survey responses, reveals that IOSCO members report that they have continued to strengthen their rules in areas in which they were deemed to be broadly compliant in the 2012 survey. Overall, the latest survey indicates that IOSCO members continue to make improvements in the following areas:

- Transparency of commodity markets [Principle 6] – Argentina, Dubai, EU member states, Hong Kong, Korea, Norway, Singapore, and Switzerland.
- Surveillance of commodity markets [Principles 7-12] – Argentina, Australia, Dubai, EU member states, Hong Kong, Japan (METI), Korea, Malaysia, Norway, and Switzerland.
- Addressing disorderly markets [Principle 13] – Argentina, Dubai, EU member states, Hong Kong, Korea, and Norway.
- Enforcement and information sharing [Principles 15-20] – Argentina, Australia, Dubai, EU member states, Hong Kong, Japan (METI), Norway, and Switzerland.
- Commodity derivatives market transparency [Principle 21] – Argentina, Australia, EU member states, Norway, Singapore, and Switzerland.

New and developing markets

As noted in the 2012 report, Canada (Ontario) did not have an underlying commodities market at the time, but indicated that an appropriate framework for surveillance, compliance, and enforcement already existed or would exist, when a commodities market came into being. In this regard, Ontario reports that in October 2014 all OTC derivatives will be required to be reported to a trade repository, which will help with increasing transparency of OTC commodity derivatives. Ontario notes that both aggregate and transaction data will be required to be publically disseminated.

Similarly, Saudi Arabia CMA did not have an underlying commodities market in 2012. Saudi Arabia CMA notes in 2014 that the Kingdom of Saudi Arabia currently has no organized markets for listed and OTC commodity derivatives. However, acting under royal mandate, the CMA has been working for some time on a comprehensive project to evaluate the establishment, and determine the form of, commodity derivatives markets in energy, petrochemicals, metals, and agricultural products. The CMA notes that implementation of the IOSCO Principles for organized Saudi commodity derivatives markets would follow from the review, by the Supreme Economic Council of the Kingdom of Saudi Arabia, of the CMA commodity market project report.

The United Arab Emirates SCA reports that it is undertaking a comprehensive review of its commodities regulations, which has regard for the IOSCO Principles. The SCA anticipates that upon implementation (tentatively planned for the end of 2015), the supervision of commodities derivatives markets in the UAE will be further strengthened and be more aligned with the IOSCO Principles.

China CSRC reports that it is currently drafting futures law legislation to enlarge the scope of regulation to the OTC markets, improve trading and clearing of futures markets, strengthen protection of investors and add regulations of cross-border trading. Upon completion, CSRC anticipates the futures law legislation should strengthen overall compliance with the IOSCO Principles.

India FMC reports that legislation and regulatory changes are still under consideration. The FMC undertook a comprehensive review of futures contract design to align the futures market with physical market practices in order to ensure that the contracts traded on the

exchange platforms serve the interests of the stakeholders. The FMC issued directives for closure of futures markets on Saturdays for non-agricultural contracts so as to align with the spot (physical) markets/international markets. The FMC has also prevented contract expiry for agricultural contracts during lean seasons and introduced a staggered delivery mechanism which allows sellers to deliver ten days ahead of contract expiry. The FMC also directed the exchanges to display the members (brokers) data, trading activity during the life cycle of the contract, the percentage of the proprietary trade to total traded value, percentage of client trade to total traded value and the percentage of trade registered through high frequency trading/algorithmic trading on their websites.

4. Next Steps

Because a number of the initiatives remain under development and/or in various stages of implementation, a more definitive analysis of those initiatives will be provided through further work that will be conducted in due course when the majority of the most significant initiatives reach key milestones.

