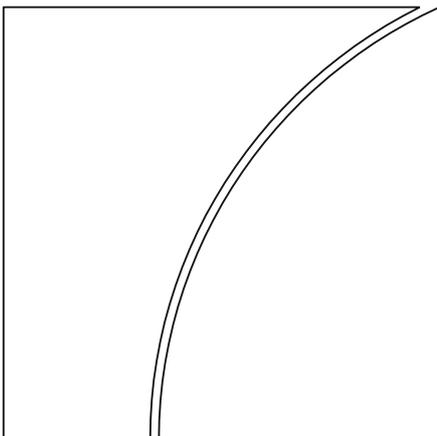


Committee on
Payments and Market
Infrastructures

Board of the International
Organization of Securities
Commissions



Implementation
monitoring of PFMI:
Level 2 assessment
report for central
counterparties and trade
repositories – United
States

February 2015



BANK FOR INTERNATIONAL SETTLEMENTS



OICU-IOSCO

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ISBN 978-92-9197-056-8 (online)

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1. Executive summary

In April 2012, the Committee on Payments and Market Infrastructures (CPMI)¹ and the International Organization of Securities Commissions (IOSCO) published a report entitled *Principles for financial market infrastructures* (PFMIs). The principles within the PFMIs (the Principles) set expectations for the design and operation of key financial markets infrastructures (FMIs) to enhance their safety and efficiency and more broadly, to limit systemic risk and foster transparency and financial stability. The Principles apply to all systemically important payment systems, central securities depositories (CSDs), securities settlement systems (SSSs), central counterparties (CCPs) and trade repositories (TRs) (collectively FMIs). These FMIs collectively clear, settle and record transactions in financial markets. Among other things, the Principles provide important support for the G20 strategy to enhance financial system resilience by ensuring that standardised over-the-counter (OTC) derivatives are centrally cleared. CPMI and IOSCO members have committed to implement and apply the PFMIs in their respective jurisdictions.

Following the publication of the PFMIs, the CPMI and IOSCO agreed to monitor their implementation in the 28 CPMI and IOSCO member jurisdictions. They agreed to a three-level monitoring framework that involves: a Level 1 (L1) assessment of the status of the implementation process; a Level 2 (L2) assessment of the completeness of the implemented framework and its consistency with the PFMIs; and a Level 3 (L3) assessment of the consistency in outcomes of such frameworks.

This report represents a L2 assessment of whether, and to what degree, the content of the legal and regulatory or oversight framework, including rules and regulations, any relevant policy statements, or other forms of implementation applied to systemically important CCPs and TRs in the United States (US), is complete and consistent with the Principles.

The work on the L2 assessment was carried out during 2014. The assessment reflects the status of the US legal, regulatory and policy frameworks as of 18 April 2014.

1.1 Legal and regulatory framework

The US jurisdiction can be described as having adopted primarily a rules-based approach for implementing the Principles for both CCPs and TRs, with three sets of detailed regulations either in place or proposed that apply to CCPs, and two sets of detailed regulations either in place or proposed that apply to TRs. The outcome of the assessments of the proposed regulations will be regarded as preliminary, and the CPMI and IOSCO will review further implementation measures in due course.

Central counterparties

In the United States, there are three parallel regimes that may apply to a particular CCP. Several factors determine which regimes apply to a particular CCP, including the products it clears and whether the CCP has been designated as systemically important. Not all CCPs that are subject to regulation in the United States are classified as systemically important. Since the intended scope of the Principles is systemically important FMIs, this assessment does not cover regimes that apply only to non-systemically important CCPs.

¹ The Committee on Payment and Settlement Systems (CPSS) changed its name to the Committee on Payments and Market Infrastructures (CPMI) on 1 September 2014. Please note that references to reports published before that date use the Committee's old name.

The three regimes that may apply to a systemically important CCP in the United States are:

- the requirements for systemically important derivatives clearing organizations (SIDCOs) supervised by the Commodity Futures Trading Commission (CFTC);
- the proposed requirements for covered clearing agencies (CCAs) supervised by the Securities and Exchange Commission (SEC); and
- the requirements for designated financial market utilities (FMUs) for which the Federal Reserve Board (the Board) is the Supervisory Agency.

The CFTC's SIDCO regime entered into force on 31 December 2013. The SEC's proposed CCA regime is not yet finalised. The Board's regime for designated FMUs entered into force on 31 December 2014.²

Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Title VIII) also gives the Board a role in the supervision of designated clearing entities (SIDCOs and CAs designated as systemically important) that fall under the jurisdiction of the CFTC and the SEC. This role – and the Board's discussions with the CFTC and SEC as the supervisory agencies for these entities – is informed by the risk management standards in Part I of the Federal Reserve Policy on Payment System Risk (PSR policy). In October 2014, the Board adopted revisions to Part I of the PSR policy to incorporate the Principles and other changes.³

Trade repositories

In the United States, there are two parallel and potentially overlapping regimes for TRs. The two regimes are:

- the requirements for swap data repositories (SDRs) supervised by the CFTC; and
- the requirements for security-based swap data repositories (SBSDRs) supervised by the SEC.

TRs that offer trade reporting services for products falling within the CFTC's jurisdiction are subject to CFTC regulation, while TRs that offer trade reporting services for products falling within the SEC's jurisdiction are subject to SEC regulation. To the extent that a TR offers reporting services for both CFTC- and SEC-regulated products, the TR would be subject to regulation by both the CFTC and the SEC.

1.2 Key findings of the assessment

Central counterparties

The US jurisdiction has made good progress towards completely and consistently implementing the majority of the Principles applicable to systemically important CCPs. Specifically, the final and in-force regime for SIDCOs, administered by the CFTC, has been found to be complete and consistent with the Principles in most respects. Similarly, the assessment team (AT) has further concluded that both the CCA regime proposed by the SEC and the regime for designated FMUs proposed by the Board would implement the majority of the Principles that are applicable to CCPs in a complete and consistent way once finalised and in force.

² The Board finalised its risk management standards for designated FMUs on 28 October 2014; these requirements became effective on 31 December 2014. See section 3.1.4 for additional information. The L2 assessment is based on the proposed regime as of 18 April 2014.

³ The Board finalised revisions to Part I of the PSR policy on 28 October 2014; these requirements became effective on 31 December 2014. See section 3.1.4 for additional information. The L2 assessment is based on the proposed regime as of 18 April 2014.

There are nevertheless some areas in which the relevant authorities could improve the completeness of the regimes and their consistency with the Principles. Accordingly, the AT has made a number of recommendations for each of the three regimes. Broadly, the AT recommends that the relevant US authorities consider adopting more-detailed requirements or guidance in order to clarify the intention of the relevant regimes and bring some aspects into closer alignment with the Principles.

Trade repositories

The progress of the US jurisdiction towards completely and consistently implementing the Principles for TRs has been more limited. The AT has found that the final and in-force CFTC regime for SDRs is partly consistent with the majority of the Principles that are applicable to TRs. The AT has further concluded that the SEC's proposed regime for SBSDRs would be partly consistent with the majority of the Principles that are applicable to TRs once finalised and in force.

In the case of the final and in-force CFTC SDR regime, timing of implementation has had a bearing on the regime's consistency with the Principles. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which, among other things, amended the Commodity Exchange Act (CEA) to add SDRs as a new category of CFTC-registered entity, was signed into law on 21 July 2010. Part 49 of the CFTC's regulations, which implemented the new SDR provisions of the CEA, was published on 1 September 2011 – prior to the publication of the PFMI in April 2012. Review by the CFTC of the final and in-force SDR regime in light of the subsequently published Principles is in its early stages.

The AT has made a number of recommendations for each of the two US TR regimes. Broadly, these recommend that the relevant US authorities consider adopting more-detailed requirements or guidance in order to clarify the intention of the two regimes and bring some aspects into closer alignment with the relevant Principles.

1.3 Summary response from the assessed jurisdiction's authorities

The staffs of the Board, CFTC, and SEC ("US authorities") appreciate the opportunity to respond to the AT's evaluation of the regulatory regime applicable to systemically important CCPs and to TRs in the United States. The staffs of the US authorities participated in the development of the PFMI, and the US authorities have taken steps to incorporate measures based on the Principles into their respective legal and regulatory frameworks, pursuant to their participation in the CPMI and IOSCO. The responses set forth in this section and Annex C reflect the views of the staffs of the US authorities.

The scope of a L2 assessment is limited to the specific sets of regulatory measures adopted or proposed by a jurisdiction that reflect the PFMI. The review process generally involved reviewing the content (wording and meaning) of a particular measure (e.g., a regulation), comparing the content to the wording and intent of the Principles, considering whether the measure would achieve an outcome consistent with the intent of each Principle, identifying "gaps and shortcomings," and assigning ratings based on the materiality of such "gaps and shortcomings." By its nature, the L2 assessment does not include a review of all aspects of the supervisory framework that apply to a CCP or TR. The US authorities have multiple supervisory tools and powers at their disposal to induce change in the design, risk management, and operation of an FMI and enforce compliance with their respective regulations with respect to CCPs and TRs in ways that could be described as addressing gaps identified by the AT in Section 4.2. Accordingly, the ratings and recommendations in this report should be interpreted as the AT's views regarding whether the regulatory measures that were reviewed are consistent with the PFMI and not whether the broader US supervisory framework is complete or operates in a manner that is consistent with the PFMI.

The US authorities also note that US law directs the respective agencies to prescribe risk management standards for designated financial market utilities, taking into consideration relevant

international standards. The staffs of the US authorities may be informed by the observations and recommendations presented in this report, among other things.⁴

2. Introduction

This report presents the CPMI and IOSCO conclusions of the L2 assessment of the Principles for the United States with regard to CCPs designated as systemically important and to TRs. The assessment reflects the status of the US legal, regulatory and policy frameworks as of 18 April 2014. This assessment was conducted as a peer review from March to October 2014.⁵

This assessment is part of the first round of L2 assessments that focused on the legal and regulatory framework implementing the Principles applicable to CCPs and TRs in the European Union, Japan and the United States. The selection of jurisdictions participating in this first round was based on the location of major global CCPs and TRs. For practical reasons, the L2 assessments are being carried out sequentially for groups of jurisdictions, covering different types of FMI, and focused only on the Principles applicable to those FMIs. Implementation of the Responsibilities included in the PFMI applicable to authorities will be assessed in a separate exercise.

The counterparts for the assessment were the Board, the CFTC and the SEC, given the central role of these three authorities in the regulation, supervision and/or oversight of systemically important CCPs and TRs in the United States.

2.1 Broader context of the Level 2 assessment

In line with the G20's expectations, CPMI and IOSCO members have undertaken to incorporate the Principles and the Responsibilities included in the PFMI in their legal and regulatory frameworks. The CPMI and IOSCO regard full, timely and consistent implementation of the PFMI as fundamental to ensuring the safety and soundness of key FMIs and to supporting the resilience of the global financial system.

To that end, the CPMI and IOSCO are actively monitoring the implementation of the PFMI based on a monitoring framework that involves three phases:

- (1) L1 to assess whether jurisdictions have completed the process of adopting the legislation, regulations and other policies that will enable them to implement the Principles and Responsibilities;
- (2) L2 to assess whether the content of legislation, regulations and policies (the regulatory framework) is complete and consistent with the Principles and the Responsibilities; and
- (3) L3 to assess whether there is consistency in the outcomes of implementation of the Principles and Responsibilities.