Annex “A” - Summary of 2012 gaps that have been addressed

| Jurisdiction | 2012 Survey: Principles identified as needing further work | 2014 Update: Have reforms been adopted, proposed or implemented that will strengthen these previously identified Principles? |
|---------------------|--|---|
| Argentina: CNV | 3, 7, 8, 10, 11, 12, 14, 15, 16, 17, 20, and 21. | Yes, for all identified Principles. |
| Australia: ASIC | 16, 20, and 21. | Yes for 16 and 21. |
| Brazil: CVM | None identified. | n/a |
| Canada: AMF | 16(1). | Yes. |
| Canada: OSC | 16(1). | Yes. |
| Dubai: DFSA | 1(ii)(iii), and 21. | Not identified. However reforms adopted that strengthen 1, 3, 4, 6, 7, 13 and 15. |
| EU member states | Not all EU member states had formal position management laws, which required reporting of large positions and the ability to aggregate common ownership or control of positions (12), fully integrated OTC markets into their framework for addressing multi-market abuse (16), or published the aggregate positions of different classes of large traders (21). | Yes, for all identified Principles and in addition enhancements for others - 1, 3, 4, 6-13, 15-17 and 21. |
| Hong Kong: SFC | 16(1)(i)(ii), and 21. | Not identified. Reforms in development to regulate OTC derivatives, which would further Strengthen Principles 6,-11, 13-15, 17-20. |
| Japan: METI | None identified. | Reforms adopted that strengthen 7, 8 and 20. |
| Korea: FSC/FSS | 1(3)(a), 10(1)(iv), 10(3), 13(3) 16(1)and (2), and 21. | Yes, for 1, 10 and 13. |
| Malaysia: SC | 1(2)(b), 4, 7(4), 9(iv), 11, 13(g)(h)16(2), 21 | Reforms in process for OTC derivatives to strengthen 9(iv), 11 and 13(h). |
| Norway: FSAN | 10(3), 12, 13, 16(1)(ii) and 21. | Yes, reforms planned that will track EU legislation and bring all 2012 gaps into compliance. |

| Jurisdiction | 2012 Survey: Principles identified as needing further work | 2014 Update: Have reforms been adopted, proposed or implemented that will strengthen these previously identified Principles? |
|-----------------------|--|---|
| Saudi Arabia: CMA | No organized markets for listed and OTC derivatives. | Implementation of IOSCO Principles will be addressed within the context of the ongoing mandated review by the CMA of commodity markets. |
| Singapore: MAS | 6(2) and 21. | Yes, 6 and 21. |
| South Africa: FSB | 4, 7(5), 10(3), 11, 16, 19 and 21. | Principle 4. |
| Switzerland: FINMA | 1(3)(a) and (b), 7(4), 10(1)(iii), and (3), 11, 12, 20(3) and 21. | |
| UAE: SCA | 1(1) and (3), 2(i), 6(2), 7, 8(2), 9(iv) and (v), 10(1) and (3), 11, 12, 13(1), 13(2)(f)-(h) and 13(3), 14-16, 17(i) and (ii), 21. | Reforms are in process. |
| United States CFTC | None identified | n/a |

Annex “B” - Summary of Updated Survey Results

The Market Authorities were asked to (1) identify and describe any regulatory reforms that have taken place or are in the process of being implemented since the October 2012 survey was published; (2) provide the date or expected date of implementation of such reforms; and (3) describe how the regulatory reforms impact their compliance with the Principles.

A key aspect of the update is to disclose whether any weaknesses that were identified in the 2012 survey for each jurisdiction have been, or are in the process of being, addressed. Completing the survey has provided responding Market Authorities with the opportunity to self-audit current regulatory practices. Survey responses are included in the table below.

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|---------------------|---|---|
| Argentina: CNV | Ley 26.831 Passed: 29 Nov 2012 (Decree 2601/2012) Enacted: 27 Dec 2012 (Decree 1023/2013) Regulated: 1 Aug 2013 (Decree 1023/2013) and 9 Sept 2013 (CNV’s Omnibus resolution 622/2013) | 1, 3, 4, 6-21. |
| Australia: ASIC | <p><u>OTC Derivatives Trade Reporting</u>. As part of a wider reform regarding the reporting of OTC derivatives trades, commodity derivatives transactions have begun to be reported to a central trade repository. The reporting of commodity derivatives transactions is being introduced into Australia in a phased manner, with the larger Australian and international dealers currently reporting.</p> <p>Electricity derivatives were excluded from the scope of the reforms by Government decision, pending the outcome of a separate review of electricity market stability. Otherwise all OTC commodity derivatives are within scope.</p> <p>ASIC and the other Australian financial regulators are currently utilising trade reporting data in a range of ways, including as an adjunct to commodity futures market supervision. ASIC is also assessing the data that is being received to determine how that data, once all entities are reporting and the data is complete, may most effectively and efficiently be used to monitor the OTC commodity markets and assist ASIC in effectively completing its functions.</p> <p>It is currently expected that all financial entities</p> | 6-8, 11, 12, 16, 21. |

⁴ The date of implementation is the earliest possible date that all provisions are expected to be in force based on the information currently available.

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION ⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|--------------------------|--|--|
| | will be reporting the OTC derivatives transactions by October 2015. In February 2014 Government proposed to carve out end users from the scope of the regime. A final decision by Government has not yet been made in this regard. | |
| Brazil: CVM | Currently there are no regulatory reforms in progress. | |
| Canada: ASC | <ul style="list-style-type: none"> • Legislative amendments to, among other things, distinguish the regulation of derivatives from the regulation of securities in ASC's Securities Act, include a definition of derivative and classes of derivative, and introduce new infrastructure entities such as trade repositories and the recognition obligation for such entities doing business in the province of Alberta. The legislative amendments received Royal Assent in the spring of 2014 and will come into force on proclamation expected to be by October 2014. • Introducing trade repository recognition requirements and trade reporting obligations. Effective date expected late 2014/early 2015. | No changes to the prior status of responses. |
| Canada: OSC ⁵ | Starting 31 Oct 2014 all OTC derivatives will be required to be reported to a trade repository, including OTC commodity derivatives. | This requirement will help with increasing transparency of OTC commodities derivatives as both aggregate and transaction data is required to be publically disseminated. This requirement will also allow the OSC to conduct surveillance, monitor and analyse the OTC commodities derivatives market. |
| China: CSRC | <p><u>Futures Law:</u> The legislation of <i>Futures law</i> is still at the first step, and these main issues are in discussion:</p> <ul style="list-style-type: none"> • Enlarge scope of regulatory to OTC market • Improve trading and clearing institution of futures market • Strength protection of investors • Add regulations of cross-board trading <p>No definite date for implementation.</p> | As the draft of <i>Futures Law</i> has not been completed, its impact on assessment of the compliance against specific principles is not sure. But, it should further strength overall compliance with the Principles. |
| Dubai: DFSA | <p>Authorised Market Institution (AMI) Module of the DFSA Rulebook:</p> <p>Completed work: The AMI Module sets out the licensing and ongoing obligations criteria for market operators, clearing houses, and central securities depositories. A review of the AMI Module was completed in March 2013 and proposals came into effect in July 2013.</p> | 1, 3, 4, 6, 7, 13, 15. |

⁵ AMF reports that it has adopted the same rule.

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|---------------------|--|---|
| | <p>Relevant to commodity derivatives exchanges and clearing houses the amendments to rules and clearing houses included (rule book reference in brackets):</p> <ul style="list-style-type: none"> • Implementation of the IOSCO-CPSS Financial Markets Infrastructure (PFMI) Principles in full including Principle 10 regarding physical deliveries (Chapter 7 of the AMI). • Introduction of more detailed rules in regards the admission of financial instruments. This included the introduction of specific contract design criteria for deliverable commodities (AMI Appendix 3); • Enhancements to requirements relating to proper markets to promote fair, efficient and orderly conduct of trading of commodity derivatives on and through AMI's. This includes pre-trade and post trade transparency enhancements including how AMI's should deal with dark pools and dark orders (AMI 6.4.1 and 6.4.2); • Rules to require the introduction of volatility controls for exchanges, i.e. to have in place effective controls to ensure that its trading systems are resilient and capable of operating in an orderly manner under conditions of market stress (AMI 6.5.1 and 6.5.2). The rules also introduce a requirement on market operators to ascertain the adequacy and appropriateness of organisational and technological capacity of participants and members seeking access to its facilities, including their ability to meet the amended direct electronic access (DEA) criteria of the DFSA's Rulebook (e.g. testing of algorithms). This amendment aims to more specifically address risk relating to changing electronic market practices; • Position management requirements, by which an exchange or clearing house is required to have effective systems and controls manage risks arising from position controls (AMI Rule 6.7.1); and • Rules around the introduction of liquidity incentive schemes, where an exchange or clearing house is required to obtain the DFSA's prior approval for the introduction of schemes involving soft commissions, rebates in full or part, or other incentives granted to trading or clearing participants (AMI 6.9.1). | |