⁴ See paragraph 1.30 of the PFMI report regarding implementation by relevant authorities. See also footnote 12.

⁵ The CPMI and IOSCO would like to thank the assessment team, which was led by Sarah Harris (Reserve Bank of Australia (RBA)) with the participation of Janice Chua (Monetary Authority of Singapore (MAS)), Tom Kokkola (ECB), Ryosuke Sakurai (Bank of Japan (BoJ)), Johanna Stenkula von Rosen (Sveriges Riksbank) and Simon Turek (European Securities and Markets Authority (ESMA)), as well as Pui Hoon Loh (MAS), Ken Nagatsuka (MAS), Anrich Daseman (CPMI secretariat), Audrey Metzger (Bank of France (BdF)), Angus Moore (RBA), Peter Wallis (RBA), Philippe Troussard (CPMI secretariat), Yukako Fujioka (IOSCO secretariat) and Ayn du Bazane (CPMI secretariat) as supporting members.

The CPMI and IOSCO have conducted two rounds of L1 assessments since the publication of the PFMI. The initial assessment was published in August 2013⁶ and the first update was published in May 2014.⁷ The main observation of those L1 assessments was that most jurisdictions had begun the process of implementation, but not all of the jurisdictions had completed the process for all types of FMI. The assessments also showed that jurisdictions have implemented, or are in the process of implementing, the PFMI in different ways. Depending on the national legal and regulatory or oversight framework, some jurisdictions use a policy-based approach (ie rely on a policy statement as the primary tool for adopting the PFMI), some use a rules-based approach (ie rely on rules and/or regulations corresponding to the PFMI) and others combine these two approaches.

In this respect, the United States jurisdiction can be described as having adopted primarily a rules-based approach for implementing the Principles for both CCPs and TRs, with three sets of detailed regulations either in place or proposed that apply to CCPs, and two sets of detailed regulations either in place or proposed that apply to TRs.

The CPMI and IOSCO will continue to monitor jurisdictions' progress in implementing the Principles and Responsibilities in future L1 and L2 assessments.

2.2 Objective and rating

The aim of the L2 assessment is to determine whether, and to what degree, the content of the legal and regulatory or oversight framework, including any relevant policy statements or other forms of implementation, applied in the United States is complete and consistent with the Principles. The focus of the L2 assessment is on the relevant framework itself, not on the application of this framework by authorities, nor on the FMIs' observance.

Any planned regulatory changes that the United States has for improving the degree of consistency with the Principles are also discussed in the assessment.

In conducting its assessment, the CPMI and IOSCO assessed whether there are gaps or shortcomings between implementation measures and the Principles and, if so, evaluated the materiality of the potential impact of those gaps. Ratings were then assigned based on these determinations to reflect the degree of completeness and consistency between an implementation measure and a particular Principle.

The rating framework used in L2 assessments (Table 1) is an adaptation of the approach described in the PFMI Assessment Methodology⁸ (AM). In order to reflect the fact that the purpose of the L2 assessment is to evaluate the completeness and consistency of a jurisdiction's implementation measures, rather than whether FMIs in the jurisdiction are in observance of the Principles, the rating levels are: "Consistent", "Broadly consistent", "Partly consistent", "Not consistent" and "Not applicable".

⁶ CPSS-IOSCO, *Implementation monitoring of PFMI – Level 1 assessment report*, August 2013, <http://www.bis.org/publ/cpss111.htm>.

⁷ CPSS-IOSCO, *Implementation monitoring of PFMI: first update to Level 1 assessment report*, May 2014, <http://www.bis.org/publ/cpss117.htm>.

⁸ CPSS-IOSCO, "Principles for financial market infrastructures: Disclosure framework and assessment methodology", December 2012, <http://www.bis.org/publ/cpss106.pdf>.

Consistent	The jurisdiction's regulatory framework is consistent with the Principle. The assessment has identified no gaps or shortcomings, or only a few gaps and/or shortcomings that have no material impact on completeness and/or consistency.
Broadly consistent	The jurisdiction's regulatory framework is broadly consistent with the Principle. The assessment has identified gaps and/or shortcomings that have a minor impact on completeness and/or consistency.
Partly consistent	The jurisdiction's regulatory framework is partly consistent with the Principle. The assessment has identified gaps and/or shortcomings that have a significant impact on completeness and/or consistency.
Not consistent	The jurisdiction's regulatory framework is not consistent with the Principle. The assessment has identified gaps and/or shortcomings that have a major impact on completeness and/or consistency.
NA – No implementation measures needed (ie not applicable)	This status corresponds to the case where no relevant FMI exists that is within the scope of the Principles. A rating of "NA" will be indicated only if no relevant regulatory measures are being taken and no such FMI is expected to develop within the jurisdiction.

2.3 Scope

This report covers implementation measures in the United States for CCPs that have been designated as systemically important and for TRs.⁹ For CCPs, different regimes apply depending on whether or not a CCP is designated as being systemically important based on criteria set in §804 of Title VIII as evaluated by the Financial Stability Oversight Council (FSOC)¹⁰; however, all CCPs are subject to some baseline regime. Requirements applicable to those designated as systemically important are based on the Principles. Accordingly, this report covers the requirements that apply to systemically important CCPs. For TRs, there is no differentiation of an equivalent nature regarding the designation of TRs, and thus this report covers the requirements applying to all TRs.¹¹ A list of recognised CCPs and TRs in the United States is provided in Annex D.

The report covers both existing and proposed regulatory frameworks. In the case of proposals, the assessment in the report should be considered preliminary only.

The implementation measures assessed for US CCPs include the comprehensive set of financial regulatory reforms:

- the final rules:

⁹ FMIs that are determined by national authorities to be systemically important are expected to observe the PFMI. The presumption is that all CSDs, SSSs, CCPs and TRs are systemically important. If an authority determines that a CSD, SSS, CCP or TR in its jurisdiction is not systemically important and, therefore, not subject to the Principles, the authority should disclose the name of the FMI and a clear and comprehensive rationale for the determination. Conversely, an authority may disclose the criteria used to identify which FMIs are considered as systemically important and may disclose which FMIs it regards as systemically important against these criteria. (See 1.20 of the PFMI.)

¹⁰ Established under the Dodd-Frank Act, the FSOC comprises the heads of nine major financial regulatory agencies, an independent member with insurance experience appointed by the President of the United States, and five non-voting members drawn from other US financial authorities.

¹¹ Dodd-Frank defines a 'financial market utility' (FMU) as any person that manages or operates a multinational system for the purpose of transferring, clearing, or settling payment, securities or other financial transactions among financial institutions or between financial institutions and the person. Central counterparties are encompassed within the definition of FMU, but trade repositories are excluded.

- the CEA (which was amended by the Dodd-Frank Act), and Parts 1, 22, 39, 140 and 190 of Title 17 of the Code of Federal Regulations (CFR) promulgated thereunder;
- the proposed rules:
 - the SEC’s proposed amendments to Rule 17Ad-22 and proposed Rule 17Ab2-2 under Section 17A of the Securities Exchange Act of 1934 (Exchange Act), published by the SEC;¹²
 - proposed Regulation HH, published by the Board; and
- the proposed Board policy statement:
 - proposed revisions to the part I of the PSR policy, published by the Board.

For TRs, the implementation measures assessed include the comprehensive set of financial regulatory reforms enacted under the Dodd-Frank Act; the CEA (including the Dodd-Frank Act amendments thereto); Parts 40, 43, 45, 46 and 49 of Title 17 of the CFR; and SEC SDR Proposed Rules 13n-1 to 13n-11 under the Exchange Act; SEC SDR Proposed Rule 13n-12 in the SEC Cross-Border Proposing Release; and SEC Proposed and Re-Proposed Regulation SBSR under the Exchange Act.

2.4 Process

This L2 assessment was carried out in three stages over the course of eight months: (i) collection of relevant information from US authorities; (ii) off-site review and follow-up exchange of information and discussions with the US authorities and other members of the CPMI-IOSCO Implementation Monitoring Task Force (IMTF); and (iii) review of ratings by and contributions from the US authorities.

The L2 assessment is based on responses to questionnaires provided by the US authorities. The aim was to gain insight into the regulatory, supervisory and oversight framework as well as the content of existing and proposed legislation, regulations and policies used in the implementation of the Principles for CCPs and TRs established in the United States.

The AT conducted a peer review based on the information provided in response to the questionnaire and additional clarifying information subsequently provided by the relevant authorities. The assessment process was designed to be iterative in nature. Interactions between the AT members and US authorities helped ensure that the AT would understand the content and intent of the US framework and allowed the assessed jurisdiction an opportunity to provide feedback to the AT. In addition, discussions among the three assessment teams and other members of the IMTF¹³ helped ensure that a consistent approach was applied across all the assessed jurisdictions.

The report also reflects input from the US authorities that reviewed the findings and recommendations and provided a jurisdictional response. A concise summary of the views of the US authorities is included in the executive summary of the report, and more-detailed comments can be found in Annex C.

¹² See Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Regulation. 16865 (Mar. 26, 2014), corrected at 79 Fed. Regulation. 29507 (May 22, 2014); see also 15 U.S.C. § 78q-1. The corrections to the Proposed Rule on 22 May 2014 did not alter the substance of the release of 26 March 2014. Rather, the corrections were limited to editorial amendments.

¹³ The IMTF was set up by the CPMI-IOSCO Steering Group to design, organise and carry out the implementation monitoring assessments. The IMTF comprises representatives from 18 jurisdictions that reflect a balance of CPMI and IOSCO members and geographical dispersion, as well as a range of domestic and global FMI’s supervisors and overseers.

3. Overview of the regulatory, supervisory and oversight framework

3.1 Central counterparties

3.1.1 Overview

In the United States, there are three parallel regimes that may apply to a particular CCP. Where a CCP is subject to multiple regimes – and therefore falls under the jurisdiction of multiple authorities – the authorities consult with each other and regulate the FMI in accordance with applicable statutory and regulatory requirements and relevant agency-issued guidance.

In designating an FMI as systemically important, the FSOC must take into account, among any other facts the FSOC considers appropriate: the value of transactions processed or carried out; the FMI's exposure to its counterparties; the relationship, interdependencies or other interactions of the FMI with other FMIs; and the effect that the failure of or a disruption to the FMI would have on critical markets, financial institutions or the broader financial system.

An FMU that has been designated by the FSOC as systemically important must comply with the applicable risk management standards under Title VIII.