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION ⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|-------------------------------|--|--------------------------------------|
| | <p>Work in progress: The DFSA is preparing the introduction of a Code of Market Conduct (expected by Q1 2015). The Code will provide more guidance to market practitioners with regards to the Market Abuse provisions in the DIFC's Markets Law.</p> <p>The new AMI Module came into effect on 14 July 2013 with a transition period for existing license holders.</p> | |
| EU Member States ⁶ | <p><u>Markets in Financial Instruments Directive II (MiFID II)</u></p> <ul style="list-style-type: none"> • Increases scope of MiFID I with respect to changes to certain exemptions and definition of financial instruments. • Introduce harmonised pre- and post-trade transparency requirements. • Introduces commodity position limits, which will be set by National Competent Authorities based on a methodology to be determined by ESMA and will apply to all commodity derivatives admitted to trading on a platform. • Introduces commodity position reporting requirements onto investment firms trading on- venue and in equivalent commodity OTC contracts. <p><u>European Market Infrastructure Regulation (EMIR)</u></p> <ul style="list-style-type: none"> • Trade Reporting Obligation introduced: all OTC and exchange-traded derivative contracts (based on the definition of financial instrument in MiFID II) must be reported to Trade Repositories by counterparties from 12 February 2014. • Introduces a clearing obligation: Certain eligible OTC derivative contracts must be cleared through Central Counterparties (CCP) as will be determined by ESMA. • OTC derivatives not cleared through a CCP must be subject to risk mitigation techniques (which will include mandatory exchange of initial and variation margins). <p><u>Market Abuse Directive II and Market Abuse Regulation (MAD II/MAR)</u></p> <ul style="list-style-type: none"> • Extends scope of current MAD to: <ul style="list-style-type: none"> ○ instruments traded solely on MTFs and a | 1, 3, 4, 6-13, 15-17, 21. |

⁶ The U.K. FCA filed on behalf of the EU member states. Through the European Economic Area Agreement, Norway reported it is committed to implementing EU-directives and other regulations for the financial market.

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION ⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|-------------------|---|---|
| | <p>new category of trading venues called Organised Trading Facilities that will be introduced by MIFID II;</p> <ul style="list-style-type: none"> ○ related OTC traded financial instruments; emissions allowances; and ○ spot commodity markets that impact financial instruments and vice versa. <p>Date of Implementation:</p> <ul style="list-style-type: none"> ● EMIR – December 2015 ● MAD/MAR – Summer 2016 ● MiFID II – December 2016/January 2017 | |
| Hong Kong: SFC | <p><u>The Securities and Futures (Amendment) Ordinance (Amendment Ordinance):</u></p> <ul style="list-style-type: none"> ● The Amendment Ordinance was gazetted on 4 April 2014 with an aim to provide for a regulatory framework for the OTC derivatives market in Hong Kong which meets the relevant commitments of the G20 and is in line with developments in other international financial centres. It enables Hong Kong’s financial regulators to introduce mandatory reporting, clearing and trading obligations in line with the G20 commitments, and a record-keeping obligation to supplement the implementation of the abovementioned obligations. ● The obligations will apply to those OTC derivative transactions to be specified in subsidiary legislation. These would initially include certain types of interest rate swaps and non-deliverable forwards that could be standardised. ● The Amendment Ordinance provides for the regulation of the relevant market infrastructure and the oversight of key players in the OTC derivative market, including authorised financial institutions, approved money brokers, licensed corporations and other persons to be prescribed by subsidiary legislation. ● The Amendment Ordinance introduces a licensing regime for dealing in and advising on OTC derivatives and providing clearing services for OTC derivatives, and extends insolvency protections for OTC derivatives cleared on a recognized clearing house (RCH) as set out in Part III of the Securities and Futures Ordinance (SFO). <p>The Amendment Ordinance will commence operation on a date to be appointed by the Secretary for Financial Services and the</p> | <p>Regulatory initiatives should strengthen Principles 6-11, 13-15, and 17-20.</p> <p>At this stage, the regulatory developments may not have immediate impact on the commodity derivative markets in Hong Kong given its small size. However, when OTC commodities derivatives are covered in the future, these regulations would enhance Hong Kong’s compliance with the Principles, in particular Principles 9, 11, 13, 15, 17, 18 and 19.</p> |

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION ⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|--------------|---|--------------------------------------|
| | <p>Treasury of the HKSAR by notice published in the Gazette.</p> <p>Details of the regulation of the OTC derivatives market will be set out in subsidiary legislation to be made by the SFC with the consent of the Hong Kong Monetary Authority (HKMA).</p> <p>The SFC and the HKMA will conduct public consultation on the subsidiary legislation in phases. The HKSAR Government aims to lay before the Legislative Council the first batch of subsidiary legislation by the end of 2014.</p> <p><u>HKMA's Interim Reporting Arrangement (Interim Arrangement):</u></p> <ul style="list-style-type: none"> • On 29 July 2013 HKMA launched the Reporting Service of the OTC Derivatives Trade Repository of the HKMA (HKTR) under the Interim Arrangement to require all licensed banks to report OTC derivatives transactions to the HKTR before the SFO is amended to mandate TR reporting. Licensed Corporations with activities that may be subject to mandatory reporting obligations may also participate in the Interim Arrangement on a voluntary basis. • Currently HKTR supports four types of OTC derivative product- (i) Single Currency IRS Floating vs Fixed (deliverable and non-deliverable), (ii) Single Currency Basis Swap Floating vs Floating (deliverable); (iii) Single Currency Overnight Index Swap Floating vs Fixed (deliverable), and (iv) FX Non-Deliverable Forward. • HKMA plans to expand the product scope by adding a batch of 15 new products⁷ in September 2014. | |

⁷ The following products are to be introduced to the HKTR in September 2014: (i) Single Currency IRS Floating vs Fixed (cancellable, amortization schedule, early termination); (ii) Single Currency Basis Swap Floating vs Floating (non-deliverable, cancellable, amortization schedule, early termination), (iii) Single Currency Overnight Index Swap Floating vs Fixed (non-deliverable, cancellable, amortization schedule, early termination), (iv) Single Currency IRS Fixed vs Fixed (deliverable, non-deliverable, cancellable, amortization schedule, early termination), (v) Single Currency Inflation Swap (deliverable, non-deliverable, cancellable, amortization schedule, early termination), (vi) Cross Currency IRS Floating vs Fixed (deliverable, non-deliverable, cancellable, amortization schedule, early termination), (vii) Cross Currency IRS Fixed vs Fixed (deliverable, non-deliverable, cancellable, amortization schedule, early termination), (viii) Cross Currency Basis Swap Floating vs Floating (deliverable, non-deliverable, cancellable, amortization schedule, early termination), (ix) Cap Floor (deliverable, non-deliverable, amortization schedule, early termination), (x) FRA, (xi) Swaption, (xii) FX Forward, (xiii) FX Non-Deliverable Option, (xiv) FX Vanilla Option, (xv) Equity Derivatives Swap (Single Index and Single Name) (Price Return