- *Derivatives clearing organizations (DCOs)/systemically important derivatives clearing organizations (SIDCOs).* A DCO is any entity that acts as a CCP for futures and swaps. There are some exceptions, including where those products reference individual securities or a narrow index of securities. Any such entity offering CCP services to US persons must register with the CFTC as a DCO. DCOs that are designated by the FSOC as systemically important – and for which the CFTC is the Supervisory Agency – become SIDCOs and are subject to additional risk management standards under subpart C of the CFTC's regulations. In addition, the Board has a supervisory role with respect to SIDCOs – due to their designation by the FSOC as systemically important – and will have regard to its PSR policy when providing input to the CFTC.
- *Clearing agencies (CAs)/covered clearing agencies (CCAs).* The definition of a CA under the Exchange Act includes any entity that acts as a CCP for securities or for futures, options and swaps referencing securities or a narrow index of securities. Such entities must register with the SEC as a CA. CAs that are designated by the FSOC as systemically important – and for which the SEC is the Supervisory Agency – would become CCAs under the SEC's proposed regime and would be subject to additional risk management standards under the SEC's proposed Rule 17Ad-22(e). As in the case of SIDCOs, the Board has a supervisory role with respect to CAs designated systemically important and will have regard to its PSR policy when providing input to the SEC. The legal framework for CA supervision – and in particular, Section 19(b) of the Exchange Act – also gives CAs responsibilities as Self-Regulatory Organisations (SROs). As an SRO, a CA is required to comply both with SEC rules and regulations and provisions in its own rulebook. Any substantive changes to a CA's rules must be submitted to the SEC for review and approval. Notwithstanding Section 19(b), provisions in CAs' rulebooks have not been considered in this assessment, which focuses on the content of the statutory and regulatory framework.
- *Systemically important CCPs organised as state-chartered banks or Edge Act corporations.* A CCP that is organised as a state-chartered bank or Edge Act corporation would fall within the jurisdiction of the Board under powers granted by the Federal Reserve Act. If such a CCP were to be designated as systemically important and not fall under the jurisdiction of either the CFTC or SEC, the Board would be its Supervisory Agency and it would have to comply with risk management standards and other requirements adopted by the Board under Regulation HH. Currently, no CCP is organised as a state-chartered bank or Edge Act corporation. In the event

that a CCP that was registered as a CA or DCO was also organised as a state-chartered bank or Edge Act corporation, the Board would not act as Supervisory Agency.

Consistent with the intent of the Principles, the US authorities have developed regulations for systemically important CCPs that are based on the Principles. Accordingly, the AT has assessed the three regimes that are applicable to a CCP that has been designated as systemically important.

3.1.2 Regulatory regimes for systemically important CCPs

Systemically important derivatives clearing organizations

The CFTC is the regulatory authority responsible for the supervision and oversight of DCOs and is the Supervisory Agency for SIDCOs.

The key set of standards to which DCOs are held are the DCO Core Principles. The DCO Core Principles comprise 18 high-level standards that include but are not limited to risk management, financial resources, record keeping, participant and product eligibility, and disclosure standards as prescribed under 5b of the CEA.¹⁴ These standards are implemented at a more detailed level through subparts A and B of Part 39 of CFTC regulations.¹⁵

In addition to complying with the standards applicable to all DCOs, SIDCOs are held to additional SIDCO-specific standards contained in subpart C of part 39 of the CFTC's regulations.¹⁶ DCOs that have not been designated as systemically important by the FSOC may also elect to be held to the subpart C standards. To date, three DCOs have elected to be held to the subpart C standards without having been designated as systemically important by the FSOC. These subpart C standards require, among other things, additional risk management and financial resources.

In implementing the subpart C standards, the CFTC sought to reflect the Key Considerations that sit beneath the Principles. Furthermore, the subpart C standards specifically state in Regulation 39.40 that these standards – combined with the DCO Core Principles and subparts A and B of Part 39 of the CFTC's regulations – are intended to be consistent with the Principles and should be interpreted in that context. The CFTC has informed the AT that, consistent with this stated intention, the CFTC is guided by the Principles in interpreting and applying the SIDCO regime in carrying out its supervisory role.

In accordance with the stated intention that the Principles should apply to systemically important FMIs, the AT has assessed the SIDCO regime as it applies to CCPs designated as systemically important, and not the standalone DCO regime.

In addition, under powers granted by Title VIII, the Board also has a supervisory role with respect to SIDCOs. In this role, the Board is guided by its PSR policy, discussed in further detail below. The PSR policy is an expression of views and is not, of itself, legally enforceable.

Covered clearing agencies (CCAs)

The SEC has the power to register and supervise CAs and is currently the Supervisory Agency for four CAs designated as systemically important by the FSOC.

Regulatory requirements that apply to CAs are contained in Sections 17A and 19 of the Exchange Act and Rule 17Ad-22 under the Exchange Act. This rule was adopted in October 2012 as a first step in developing the regulatory changes contemplated by the Dodd-Frank Act. It established

¹⁴ Codified at 7 U.S.C. §7a-1.

¹⁵ 17 C.F.R. Part 39.

¹⁶ 17 C.F.R. 39.

requirements regarding the governance and operation of registered CAs, including in the areas of financial risk management, efficiency, transparency, access requirements and operational risk management. In establishing Rule 17Ad-22, the SEC considered the predecessor to the PFMI, the CPSS-IOSCO *Recommendations for Central Counterparties*.

Currently, all CAs are subject to the requirements of existing Rule 17Ad-22 in its entirety. In March 2014, the SEC published for public comment proposed requirements for CCAs under Rule 17Ad-22(e), which would create additional and, in some cases, heightened risk management requirements for CCAs. In proposing this CCA regime, the SEC considered each of the Principles applicable to CCPs and the Key Considerations that sit beneath the Principles. The proposed rule would establish requirements for CCAs in a number of areas: legal basis; governance; general framework for risk management; financial risk management (including credit, liquidity, margin and collateral); settlement; default management; general business and operational risk management; access; efficiency; and transparency. As a result, in addition to complying with the standards applicable to all CAs in parts (a), (b) and (c) of existing Rule 17Ad-22, CCAs would have to comply with all the requirements proposed in new Rule 17Ad-22(e) upon adoption. The SEC could also determine, pursuant to proposed Rule 17Ab2-2 upon adoption, that a CA that has not been designated as systemically important should be considered a CCA, for example if it engages in activities with a more complex risk profile.

In addition, under powers granted by Title VIII, the Board also has a complementary supervisory role with respect to CAs designated as systemically important by the FSOC. The Board exercises its supervisory role for these CAs in the same manner as for SIDCOs.

Systemically important CCPs organised as state-chartered banks or Edge Act corporations

CCPs that are organised as state-chartered banks or Edge Act corporations fall under the Board's jurisdiction, pursuant to the powers granted to the Board by the Federal Reserve Act. If such a CCP were to be designated by the FSOC as systemically important and not otherwise subject to either the CFTC's or SEC's jurisdiction, the Board would be the Supervisory Agency for the CCP. CCPs for which the Board is the Supervisory Agency will be required to comply with the requirements set out in Regulation HH.

The proposed amendments to Regulation HH were based on each of the Principles as well as certain Key Considerations that sit beneath the Principles. The Board published proposed Regulation HH for consultation in January 2014. In its proposal, the Board also stated: "In implementing the proposed revisions to Regulation HH, the Board anticipates using the PFMI as a reference as it establishes its supervisory planning and analysis tools for each designated FMU for which it is the Supervisory Agency."

In the event that a CCP registered as either a CA or a DCO (or both) was designated as an FMU and also organised as a state-chartered bank or Edge Act corporation, the Board would not act as Supervisory Agency. The CCP would be held to the risk management standards that apply to CAs or DCOs (as appropriate) and not Regulation HH. However, the Board would continue to have a role in the CCP's oversight and would be guided by its PSR policy, as described above. The AT has assessed the overall regime that applies to CCPs organised as state-chartered banks or Edge Act corporations, including the proposed text of Regulation HH, in a preliminary manner. The CPMI and IOSCO will review implementation of the regime in due course.

3.1.3 Relevant authorities

Commodity Futures Trading Commission

The CFTC has the power to register and supervise DCOs. To support its supervisory role, the CFTC has the power to make and adopt rules and regulations for DCOs, and it has additional powers under the Dodd-Frank Act to adopt rules for SIDCOs. As noted above, the CFTC has stated to the AT that, in accordance with Regulation 39.40, the SIDCO regime is intended to be consistent with the Principles.

Therefore, in carrying out its supervisory role, it is informed by the Principles and interprets the requirements of the SIDCO regime in that light.

All rule changes that a DCO seeks to adopt must be submitted to the CFTC either for review (where the DCO self-certifies that the rule complies with the CEA and CFTC regulations) or for approval. A DCO must notify its members and other market participants of the proposed rule change, and the CFTC publishes these proposed rule changes on its website. For SIDCOs, changes to rules, procedures or operations that could materially affect the nature or level of risks assumed by the SIDCO must be submitted to the CFTC by the SIDCO with at least 60 days' notice before the proposed change takes effect. The rule, procedure or operation may only take effect if the CFTC does not object to it. The CFTC consults with the Board before taking any action on such rule changes.

The CFTC conducts risk-based examinations of DCOs and, in so doing, is informed by a wide range of data and information, including on-site evaluations. For SIDCOs, the Board must be consulted annually regarding the scope and methodology for the examination of a SIDCO and the Board may, at its discretion, participate in the examination of a SIDCO.

The CFTC uses a number of measures to ensure, in the first instance, that a DCO adequately addresses any issues identified by the examinations. These include escalating the issue to the DCO's management and requiring the DCO to demonstrate, in writing, timely correction of such issues. Should a DCO fail to correct any issues, the CFTC has formal enforcement powers; for instance, it may sue the DCO in a federal court for civil monetary penalties, issue a cease and desist order, or suspend or revoke a DCO's registration.

Securities and Exchange Commission

The SEC has the power to register and supervise CAs. Under Section 17A of the Exchange Act, the SEC can adopt rules for CAs that are necessary or appropriate to promote: the public interest; investor protection; or the purposes of the Exchange Act. In addition, under the Dodd-Frank Act, the SEC has additional rule-making powers with respect to CAs designated as systemically important.

All proposed rule changes must be filed with the SEC for review of the rule's consistency with the Exchange Act. The SEC has the power to approve, modify or deny rule changes submitted for review. The SEC publishes for public comment rule changes that are filed with it.

The SEC undertakes examinations of CAs. In identifying the areas for review, the SEC assesses existing and emerging risks in order to prioritise areas for review. The SEC communicates the findings of its examinations to the CA through an exit interview and a letter summarising the findings. CAs are expected to respond to this letter in writing and address all issues and findings identified by the examination. In addition, the SEC must consult annually with the Board regarding the scope and methodology of the SEC's examinations of CAs designated as systemically important; the Board may participate in these examinations at its discretion.

To ensure compliance with its regulations, or if a CA failed to correct a matter identified during an examination, the SEC may initiate and conduct investigations of CAs. Following an investigation, the SEC has the authority to, among other things: suspend or revoke a CA's registration; impose limitations on a CA's activities, functions or operations; or impose financial sanctions.

The Board of Governors of the Federal Reserve System

- *Supervisory agency for systemically important CCPs organised as state-chartered banks or Edge Act corporations.* The Board has jurisdiction over state-chartered banks and Edge Act corporations under the Federal Reserve Act and certain systemically important CCPs under Title VIII. The Board is the default Supervisory Agency in the event that a CCP organised as a state-chartered bank or Edge corporation is designated as systemically important by the FSOC, but does not fall within the jurisdiction of either the CFTC or the SEC. The Board has the power

to register and supervise these CCPs. It has the power to prescribe risk management standards for such CCPs, take enforcement actions and request information from these entities.