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION ⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|--------------|---|---|
| | <ul style="list-style-type: none"> • It's anticipated that another batch of products will be added by end of 2015 to complete the product coverage of the HKTR. <p><u>CPSS-IOSCO Principles for Financial Market Infrastructures (PFMIs):</u></p> <ul style="list-style-type: none"> • On 28 March 2013, the SFC and the HKMA jointly announced their commitment to adopt the PFMIs. • On 9 August 2013, the SFC published guidelines pursuant to section 399(1) of the SFO concerning the application of the PFMIs for RCHs. • The SFC regards all RCHs as systemically important financial market infrastructures in Hong Kong and the guidelines are to articulate the SFC's expectation with regard to the implementation of the PFMIs by RCHs in the discharge of their duties under the SFO. • The SFC is in the process of working with some of the RCHs⁸ to specify the way the PFMIs should be implemented by each of them depending on the nature of their operations, functions, activities and services provided. At present, those RCHs are conducting their respective self-assessment on compliance with the PFMIs. Upon completion of the self-assessment, the SFC will discuss with them what enhancements (if any) are required for the observance of the PFMIs, and determine an appropriate implementation timetable. | |
| India: FMC | <p>The Financial Sector Legislative Reforms Commission (FSLRC) was set up in 2011 by the Government of India for a comprehensive review of all financial sector regulations. The report of the Commission is available at http://www.finmin.nic.in/fslrc/fslrc_report. The Forward Markets Commission has taken steps to implement the non-legislative recommendations pertaining to consumer protection, regulation making process etc. The</p> | <p>The implementation of the recommendations of the FSLRC and the Amendment of the FCRA should strengthen the following Principles: 1, 6-9. 12. 17. 19, 20.</p> |

Basic Performance, Parameter Return Variance) and (xvi) Equity Derivatives Option (Single Index and Single Name) (Price Return Basic Performance and Parameter Return Variance).

⁸ There are 4 RCHs in Hong Kong: (i) Hong Kong Securities Clearing Company Limited, (ii) HKFE Clearing Corporation Limited, (iii) The SEHK Options Clearing House Limited, and (iv) OTC Clearing Hong Kong Limited (OTC Clear). The SFC is in the process of working with the first three for the observance of the PFMIs, as OTC Clear is a new RCH recognized by the SFC on 25 October 2013 and the approval of OTC Clear's RCH application was made on the basis of the SFC's assessment of OTC Clear's compliance with the PFMIs.

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION ⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|---------------------|---|--|
| | <p>legislative recommendations are under consideration of the Government of India.</p> <p>Amendment of the Forward Contracts (Regulation) Act, 1952 (FCRA):</p> <ul style="list-style-type: none"> • The existing Forward Contracts (Regulation) Act, 1952 is proposed to be amended to inter alia provide the regulator with enhanced powers of oversight of the commodity derivatives market. • The timeframe for passage in Parliament cannot be specified. | |
| Japan: FSA Japan | Based on coming into effect this past March for the amendment of the Financial Instruments and Exchange Act to enable financial exchange established under the FIEA to trade commodity derivatives, Financial Services Agency, Japan has had the authority to regulate and supervise the comprehensive exchange to trade commodity derivatives in addition to securities and/or financial derivatives. | FSA Japan will respond to the full assessment on the implementation of the Principles in the future where appropriate. |
| Japan: METI | <p><u>Basic Guidelines for Supervision of Commodity Clearing Organizations</u></p> <ul style="list-style-type: none"> • Ministry of Agriculture, Forestry and Fisheries (MAFF) and METI formulated Guidelines in order to clarify the viewpoints, methods, etc. of supervision of Commodity Clearing Organizations in consideration of the new international standards (<i>e.g.</i>, CPSS-IOSCO PFMI) and effectively conduct daily supervisory processes, and thereby ensure that business operations of Commodity Clearing Organizations shall be conducted more appropriately. • Main items of these Guidelines are below: <ol style="list-style-type: none"> 1. Points of Consideration regarding the Conduct of Administrative Processes Regarding the Supervision of Commodity Clearing Organizations: <ol style="list-style-type: none"> 1)General Administrative Processes, etc. 2)Points to Consider when Providing Administrative Guidance, etc. 3)Points to Consider when Taking Administrative Actions 2. Governance/Business Administration <ul style="list-style-type: none"> • Verify the effectiveness of the management of Commodity Clearing Organizations. 3. Financial Soundness <ul style="list-style-type: none"> • Verify management systems for ensuring soundness of Commodity Clearing Organizations <ol style="list-style-type: none"> 1)Adequacy of Capital | 7, 8, 20. |