- The Board conducts on-site, risk-based examinations of supervised entities, which include the issuance of findings and matters requiring attention by the firm. The Board also conducts ongoing monitoring of and follow up with the supervised entity, which includes regular communication with risk, operations, and other management and staff.
- If the Board were the Supervisory Agency for a CCP designated as systemically important pursuant to Title VIII of the Dodd-Frank Act, it would have the authority to take enforcement actions as set out in Title VIII, specifically, using the provisions of sections 8(b) through 8(n) of the Federal Deposit Insurance Act. The Board would, for example, be able to use these provisions to enforce such CCP's compliance with the applicable risk management standards.
- All proposed rule changes must be filed with the Board for review of the rule's consistency with Regulation HH. Specifically, changes to rules, procedures or operations that could materially affect the nature or level of risks presented by the designated FMU must be submitted to the Board with at least 60 days' notice. The rule, procedure or operation may only take effect if the Board does not object to it.
- *Responsibilities regarding SIDCOs and CAs designated systemically important.* The Board has authorities and responsibilities under Title VIII for CCPs designated by the FSOC as systemically important. As noted above, the Board must be consulted by the CFTC and the SEC with respect to their examinations of SIDCOs and CAs designated systemically important conducted for the purposes of Title VIII. In these discussions, the Board will have regard to the PSR policy. Further, the Board may participate in these examinations at its discretion. With respect to rule changes for SIDCOs or CAs designated systemically important, the relevant Supervisory Agency must consult with the Board prior to completing its review of any changes to rules, policies or procedures that could materially affect the nature or level of risk that it presents.

3.1.4 Recent and upcoming changes

- *Systemically important derivatives clearing organisations.* The CFTC finalised the subpart C requirements that apply to SIDCOs in December 2013, building on an earlier tranche of SIDCO requirements that were finalised in August 2013, and on subparts A and B, which were finalised in November 2011. These subpart C requirements, along with subparts A and B, are intended to bring the regime for SIDCOs into line with the Principles. All of the subpart C requirements came into effect on 31 December 2013.
- *Covered clearing agencies.* In October 2012, the SEC adopted Rule 17Ad-22, which established requirements for CAs; in doing so, the SEC considered the predecessor to the PFMI, the CPSS-IOSCO *Recommendations for Central Counterparties*.¹⁷ In March 2014, the SEC proposed amendments to Rule 17Ad-22, including new Rule 17Ad-22(e), and proposed Rule 17Ab2-2. These proposed rules would impose new risk management requirements on CCAs, based on the Principles. The public comment period closed on 27 May 2014, and the SEC is currently considering the responses it received.
- *Systemically important CCPs organised as state-chartered banks or Edge Act corporations.* In January 2014, the Board proposed, for consultation, amendments to Regulation HH. The public comment period closed on 31 March 2014. The Board finalised amendments to Regulation HH

¹⁷ Rule 17Ad-22 was proposed before the publication of the PFMI.

on 28 October 2014 based largely on the proposal with additional clarifying text and technical edits. The revised Regulation HH became effective on 31 December 2014.¹⁸

- *Responsibilities regarding SIDCOs and CAs designated systemically important.* In January 2014, the Board also published proposed revisions to its PSR Policy for public consultation. This policy, which incorporates all 24 headline Principles, guides the Board's discussions with the CFTC and SEC in the execution of its roles and responsibilities regarding designated clearing entities. The public comment period closed on 31 March 2014. The Board finalised the revisions on 28 October 2014 and the revised PSR policy became effective on 31 December 2014.¹⁹

3.2 Trade repositories

3.2.1 Overview

For TRs, there are two parallel and potentially overlapping regimes that may apply, depending on the types of product for which the TR offers trade reporting services.²⁰ These regimes were introduced by the Dodd-Frank Act via amendments to the CEA and the Exchange Act.

Any entity that collects and maintains information regarding swaps for the purpose of providing a centralised swap record-keeping facility is an SDR, and any entity that collects and maintains information regarding security-based swaps – that is, any swap that references a security or a narrow index of securities – is an SBSDR.

Unlike CCPs, there is no systemically important designation that can be applied to TRs. Accordingly, this report considers the requirements that apply to all TRs.

The two US TR regimes and the regulatory roles of the relevant authorities are described in further detail in the remainder of this section.

3.2.2 Regulatory regimes for TRs

Swap data repositories (SDRs)

The CFTC is the regulatory authority responsible for the supervision and oversight of SDRs.

The Dodd-Frank Act amendments to the CEA created SDRs as a new regulatory category and, in addition to establishing certain requirements and Core Principle duties for SDRs, granted the CFTC rulemaking powers to develop additional Core Principles and other requirements that SDRs must meet. The Dodd-Frank Act amendments to the CEA expressly permitted the CFTC, in developing any additional Core Principle duties for SDRs, to take into consideration any evolving standards of the international community.

The Dodd-Frank Act amendments to the CEA established Core Principle duties for SDRs which address antitrust considerations, governance arrangements, and conflicts of interest. Part 49 of the CFTC's regulations established additional Core Principle duties for SDRs which address financial resources, disclosure requirements, and access and fees, and also implemented a number of other

¹⁸ See press release and link to final rule: <http://www.federalreserve.gov/newsevents/press/other/20141028a.htm>.

¹⁹ See press release and link to final policy: <http://www.federalreserve.gov/newsevents/press/other/20141028a.htm>.

²⁰ TRs that offer trade reporting services for products falling within the CFTC's jurisdiction are subject to CFTC regulation, while TRs that offer such services for products falling within the SEC's jurisdiction are subject to SEC regulation. To the extent that a TR offers reporting services for both CFTC- and SEC-regulated products, the TR would be subject to regulation by both the CFTC and the SEC.

requirements with which an SDR must comply, including those relating to recordkeeping, system safeguards and security, business continuity, and disaster recovery.

The CFTC's Part 49 regulations were published on September 1, 2011, prior to the publication of the PFMI in April 2012. In adopting its Part 49 regulations, the CFTC stated that the regulations were intended to be consistent with the goals of the CPSS-IOSCO *Consultative Report, Considerations for Trade Repositories in the OTC Derivatives Market*, published in May 2010.

SDRs must register with the CFTC and comply with requirements under the CEA and the CFTC regulations adopted to support it. In addition to complying with the duties and requirements of Part 49 of the CFTC's regulations, SDRs must, among other things, meet certain real-time public reporting of data requirements set forth in Part 43 of the CFTC's regulations, as well as other swap data record-keeping and regulatory disclosure requirements set forth in Parts 45 and 46 of the CFTC regulations.

Currently, there are four provisionally registered SDRs: the Chicago Mercantile Exchange, Inc.; the DTCC Data Repository (US) LLC; the ICE Trade Vault LLC; and BSDR LLC. Three of these were operational as at the date of the assessment.²¹

Security-based swap data repositories (SBSDRs)

To date, the SEC has proposed, but not yet adopted, requirements and standards for SBSDRs pursuant to its rule-making powers. Under the SEC's proposed regime for SBSDRs, an SBSDR would have to register with the SEC and would be subject to a number of requirements adopted under the rule-making powers granted to the SEC by the Dodd-Frank Act with respect to SBSDRs.

The proposed regime would establish, among other things: registration procedures and requirements; requirements regarding record keeping, data access, privacy and disclosure, including a requirement to provide the SEC with direct electronic access; requirements with respect to ensuring adequate levels of system capacity, resiliency and security; and Core Principles covering access, governance and conflicts of interest. Compliance with the statutory and proposed regulatory requirements applicable to SBSDRs is a requirement for maintaining registration as an SBSDR. In addition, SBSDRs would be required to meet certain real-time public reporting and dissemination of data requirements set forth in the SEC's Re-Proposed Regulation SBSR.

TRs organised as state-chartered banks or Edge Act corporations

As with CCPs, if a TR was to be organised as a state-chartered bank or Edge Act corporation, it would fall under the jurisdiction of both the Board and the CFTC or the SEC. In these cases, the CFTC or the SEC would have standard-setting, supervisory and enforcement authority under the SDR or SBSDR regimes. The Board would be guided in its discussions with the CFTC and the SEC by, in part, its PSR policy. No TR is currently organised in this manner.

3.2.3 Relevant authorities

Commodity Futures Trading Commission

The CFTC has the power to register, and supervise, SDRs. The CFTC's Part 49 regulations set forth in detail the requirements that an SDR must satisfy in order to register with the CFTC and, along with the SDR provisions of the CEA, establish requirements with which an SDR must comply in order to maintain its registration. The Part 49 requirements that an SDR must meet in order to register include the requirement to provide to the CFTC for review detailed information regarding, among other things, the

²¹ The fourth provisionally registered SDR – BSDR LLC – became operational in May 2014.

SDR's business organization, operational capacity, and policies and procedures. In order to maintain registration an SDR must, among other things, provide to the CFTC for review periodic financial and compliance reports, as well as updates to information contained in the SDR's application for registration. All rules and rule changes that an SDR seeks to adopt must be submitted to the CFTC either for approval, or for review where the SDR self-certifies that the rule or rule change complies with the CEA and CFTC regulations. The CFTC will not approve a rule or rule change if it is inconsistent with the requirements of the CEA and CFTC regulations, and may stay the effectiveness of a self-certified rule or rule change if it is potentially inconsistent with these requirements. If, upon the conclusion of the stay period, the CFTC determines that a self-certified rule or rule change is inconsistent with the CEA or CFTC regulations, the rule or rule change will not become effective. An SDR must post on its website (with any confidential information redacted) a copy of any rule or rule change submission to the CFTC; it is also the CFTC's general practice to post, on the CFTC's own website, rule and rule change submissions from SDRs.

The CFTC has broad inspection and examination authority with respect to SDRs and, as part of its market surveillance role, the CFTC also has direct electronic access to SDR data. In addition, an SDR must also provide notice of planned changes to automated systems that may affect the capacity, security or reliability of those systems; planned changes to an SDR's risk management programme; or system malfunctions or cyber-security incidents.

Pursuant to its inspection and examination authority, the CFTC has commenced conducting periodic system safeguard examinations of provisionally registered SDRs to assess the system safeguards, backup facilities and disaster recovery plans that they are required, by statute and regulation, to have in place. These system safeguard examinations will be conducted on a regular basis, with the scope and timing of each examination set based on various risk factors, including the time since the last review and the potential systemic impact that would result if the SDR failed. Findings, recommendations and conclusions are documented in a written examination report. The report is provided to SDR management for their review and response. Examinations staff monitor the status of SDR remediation activities.

The CFTC has equivalent formal enforcement powers with respect to SDRs as it as in connection with its regulation of CCPs.

Securities and Exchange Commission

The Dodd-Frank Act granted the SEC broad authority to adopt and implement rules for SBSDRs. To date, the SEC has proposed such rules, but has not yet adopted them.

Although the Exchange Act and the Dodd-Frank Act do not impose obligations on registered SBSDRs to file rule changes with the SEC, the SEC's proposed SBSDR rules would require a registered SBSDR to file amendments to any of the information contained in registration materials, including the SBSDR's policies and procedures. Under the proposed SBSDR rules, the SEC would be able to review, analyse and determine the sufficiency of an SBSDR's policies and procedures through various stages of the supervisory process: both at registration and once registered, through filings of numerous interim and annual reports. The SEC would also have direct electronic access to SBSDR data.

In addition, although the SEC has not yet adopted final rules for SBSDRs and therefore procedures are not yet in place for SEC examinations, the SEC has broad inspection and examination authority over registered SBSDRs under the Dodd-Frank Act. The SEC has equivalent formal enforcement powers with respect to SBSDRs to those that apply in its regulation of CAs. In each of these stages, the SEC would have the authority to obtain from the SBSDR any information it needs to fulfil its regulatory mandate.

3.2.4 Recent and upcoming changes

- *Swap data repositories.* The CFTC published its Part 49 rule-making regulations, implementing the new SDR provisions of the CEA, in September 2011 (i.e. prior to the publication of the PFMI in April 2012). The requirement for an SDR to be registered with the CFTC became mandatory on 12 October 2012. In January 2014, the CFTC established a staff working group to consider swap data-related matters, including the operation of SDRs and the nature of swap data reported to and collected by them. In March 2014, the working group published a request for public comment regarding the swap data record-keeping and reporting rules set forth at Part 45 of the CFTC's regulations, and related requirements of the CFTC's regulatory framework for swap data reporting – including the SDR rules set forth at Part 49. The comment period closed on 27 May 2014, and the working group is currently in the process of reviewing comments received.
- *Security-based swap data repositories.* The SEC published its proposed SBSDR rules and Proposed Regulation SBSR for comment in November 2010. In May 2013, the SEC proposed guidance and rules regarding how the SEC's proposed SBSDR rules and Re-proposed Regulation SBSR rules would apply with respect to cross-border SBSDRs. Concurrently with the release of this Cross-Border Proposing Release, the SEC reopened for comment the proposed SBSDR rules and the Re-proposed Regulation SBSR. The comment period closed on 22 July 2013.

4. Assessment and recommendations

4.1 Summary assessment of completeness and consistency with the Principles

4.1.1 Overview

The AT has found that the US jurisdiction has developed rules or proposed rules that completely and consistently implement the majority of Principles that are applicable to CCPs. The progress of the US jurisdiction towards completely and consistently implementing the Principles for TRs has been more limited. This section provides a high-level summary of the consistency with the Principles of each of the three CCP regimes and the two TR regimes that exist in the United States. It also discusses the Board's PSR policy. A more detailed assessment of the five regimes, including links to relevant legislation, regulation and rules and notes explaining the assigned ratings at the level of the Principle, is provided in Section 4.2.

4.1.2 Central counterparties – systemically important derivatives clearing organizations

The CFTC's SIDCO regime completely and consistently implements the majority of the Principles. The AT has found that the SIDCO regime is consistent with 18 of the 22 Principles applicable to CCPs. Of the remaining four, the SIDCO regime is broadly consistent with three and partly consistent with one. Table 2 summarises the consistency of the SIDCO regime with each Principle.

Ratings summary for CCPs as at 18 April 2014 – systemically important derivatives clearing organizations

Table 2

Assessment category	Principle
Consistent	Principles 1, 2, 3, 4, 5, 6, 8, 9, 10, 13, 14, 15, 17, 18, 19, 21, 22 and 23
Broadly consistent	Principles 7, 16 and 20
Partly consistent	Principle 12
Not consistent	None
Not applicable	None

In implementing the SIDCO regime, the CFTC sought to reflect the Key Considerations that sit beneath the Principles. The CFTC also adopted Regulation 39.40, which states that the SIDCO regime, as implemented, “is intended to establish standards which [...] are consistent with [...] the Principles for Financial Market Infrastructure [...] and should be interpreted in that context”. The AT has taken into account this intention when interpreting regulations and requirements for SIDCOs. Where there are gaps in the detailed implementation but 39.40 is nevertheless considered sufficient to drive an overall consistent rating, the AT has in the spirit of full transparency highlighted these differences in the detailed appendices. However, where requirements are incomplete such that they cannot reasonably be interpreted in a manner consistent with the Principles, the AT has not used Regulation 39.40 as a catch-all encompassing/covering all requirements.

Reflecting these considerations, the AT makes the following overarching recommendation:

- The CFTC is recommended to make public the intended interpretation of matters identified in the course of this assessment, and other matters as they may come to light, that rely on Regulation 39.40 to clarify their consistency with the Principles.

Key inconsistencies and recommendations

While the SIDCO regime is consistent or broadly consistent across the majority of Principles, it is considered to be only partly consistent in one key area: exchange-of-value settlements (Principle 12).

- *Exchange-of-value settlements (Principle 12)*. While certain activities that CCPs perform fall under this Principle, there is no explicit requirement in the CFTC rules that implements the Principle.

The CFTC has identified a broad requirement that a CCP manage the risks associated with being a CCP and implement controls to limit its exposures (Regulation 39.13). It is understood from the CFTC that these provisions intend that a CCP engaged in exchange-of-value settlements ensures that settlement of one obligation occurs if and only if the final settlement of the linked obligation also occurs. Such an interpretation would also be reinforced by Regulation 39.40, which states that Part 39 of the CFTC’s regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context.

The AT has nevertheless concluded that Principle 12 is very specific that principal risk in exchange-of-value settlements should be managed by using a delivery-versus-payment (DvP); or payment-versus-payment (PvP)/delivery-versus-delivery (DvD) mechanism. Regulation 39.13 requires that risks be managed through the use of ‘appropriate tools and procedures’, which is far more general and could conceivably be met by the use of measures other than DvP (or PvP/DvD). Accordingly, notwithstanding the general provisions of Regulations 39.13 and 39.40, the absence of explicit requirements in this area or a clearly disclosed interpretation constitutes a gap in the SIDCO regime. Accordingly, the CFTC is recommended to implement explicit requirements for exchange-of-settlement systems in line with Principle 12, or to disclose its

interpretation of Regulation 39.13(a) and (f) as implementing Key Consideration 1. This could entail a description of the applicable approach to assessing the appropriateness of settlement mechanisms implemented.

Other differences between the SIDCO regime and the Principles

Other, more minor gaps and differences exist between the regime and a number of other Principles. However, these gaps have been assessed as having no more than a minor impact on the completeness and consistency of the SIDCO regime and therefore the regime is deemed to be broadly consistent in these areas.

- *Liquidity risk (Principle 7)*. The SIDCO regime does not have requirements consistent with the preference for central bank services in Principle 7, and there is no clear expectation that CCPs should use central bank services where available. Nonetheless, a SIDCO is eligible to apply for an account at a Federal Reserve Bank due to its designation by the FSOC as systemically important.

The CFTC is recommended to implement measures that explicitly state that a CCP, where available and practical, should use central bank services.

- *Custody and investment risks (Principle 16)*. Minor gaps exist between the SIDCO regime and Principle 16 with respect to CCPs' exposures to custodians and disclosure. Contrary to Key Consideration 3, the SIDCO regime does not explicitly require that a CCP consider the full scope of its relationship with a custodian when evaluating its exposures. Further, the regime includes no explicit provision aligned with Key Consideration 4 that a CCP's investment strategy be consistent with a CCP's overall risk management framework and disclosed to participants.

The CFTC is recommended to implement measures that explicitly require a SIDCO to:

- take into account the full scope of its relationships with a custodian when evaluating its exposures;
- ensure that its investment strategy is consistent with its overall risk management framework; and
- disclose its investment strategy to participants.

- *FMI links (Principle 20)*. The SIDCO regime does not explicitly address FMI links, nor explicitly prescribe requirements for such links. Rather, the SIDCO regime treats linked CCPs as clearing participants and imposes a broad requirement that a DCO address the full range of risks to which it is exposed. As a result, all of the risk management requirements that apply to a CCP-link counterparty are identical to those that apply to clearing participants. With respect to links to other types of FMI, CFTC regulations require a DCO to clearly identify and document the range of risks to which it is exposed, and to monitor and manage the entirety of those risks. While such language is broad enough to encompass risks arising from link arrangements between DCOs and any type of FMI, the SIDCO regime does not explicitly require a CCP to consider risks arising from links (including that a CCP should be able to cover its potential future exposure to a linked CCP without reducing its ability to fulfil its obligations to its own participants at any time).

While Principle 20 addresses a broad range of link arrangements and requires that CCPs address particular risks specific to such arrangements, the AT considers the absence of explicit link-specific requirements to be a gap with respect to Principle 20.

The CFTC is recommended to provide more specificity as to:

- the consideration of spillover effects in relation to inter-CCP links, beyond participant-type CCP links; and

- the application of risk management requirements to all inter-CCP links beyond participant-type links, including that a CCP should consider all risks arising from such links and that it should manage financial exposures to a linked CCP without reducing its ability to fulfil its obligations to its own participants.

In some cases, the AT has found a few gaps that, while noteworthy, do not have a material impact on the overall consistency of the SIDCO regime with the relevant Principle.

- *Credit risk (Principle 4)*. There is a possible ambiguity in the CFTC regulations regarding whether the SIDCO regime allows CCPs to count default insurance as a financial resource against potential future exposures to participants. This creates a risk of inconsistency with the approach taken in Principle 4, Key Consideration 4, which clearly states that these financial resources should be prefunded.
- *Collateral (Principle 5)*. CCPs are permitted to accept letters of credit as collateral for futures and options (notwithstanding that letters of credit are not acceptable collateral for swaps (OTC derivatives)). This is at variance with the statement in footnote 63 in the PFMI that guarantees – such as letters of credit – do not meet the criteria under Key Consideration 1 of low “credit, liquidity and market risks”. In addition, requirements in the SIDCO regime related to collateral eligibility apply only to initial margin and do not apply to pooled loss-absorbing resources, such as default fund contributions. There are also no specific requirements regarding collateral management systems for CCPs. However, in light of Regulation 39.40, these shortcomings in completeness in the SIDCO regime are assessed to have no material impact on the consistency of the SIDCO regime with Principle 5.
- *Margin (Principle 6)*. The CFTC regulations do not explicitly address cross-margining, nor explicitly prescribe requirements for CCPs authorised to offer cross-margining. In particular, there are no rules requiring that if two or more CCPs are authorised to offer cross-margining, they must have appropriate safeguards and harmonised overall risk management systems. The AT considers it important that these matters be clarified.
- *Settlement finality (Principle 8)*. The SIDCO regime states that settlement with participants must occur at least once each business day. However, this does not necessarily require that each transaction be settled by no later than the end of the value date. The AT has nevertheless interpreted this aspect of the SIDCO regime in light of CFTC Regulation 39.40. Accordingly, as relevant here, the AT has interpreted the SIDCO regime as requiring that the referenced once-a-day settlement must be completed no later than the end of the value date, consistent with Principle 8.
- *Operational risk (Principle 17)*. There is no explicit requirement under the SIDCO regime for a CCP to “identify, monitor and manage risks” that it poses to other FMIs. However, in light of Regulation 39.40, this shortcoming in completeness in the SIDCO regime is assessed to have no material impact on the consistency of the SIDCO regime with Principle 17.

The AT has also made recommendations to address the more minor gaps identified above. These recommendations are detailed in the table in Section 4.2.1 .