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION ⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|----------------|--|--------------------------------------|
| | <p>2) Credit Risk Management, Liquidity Risk Management, etc.</p> <p>4. Operational Appropriateness</p> <ul style="list-style-type: none"> • Verify compliance management systems etc. of Commodity Clearing Organizations. <p>1) Compliance</p> <p>2) Business Continuity Management (BCM)</p> <p>3) Operational Risk Management, Information Technology Risk Management, etc.</p> <p>4) Procedures to Deal with Participant Default, etc.</p> <ul style="list-style-type: none"> • Drafts of these Guidelines are now under public consultation for one month, from 8 July 2014 to 8 August 2014. • Implementation Date is August 2014. | |
| Korea: FSC/FSS | <p>On 17 June 2014, FSC/FSS announced its roadmap for further development of Korea's derivatives market:</p> <p><u>Exchange-Traded Derivatives Market</u></p> <ol style="list-style-type: none"> 1. FSC/FSS will grant greater autonomy to markets. Details related with market operation such as quotation price units or exercise price of options will be deliberated and decided by a derivatives market committee within Korea Exchange (KRX). 2. FSC/FSS will introduce new derivatives markets in high demand such as oil, etc. 3. FSC/FSS will allow only "qualified" retail investors to newly enter derivatives markets. 4. FSC/FSS will give KRX greater authority to monitor and supervise default risks of securities firms, in response to growing risks of default and huge losses with an increase in algorithm trading. 5. FSC/FSS will introduce price banding limits on futures and options trading to mitigate excessive price fluctuations. <p><u>OTC Derivatives Market</u></p> <ol style="list-style-type: none"> 1. Starting from 30 June 2014, qualified won-denominated interest rate swap (IRS) transactions are cleared through the central counterparty (CCP). FSC/FSS will expand the scope of derivatives contracts subject to the CCP clearing from IRS to NDF to CDS and other derivatives. 2. FSC/FSS will introduce trade repository (TR) system to improve transparency of OTC derivatives trade. | 1, 2, 4-11, 13, 14. |

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION ⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|-------------------|---|---|
| | <p>The Financial Investment Services and Capital Markets Act and KRX regulations are expected to be revised by the end of 2014.</p> | |
| Malaysia: SC | <p><u>Trade reporting to a trade repository.</u></p> <ul style="list-style-type: none"> • Regulatory reforms for establishment of trade repository and reporting obligations for all OTC derivatives transactions was completed in October 2012. • Consulted industry on the proposed trade reporting requirements in end 2013. Proposed all OTC derivatives transaction with underlying reference to foreign exchange, interest rates, credit, commodity or equity to report to a trade repository. • Deferred implementation of the trade reporting obligations to a trade repository which was originally scheduled to come into force on 3 October 2014 for at least another 2 years. <p><u>Revision to Rules of Bursa Malaysia Derivatives (BMD).</u></p> <ul style="list-style-type: none"> • Rule 2002.2 and Rule 2003.3 of the Rules of BMD allow the terms and conditions of a Futures Contract be revised in specific circumstances. • Rule 2004.2 of the Rules of BMD permits BMD to use any other methodology other than as prescribed in the contract specifications for a Futures Contract in order to compute and declare the final settlement value of Final Closing Price of the Futures Contract. • These rules were implemented in 2013. | <p>The TR initiatives relating to OTC derivatives only and not physical commodity market. Reforms in process for OTC derivatives to strengthen 9(iv), 11 and 13(h).</p> <p>The revision to the rules of BMD initiative will strengthen 1(3b).</p> |
| Saudi Arabia: CMA | <p>The Kingdom of Saudi Arabia currently has no organized markets for listed and OTC commodity derivatives. Acting under Royal Mandate, the CMA has been working for some time on a comprehensive project to evaluate the establishment and determine the form of commodity derivatives markets in energy, petrochemicals, metals, and agricultural products. The report of this project is to be submitted to the Supreme Economic Council of the Kingdom of Saudi Arabia. This project describes the overall regulatory reforms necessary to establish such organized commodity markets.</p> <p>Current market regulation in the Kingdom of Saudi Arabia comprises the Capital Market</p> | <p>Full-scale impact, as the Kingdom of Saudi Arabia has, at the present time, no organized commodity markets. New regulation focused on these markets would, therefore, be comprehensive.</p> |