4.1.3 Central counterparties – covered clearing agencies

The SEC’s proposed CCA regime upon adoption would implement a regime for CCAs that is broadly complete and consistent with the majority of the Principles. In proposing this CCA regime, the SEC sought to reflect each Principle, as well as certain Key Considerations that sit beneath the Principles. However, in some cases the implementation is more high-level than the Key Considerations and accordingly is not explicitly consistent with every element of each Principle. The AT has found that the proposed CCA regime is consistent with 12 of the 22 Principles applicable to CCPs. Of the remaining 10,

the proposed CCA regime is broadly consistent with eight and partly consistent with two. Table 3 summarises the consistency of the proposed CCA regime with each Principle.

Since the proposed CCA regime has not yet been finalised, the CPMI and IOSCO will review implementation of the regime in due course.

Preliminary ratings summary for CCPs as at 18 April 2014 – covered clearing agencies	
Assessment category	Principle
Consistent	Principles 1, 4, 5, 6, 10, 12, 13, 15, 18, 19, 22 and 23
Broadly consistent	Principles 2, 3, 7, 8, 14, 16, 20 and 21
Partly consistent	Principles 9 and 17
Not consistent	None
Not applicable	None

Table 3

Key inconsistencies and recommendations

While the overall proposed CCA regime establishes a regime that intends to be broadly in line with the Principles, there are a number of key areas in which material gaps exist. Largely, these gaps are due to less explicit implementation of the concepts and ideas of the Principles in the proposed CCA regime than is intended by the Key Considerations. This absence of certain explicit requirements in the proposed implementation measures for the CCA regime has a material impact on the consistency of the CCA regime in some areas. Accordingly, the proposed CCA regime has been assessed to be partly consistent in these areas.

- *Money settlements (Principle 9)*. There is a requirement in the CCA regime that a CCP use central bank money where available and practical. However, the SEC states in the preamble to the proposed regulations for the CCA regime that it may be appropriate for a CCP to use commercial bank money even where the use of central bank money is available. This ambiguity could lead CCPs to adopt commercial bank arrangements even where central bank money is available and practicable. There are areas in which the SEC's proposed CCA regime lacks specificity, including in relation to eligibility criteria and ongoing monitoring of settlement banks, and the key elements of a CCP's agreements with settlement banks.

Accordingly, the SEC is recommended to:

- clarify in its preamble that only where central bank money is not practicable and/or available would the use of commercial bank money be appropriate;
 - explicitly require a CCP to adopt strict eligibility criteria for settlement banks and monitor settlement banks' adherence to such criteria; and
 - explicitly require that a CCP's agreements with its settlement banks clearly state when transfers are expected to occur and that funds be available as soon as possible, and at a minimum by the end of the day.
- *Operational risk (Principle 17)*. The CCA regime lacks detail in several areas, including in relation to the board's role in the governance of a CCP's operational risk management framework, auditing of operational risk policies, procedures and controls, and certain business continuity requirements. The SEC is recommended to implement explicit measures that require:
 - a CCP's board of directors to clearly define roles and responsibilities for addressing operational risk and to endorse the CCP's operational risk management framework;

- auditing of a CCP's operational policies, procedures and controls; and
- a CCP to develop business continuity plans designed to support the completion of settlement by the end of the day of the disruption, even in extreme circumstances.

Other differences between the proposed CCA regime and the Principles

Other, more minor gaps and differences exist between the regime and a number of other Principles. However, these gaps have been assessed as having no more than a minor impact on the completeness or consistency of the proposed CCA regime. Accordingly, the regime has been assessed to be broadly consistent in these areas.

- *Governance (Principle 2)*. The proposed CCA regime does not contain explicit requirements with respect to a number of key concepts of Principle 2, including in relation to objectives, responsibility and accountability, the roles and responsibilities of management, and board members' incentives.

The SEC is recommended to implement explicit measures which require that:

- a CCP have objectives that support financial stability
 - a CCP's governance arrangements provide clear and direct lines of responsibility and accountability
 - a CCP clearly specify the roles and responsibilities of its management; and
 - a CCP's board provide appropriate incentives for its members.
- *Framework for the comprehensive management of risks (Principle 3)*. While the CCA regime requires a CCP to have recovery and wind-down plans, it does not explicitly require a CCP to identify scenarios that would make it unable to provide its critical operations, nor base the recovery or orderly wind-down plan on the CCP's assessment of those scenarios. Nevertheless, in practice, it is implicit that an effective plan would have to consider relevant scenarios. In addition, the proposed CCA regime does not contain specific measures that require a CCP to provide incentives to participants to manage and contain the risks they pose to the CCP. However, this aspect of Principle 3 is, to a degree, implemented through other requirements (eg risk-sensitive margining, default fund).

The SEC is recommended to implement measures that explicitly require that a CCP identifies scenarios that potentially could prevent the CCP from being able to provide its critical operations and services and assess the effectiveness of a full range of options for recovery or orderly wind-down.

The SEC is also recommended to implement measures that explicitly require the CCP's plans for its recovery or orderly wind-down to be based on the results of that assessment, and the CCP to provide relevant authorities with the information needed for purposes of resolution planning.

- *Liquidity risk (Principle 7)*. The proposed CCA regime does not contain certain details in a number of areas, including: permitting a CCP to establish a policy and procedures to meet only *foreseeable* liquidity shortfalls, rather than *unforeseen and potentially uncovered* shortfalls as in Key Consideration 10.

The SEC is recommended to:

- Explicitly require that a CCP introduce policies and procedures to address unforeseen and potentially uncovered liquidity shortfalls.

- *Settlement finality (Principle 8)*. The proposed CCA regime does not require a CCP to explicitly define the point of settlement finality, but does require that it must be no later than the end of the settlement day. In addition, the proposed CCA regime does not have explicit requirements regarding the point after which unsettled payments may not be revoked by a participant. However, the preamble to the proposed regulation suggests that a CCP could adopt such measures as one method of achieving the high-level requirement of final settlement contained in the proposed CCA regime.

The SEC is recommended to implement measures that explicitly require:

- a CCP to clearly define the point of settlement finality and the point after which unsettled payments, transfer instructions or other obligations may not be revoked by a participant.

- *Segregation and portability (Principle 14)*. The proposed CCA regime has a narrower scope for segregation and portability requirements than intended by the Principles and lacks details in some relevant areas. In particular, the requirements apply only to CCAs that are involved in activities with a more complex risk profile including clearing security-based swaps and are less specific in relation to the types of account structure that should be made available, disclosure requirements, and the need to support a high probability of portability.

CCPs that clear cash securities and listed options are not required to meet the proposed CCA regime in this area. The Principles acknowledge that, in certain cash markets, the same degree of protection may be achieved by alternative means. In relation to clearing agencies operating in the cash securities and listed options markets, the AT has assessed requirements under the SEC's regulatory regime for broker-dealers, concluding that these are consistent with the scope of the alternative approach for CCPs that serve cash markets.

The SEC is recommended to extend the scope of segregation and portability requirements to all CCAs and to implement measures that require a CCP to:

- employ an account structure that enables it to readily identify positions of a participant's customers and to segregate related collateral;
- disclose the types of account structure it offers, or any constraints that may impair its ability to segregate or port customers' positions and related collateral; and
- structure its portability arrangements in a way that makes it highly likely that the positions and collateral of a defaulting participant's customers will be transferred to one or more other participants.

- *Custody and investment risks (Principle 16)*. Several gaps exist between the explicitly proposed requirements under the CCA regime and Principle 16, including in relation to the management of risks in CCPs' relationships with custodians. In addition, there is no explicit requirement that this investment strategy be consistent with a CCP's overall risk management framework, or that it be disclosed to participants. However, since the overarching requirement that investments be subject to low credit, market and liquidity risks is reflected in the proposed CCA regime, the regime implicitly achieves a level of consistency.

The SEC is recommended to implement explicit measures that require a CCP to:

- evaluate and understand exposures to its custodian banks, taking into account the full scope of its relationships with each custodian bank;
- have an investment strategy that is consistent with its overall risk management strategy; and
- fully disclose the investment strategy to its participants.

- *FMI links (Principle 20)*. The proposed CCA regime has a high-level requirement with respect to identifying, monitoring and managing FMI-link-specific risks. However, it does not explicitly address some details of Principle 20, including in relation to the management of financial risks associated with inter-CCP links (including that a CCP should be able to cover its potential future exposure to a linked CCP without reducing its ability to fulfil its obligations to its own participants at any time). Further, the implementation measures do not extend explicitly to links with TRs.

The SEC is recommended to implement measures that provide more specificity as to:

- the consideration of spillover effects in relation to inter-CCP links;
- ensuring that a CCP covering its credit exposure arising from the link at least on a daily basis; and
- the application of risk management requirements to inter-CCP links, including that a CCP should manage financial exposures to a linked CCP without reducing its ability to fulfil its obligations to its own participants.

The SEC is also recommended to extend the scope of its regulations to explicitly include links between CCPs and TRs.

- *Efficiency and effectiveness (Principle 21)*. There are no explicit requirements in the proposed CCA regime that a CCP have clearly defined goals and objectives that are measurable and achievable.

The SEC is recommended to implement explicit measures requiring that a CCP have clearly defined goals and objectives that are measurable and achievable, such as in the areas of minimum service levels, risk management expectations and business priorities.

In some cases, the AT has found gaps that, while noteworthy, do not have a material impact on the overall consistency of the proposed CCA regime with the relevant Principle.

- *Credit risk (Principle 4)*. The proposed CCA regime does not explicitly state the types of scenario that a CCP should consider when conducting stress tests and only requires a CCP to consider a “wide range of scenarios”. There is also no explicit reference to the need for a CCP to have procedures to report daily stress test results to management.
- *Collateral (Principle 5)*. The proposed CCA regime is generally designed to minimise the risks associated with collateral, but does not make explicit mention of cross-border legal risks.
- *Margin (Principle 6)*. The proposed CCA regime does not explicitly require that a CCP’s initial margin model use a conservative estimate of the time horizon of the closeout period, or limit the need for destabilising procyclical changes. While the proposed rules would require a CCP to consider, and produce margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market, they do not explicitly contemplate CCPs that calculate margin at more granular levels such as subportfolio levels.

In addition, the proposed regime does not preclude a CCP from allowing offsets or reductions across products. However, there are no explicit provisions in the proposed regime regarding the scope of permissible margin offsets or rules requiring that if two or more CCPs are authorised to offer cross-margining, they must have appropriate safeguards and harmonised overall risk management systems. The AT considers it important that these matters be clarified.

The AT has also made recommendations to address the more minor gaps identified above. These recommendations are detailed in the table in Section 4.2.2.

4.1.4 Systemically important central counterparties – CCPs organised as state-chartered banks or Edge Act corporations

The Board's proposed amendments to Regulation HH had not yet been finalised by 18 April 2014. Accordingly, the AT's assessment was based on the Regulation HH regime as proposed at that time. The AT concluded that the Board's proposed regime that would apply to systemically important CCPs organised as state-chartered banks or Edge Act corporations would progress towards implementing a regime for these CCPs that was broadly complete and consistent with the Principles. The Board's proposed amendments to Regulation HH were based on the relevant headline standards as well as additional details in the corresponding key considerations and explanatory notes.