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION ⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|--------------------|---|--------------------------------------|
| | <p>Law (CML) of 2003 and its subsequent Implementing Regulations. Commodities derivatives transactions are within the official definition of Securities under the jurisdiction of the CMA, according to the CML which governs the activities of Tadawul (Saudi Stock Exchange) and its market participants.</p> <p>The time for implementation of the IOSCO <i>Principles for the regulation and supervision of commodity derivatives markets</i> for organized Saudi commodity derivatives markets would follow from the review, by the Supreme Economic Council of the Kingdom of Saudi Arabia, of the CMA commodity market project report.</p> | |
| Singapore: MAS | <p>SGX Incentive Programs:</p> <ul style="list-style-type: none"> • The Singapore Exchange (SGX) publishes its incentives at its webpage. MAS has regulatory oversight over the incentive programs and has powers to take action should a program encourage or result in market abuse or any improper market conduct. <p>Large Trade Reporting:</p> <ul style="list-style-type: none"> • MAS will be working on a supervisory initiative with the Singapore Exchange, under which the SGX will facilitate large trade reporting. <p>Implementation dates:</p> <ul style="list-style-type: none"> • SGX Incentive Programs – Last revised 2 July 2013 • Large Trade Reporting – 2016 | 6, 21. |
| South Africa: FSB | <p>No formal regulatory changes in progress that is exclusive to the Commodity Derivatives Market.</p> <p>The Johannesburg Stock Exchange is in the process of amending the requirements for storage operators with the intention of defining the maximum out load period for physical deliveries. This will provide buyers taking delivery from the exchange with the comfort that there is a maximum period in which they will be able to access their product.</p> <p>Implementation date: December 2014.</p> | 4. |
| Switzerland: FINMA | <p>FinfraG (Financial Market Infrastructures Act, currently in public consultation)</p> <ul style="list-style-type: none"> • Introduce harmonised pre- and post-trade transparency requirements | 1, 6-12, 15-17, 21. |

| Jurisdiction | REGULATORY REFORMS AND DATE OF IMPLEMENTATION⁴ | IMPACT ON COMPLIANCE WITH PRINCIPLES |
|---------------------|--|---|
| | <ul style="list-style-type: none"> • Trade Reporting Obligation: all OTC and exchange-traded derivative contracts must be reported to Trade Repositories by counterparties • Clearing obligation: certain eligible OTC derivative contracts must be cleared through CCP • OTC derivatives not cleared through a CCP must be subject to risk mitigation techniques <p>Implementation date: October 2015.</p> | |
| UAE: SCA | <p>Comprehensive Review of Regulation No. 157r of 2005 and Regulation No. 56 of 2012 (together the 'Commodities Regulations')</p> <p>Implementation date: tentative end of 2015.</p> | <p>While conducting the review of the SCA's Commodities Regulations, compliance with IOSCO's principles for the regulation and supervision of commodity derivatives markets will also be considered. Therefore, upon implementation, the supervision of commodities derivatives markets in the UAE will be further strengthened and will get more aligned with the said IOSCO Principles.</p> |