The AT found that the proposed regime was consistent with 20 of the 22 Principles applicable to CCPs. The remaining two were broadly consistent. Table 4 summarises the consistency of the Board's regulatory regime.

Assessment category	Principle
Consistent	Principles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 18, 19, 21, 22 and 23
Broadly consistent	Principles 14 and 20
Partly consistent	None
Not consistent	None
Not applicable	None

Since Regulation HH had not yet been finalised by 18 April 2014, the CPMI and IOSCO will review implementation of the final measures in due course.

Key inconsistencies and recommendations

The proposed Regulation HH regime completely and consistently implements the majority of the Principles.

Differences between the regime for systemically important CCPs organised as state-chartered banks or Edge Act corporations and the Principles

Minor gaps and differences exist between the regime and a number of other Principles. However, these gaps have been assessed as having no more than a minor impact on the completeness or consistency of the regime that applies to CCPs organised as state-chartered banks or Edge Act corporations. Accordingly, the regime has been assessed to be broadly consistent in these areas.

- *Segregation and portability (Principle 14)*. The proposed implementation measures are broadly consistent with the headline standard of Principle 14 but are less granular than some of the Key Considerations.

The Board is recommended to implement measures that require a CCP to:

- employ an account structure that enables it to readily identify positions of a participant's customers and to segregate related collateral;
- disclose the types of account structure it offers, or any constraints that may impair its ability to segregate or port customers' positions and related collateral; and

- structure its portability arrangements in a way that makes it highly likely that the positions and collateral of a defaulting participant’s customers will be transferred to one or more other participants.
- *FMI links (Principle 20)*. The only gap in the regime with respect to FMI links is that the regime does not address links between CCPs and TRs due to a technicality in the use of the term FMU which, as defined under the Dodd-Frank Act, excludes TRs. The regime is consistent with Principle 20 for other types of FMI link.

The Board is recommended to extend the scope of its regulations to include links between CCPs and TRs.

In some cases, the AT has found gaps that, while noteworthy, do not affect the overall completeness and consistency of the regime with the relevant Principle. In some cases, the consistent rating has been driven by the additional consideration that, in implementing the proposed revisions to Regulation HH and establishing its supervisory planning and analysis tools for each designated FMU for which it is the Supervisory Agency, the Board anticipates using the key considerations and explanatory notes in the PFMI as a reference.

- *Framework for the comprehensive management of risks (Principle 3)*. The regime does not contain specific measures that require a CCP to provide incentives to participants to manage and contain risks they pose to the CCP. However, this aspect of Principle 3 is, to a degree, implemented through other requirements (eg risk-sensitive margining, default fund). Accordingly, the gap has only a minor impact on the completeness and consistency of the regime.
- *Margin (Principle 6)*. The Board has proposed to implement measures that require a CCP to conduct sensitivity analysis of a margin model’s coverage. In the wording of the regulation, however, it does not explicitly mention “taking into account extreme changes in correlations between prices.” This explanation is provided in the preamble of the *Federal Register* notice that sets forth the Board’s views on the proposed requirements and what it would expect from a designated FMU. In addition, while the proposed regulation would not preclude a CCP from allowing such offsets or reductions across products, there are no provisions in the proposed regulation regarding the scope of permissible margin offsets or rules requiring that if two or more CCPs are authorised to offer cross-margining, they must have appropriate safeguards and harmonised overall risk management systems. The AT considers it important that these matters be clarified.
- *Liquidity risk (Principle 7)*. The regime lacks minor details in some areas, including around the types of scenario a CCP should consider in its stress tests.
- *Tiered participation arrangements (Principle 19)*. The regime implements Principle 19 at a high level and, accordingly, lacks detail with respect to certain of the Key Considerations. In particular, there are no requirements that a CCP identify material dependencies between direct and indirect participants, and identify direct participants responsible for a significant proportion of the transactions processed by either the CCP or a direct participant.

A detailed list of all recommendations regarding the gaps and differences in implementation between the Board’s regulatory regime and the Principles – identified at the Key Consideration level – are set out in the table in Section 4.2.3

4.1.5 Central counterparties – the Board’s Payment System Risk policy

Title VIII grants the Board certain authorities and responsibilities regarding designated clearing entities (SIDCOs and CCAs designated as systemically important) that fall under the jurisdiction of the CFTC and the SEC. In carrying out its responsibilities, including discussions with the CFTC and the SEC, the Board is

informed by the risk management standards in Part I of the PSR policy. The proposed revisions to the PSR policy would incorporate all 24 headline Principles.²² In implementing the PSR policy, the Board anticipates that it would be guided by the Key Considerations and Explanatory Notes of the PFMI. Accordingly, the PSR policy may be considered complete and consistent with the PFMI from this perspective.

While the PSR policy is not enforceable, the Board promotes change pursuant to its authorities in a manner consistent with the PFMI. Since the PSR policy informs the Board’s dialogue with the CFTC and the SEC in the context of the Board’s role for designated clearing utilities, issues of concern identified by the Board may be pursued further by the CFTC and the SEC as supervisory agencies for SIDCOs and CCAs, respectively. Associated enforcement action may then be taken by the CFTC and the SEC in accordance with their legislative powers.

4.1.6 Trade repositories – swap data repositories

The AT has found that the CFTC’s final and in-force SDR regime is partly consistent with the majority of the Principles that are applicable to TRs. The regime is rated consistent for one Principle, broadly consistent with two Principles and partly consistent with seven of the Principles. The regime has been assessed to be not consistent with the remaining two Principles (Table 5).

Ratings summary for TRs as at 18 April 2014 – swap data repositories		Table 5
Assessment category	Principle	
Consistent	Principle 24	
Broadly consistent	Principles 21 and 23	
Partly consistent	Principles 1, 2, 3, 15, 17, 18 and 19	
Not consistent	Principles 20 and 22	
Not applicable	None	

Timing of implementation has had a bearing on the consistency of the SDR regime with the Principles. The Dodd-Frank Act, which amended the CEA to add SDRs as a new category of CFTC-registered entity, was signed into law on 21 July 2010, and Part 49 of the CFTC’s regulations, which implemented the new SDR provisions of the CEA, was published on 1 September 2011 – prior to the publication of the PFMI in April of 2012. A review by the CFTC of the final and in-force SDR regime in light of the subsequently published PFMI is in its early stages. This reflects the CFTC’s report in the May 2014 update to the L1 assessment report that it has a “Rating 1” under the L1 assessment framework. This is the earliest stage a jurisdiction can be at in implementing the Principles.²³

Key inconsistencies and recommendations

Some requirements of the SDR regime are not fully consistent with the intention and depth of the Principles. In relation to some Principles and Key Considerations, the SDR regime has no explicit requirements or there are significant gaps in detail relative to the Principles. Accordingly, the SDR regime has been assessed to be not consistent in these areas.

- *FMI links (Principle 20)*. The SDR regime does not contain explicit requirements with respect to a number of key concepts of Principle 20, including the legal basis of a link, additional

²² The Board finalised revisions to Part I of the PSR policy on 28 October 2014.

²³ CPSS-IOSCO, *Implementation monitoring of PFMI: first update to Level 1 assessment report*.

operational risks related to links, and identification and management of potential sources of risk prior to entering into a link arrangement.

The CFTC is recommended to implement measures to address these gaps – in particular, to implement measures that clearly require an SDR to:

- ensure that a link arrangement have a well-founded legal basis that supports its design and provides adequate protection to the TR;
 - carefully assess additional operational risks related to its links;
 - identify and manage all potential sources of risk in a link arrangement before entering into such an arrangement; and
 - design any link arrangements in such a way that it is able to observe all other relevant Principles.
- *Communication procedures and standards (Principle 22)*. The CFTC has not implemented measures that explicitly require an SDR to use or accommodate internationally accepted communication procedures and standards.

The CFTC is recommended to require that an SDR use, or at a minimum accommodate, internationally accepted communication procedures and standards.

The gaps that the AT has identified between the SDR regime and the Principles are listed in the detailed assessment table in Section 4.2.4. This table also contains additional recommendations from the AT on addressing these gaps. Broadly, the AT recommends that the CFTC consider taking the additional measures necessary in order to fully implement the PFMI for SDRs. More specifically, the AT has set out a number of recommendations to adopt more-specific and more-detailed requirements across the Principles and a number of Key Considerations.

The CFTC has established a staff working group that is reviewing issues relating to swap data, including the operation of SDRs and the data reported to them. This group is considering areas for improvement and change to CFTC regulations in connection with its review. The AT welcomes this development and encourages the working group to consider regulatory changes that would promote consistency of the SDR regime with the Principles.

4.1.7 Trade repositories – security-based swap data repositories

The current regime for SBSDR achieves a low level of consistency with the Principles. The regime is rated consistent for one Principle, broadly consistent with one Principle and partly consistent with six of the Principles. The regime is not consistent with the remaining four Principles (Table 6).

Ratings summary for TRs as at 18 April 2014 – security-based swap data repositories

Table 6

Assessment category	Principle
Consistent	Principle 24
Broadly consistent	Principle 23
Partly consistent	Principles 1, 2, 3, 17, 18 and 21
Not consistent	Principles 15, 19, 20 and 22
Not applicable	None

Timing of early stage implementation has had a bearing on the consistency of the SEC’s proposed SBSDR regime with the Principles. The Dodd-Frank Act, which amended the Exchange Act to

add SBSDRs as a new category of SEC-registered entity, was signed into law on July 21, 2010, and the SEC's proposed rules governing SBSDRs, which would implement the new SBSDR provisions of the Exchange Act, if adopted, were published in November 2010 - prior to the publication of the PFMI in April of 2012.

The ratings reflect the early stage of implementation of the SBSDR regime with respect to the Principles. The SEC reported in the May 2014 update to the L1 assessment report that it was currently drafting final rules consistent with the Principles with respect to SBSDRs and was therefore a "Rating 1" under the L1 assessment framework. This is the earliest stage a jurisdiction can be at in implementing the Principles.²⁴

Key inconsistencies and recommendations

The SEC's proposed SBSDR regime lacks some explicit requirements that reflect the intention and detail of the Principles. In relation to some Principles and Key Considerations, the SBSDR regime has no explicit requirements or there are significant gaps in detail relative to the Principles. Accordingly, the SEC's proposed SBSDR regime has been assessed to be not consistent in these areas.

- *General business risk (Principle 15)*. The proposed SBSDR regime does not contain explicit measures to implement any relevant Key Consideration.

The SEC is recommended to implement measures to explicitly require that a TR:

- have management and control systems to identify, monitor and manage general business risks;
- hold liquid net assets funded by equity so that it can continue operations and services as a going concern if it incurs general business losses;
- maintain a viable recovery or orderly wind-down plan and hold sufficient liquid net assets funded by equity to implement this plan, at a minimum holding liquid net assets funded by equity equal to at least six months of current operating expenses;
- ensure that assets the TR holds to cover general business risk are of high quality and sufficiently liquid in order to allow the TR to meet its current and projected operating expenses under a range of scenarios, including in adverse market conditions; and
- maintain a viable plan for raising additional equity should its equity fall close to or below the amount needed.

- *Tiered participation arrangements (Principle 19)*. The proposed SBSDR regime does not contain explicit measures to implement any relevant Key Consideration.

The SEC is recommended to implement measures to explicitly require that a TR:

- have rules, procedures and agreements that allow it to gather basic information about indirect participation;
- identify material dependencies between direct and indirect participants that might affect the TR;
- identify indirect participants responsible for a significant proportion of transactions processed by the TR or indirect participants whose transaction volumes or values are large relative to the capacity of the direct participants through which they access the TR; and

²⁴ CPSS-IOSCO, *Implementation monitoring of PFMI: first update to Level 1 assessment report*.

- regularly review risks arising from tiered participation arrangements and take mitigating action when appropriate.
- *FMI links (Principle 20)*. The proposed SBSDR regime does not contain explicit requirements with respect to a number of key concepts of Principle 20, including the legal basis of a link, operational risks, monitoring and management of risks associated with a link.

The SEC is recommended to implement measures to address these gaps – in particular, to explicitly require that a TR:

- ensure that a link arrangement have a well-founded legal basis that supports its design and provides adequate protection to the TR;
- carefully assess operational risks related to its links;
- identify, monitor and manage all potential sources of risk in a link arrangement before entering into such an arrangement and on an ongoing basis; and
- design any link arrangements in such a way that it is able to observe all other relevant Principles.
- *Communication procedures and standards (Principle 22)*. The SEC has not implemented measures that fully recognise and accommodate internationally accepted communication procedures and standards.

The SEC is recommended to explicitly require that a TR use, or at a minimum accommodate, internationally accepted communication procedures and standards.

The AT has identified the gaps between the SBSDR regime and the Principles in the detailed assessment table in Section 4.2.5 This table also contains additional recommendations from the AT with respect to these gaps. The AT's recommendations reflect the early stage of implementation of the SBSDR regime. Broadly, the AT recommends that the SEC consider taking all additional measures necessary in order to implement the Principles for SBSDRs. In particular, the AT has made a number of recommendations, including that the SEC adopt more-specific and explicit requirements across a number of Key Considerations, and all 12 Principles. These recommendations are set out in detail in the assessment table in Section 4.2.4.

The SEC has not yet adopted the proposed SBSDR regime that the AT has assessed and has not stated the time frame in which it plans to finalise the regime. The SEC has not indicated that it plans to revise this regime in order to address the gaps and inconsistencies with respect to the Principles identified by the AT.

4.2 United States' completeness and consistency with the Principles – Review and recommendations

4.2.1 Systemically important derivatives clearing organisations

Implementation monitoring of Principles: Level 2 assessment report for the U.S. Commodity Futures Trading Commission's Systemically Important Derivatives Organizations and Subpart C firms

Part 2: Implementation of the principles			
1. Text of applicable Principles and Key Considerations (KCs) ²⁵	2. Implementation measures of the CFTC:	3. Key conclusions for principles	4. Recommendations and comments
	<p>The Commission adopted final regulations in 2011 largely based on the consultative draft of the PFMI. In 2013, the Commission adopted additional regulations to address any gaps between the Commission's regulations and the PFMI. These additional regulations create an enhanced regulatory framework for systemically important derivative clearing organizations and derivative clearing organizations that elect to be held to the higher risk-management standards. In promulgating these regulations, the Commission enacted 17 C.F.R. 39.40, which states that the regulatory framework for derivative clearing organizations should be interpreted as being consistent with the Commodity Exchange Act as well as the PFMI.</p>		
<p>Principle 1: Legal basis</p> <p>An FMI should have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.</p>	<p>The standards set forth in Principle 1 are addressed in CFTC regulations 17 C.F.R. 39.21 and 39.27. These regulations are available at the following links:</p>	<p>Consistent</p>	

²⁵ Only the relevant principles for CCPs (as set forth in the annex E of the PFMI) are included.

	<p>Regulation 39.21: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=80b1d65a7dda6acc83f8c6154e6630eb&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.13</p> <p>Regulation 39.27: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=80b1d65a7dda6acc83f8c6154e6630eb&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.17</p>		
1. <i>The legal basis should provide a high degree of certainty for each material aspect of an FMI's activities in all relevant jurisdictions.</i>	CFTC regulations 17 C.F.R.: 39.27(b), (c)		
2. <i>An FMI should have rules, procedures, and contracts that are clear, understandable, and consistent with relevant laws and regulations.</i>	CFTC regulations 17 C.F.R.: 39.21(a); 39.27(a); 39.27(b); 39.27(c); 39.40; 40.5; 40.6(a)(7)(iv); 40.6(c)(1) CEA sections: 5c(c)(2); 6b		
3. <i>An FMI should be able to articulate the legal basis for its activities to relevant authorities, participants, and, where relevant, participants' customers, in a clear and understandable way.</i>	CFTC regulations 17 C.F.R.: 39.21; 39.27; 39.40		
4. <i>An FMI should have rules, procedures, and contracts that are enforceable in all relevant jurisdictions. There should be a high degree of certainty that actions taken by the FMI under such rules and procedures will not be voided, reversed, or subject to stays.</i>	CFTC regulations 17 C.F.R.: 39.27(a); 39.27(b); 39.40		
5. <i>An FMI conducting business in multiple jurisdictions should identify and mitigate the risks arising from any potential conflict of laws across jurisdictions.</i>	CFTC regulations 17 C.F.R.: 39.27(b); 39.27(c); 39.40; 40.10(b)		

<p>Principle 2: Governance An FMI should have governance arrangements that are clear and transparent, promote the safety and efficiency of the FMI, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders.</p>	<p>The standards set forth in Principle 2 are addressed in CFTC regulation 17 C.F.R. 39.13 and 39.32 and are available at the following links: Regulation 39.13: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=ebb37a6e6dab643ff5b59a2ab592665c&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.5 Regulation 39.32: http://www.ecfr.gov/cgi-bin/text-idx?SID=26c579df80438d9f810ca1a2039257e1&node=17:1.0.1.1.32.3.7.3&rgn=div8</p>	<p>Consistent</p>	
<p>1. <i>An FMI should have objectives that place a high priority on the safety and efficiency of the FMI and explicitly support financial stability and other relevant public interest considerations.</i></p>	<p>CFTC regulation 17 C.F.R. 39.32(a)(1)</p>		
<p>2. <i>An FMI should have documented governance arrangements that provide clear and direct lines of responsibility and accountability. These arrangements should be disclosed to owners, relevant authorities, participants, and, at a more general level, the public.</i></p>	<p>CFTC regulations 17 C.F.R. e39.32(b)(1)-(4) See also Response to Principle 23.</p>		
<p>3. <i>The roles and responsibilities of an FMI's board of directors (or equivalent) should be clearly specified, and there should be documented procedures for its functioning, including procedures to identify, address, and manage member conflicts of interest. The board should review both its overall performance and the performance of its individual board members regularly.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.32(b)(1)(i),(3),(5)-(7); 39.32(c)(3); 39.40</p>		
<p>4. <i>The board should contain suitable members with the appropriate skills and incentives to fulfil its multiple roles. This typically requires the inclusion of non-executive board member(s).</i></p>	<p>CFTC regulations 17 C.F.R. 39.32(c)(1)-(2)</p>		

<p>5. <i>The roles and responsibilities of management should be clearly specified. An FMI's management should have the appropriate experience, a mix of skills, and the integrity necessary to discharge their responsibilities for the operation and risk management of the FMI.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.32(b)(6); 39.32(c)(4)-(5).</p>		
<p>6. <i>The board should establish a clear, documented risk-management framework that includes the FMI's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decision making in crises and emergencies. Governance arrangements should ensure that the risk-management and internal control functions have sufficient authority, independence, resources, and access to the board.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(b); 39.32(b)(9); 39.32(c)(5)</p>		
<p>7. <i>The board should ensure that the FMI's design, rules, overall strategy, and major decisions reflect appropriately the legitimate interests of its direct and indirect participants and other relevant stakeholders. Major decisions should be clearly disclosed to relevant stakeholders and, where there is a broad market impact, the public.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.32(a)(2)-(3)</p>		

<p>Principle 3: Framework for the comprehensive management of risks</p> <p>An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.</p>	<p>The standards set forth in Principle 3 are addressed in CFTC regulations 17 C.F.R. 39.13, 39.14, 39.18, 39.33, and 39.39. These regulations are available at the following links:</p> <p>Regulation 39.13: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.2.7.5</p> <p>Regulation 39.14: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.2.7.6</p> <p>Regulation 39.18: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.7.10</p> <p>Regulation 39.33: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.3.7.4</p> <p>Regulation 39.39: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.3.7.10</p>	<p>Consistent</p> <p>The implementation measures of the CFTC are consistent with Principle 3, although there are some gaps or shortcomings with key consideration 2 that have no material impact on completeness or consistency.</p>	<p>The CFTC is recommended to make public the intended interpretation of matters identified in the course of this assessment, and other matters as they may come to light, that rely on regulation 39.40 to clarify their consistency with the Principles.</p>
<p>1. <i>An FMI should have risk-management policies, procedures, and systems that enable it to identify, measure, monitor, and manage the range of risks that arise in or are borne by the FMI. Risk-management frameworks should be subject to periodic review.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(a), (b), (e), (f), (g); (i), (g)</p>		
	<p>CFTC regulations 17 C.F.R.: 39.13(e), (f), (g), (h)</p>		

<p>2. <i>An FMI should provide incentives to participants and, where relevant, their customers to manage and contain the risks they pose to the FMI.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(g), (h)</p>	<p>The CFTC rules do not explicitly cover the provision of incentives to a CCP's participants and customers to manage and contain the risks they pose to the CCP. This shortcoming may be addressed by CFTC regulation 39.40 which states that Part 39 of the CFTC's regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context.</p>	
<p>3. <i>An FMI should regularly review the material risks it bears from and poses to other entities (such as other FMIs, settlement banks, liquidity providers, and service providers) as a result of interdependencies and develop appropriate risk-management tools to address these risks.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(h)(5)(i)-(ii); 39.14(c)(3); 39.18(e), (f), (j), (k); 39.33(d)(2); 39.36(c)</p>		
<p>4. <i>An FMI should identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. An FMI should prepare appropriate plans for its recovery or orderly wind-down based on the results of that assessment. Where applicable, an FMI should also provide relevant authorities with the information needed for purposes of resolution planning.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.39(b); 39.39(c)(1); 39.39(c)(2)</p>		

<p>Principle 4: Credit risk</p> <p>An FMI should effectively measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes. An FMI should maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. In addition, a CCP that is involved in activities with a more-complex risk profile or that is systemically important in multiple jurisdictions should maintain additional financial resources sufficient to cover a wide range of potential stress scenarios that should include, but not be limited to, the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure to the CCP in extreme but plausible market conditions. All other CCPs should maintain additional financial resources sufficient to cover a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would potentially cause the largest aggregate credit exposure to the CCP in extreme but plausible market conditions.</p>	<p>The standards set forth in Principle 4 are addressed in Section 5b of the Commodity Exchange Act and CFTC regulations 17 C.F.R. 39.11, 39.13, 39.16, 39.33, 39.35, and 39.36. The statute and regulations are available at the following links:</p> <p>Commodity Exchange Act, Section 5b, 7 U.S.C. 7a-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title7/pdf/USCODE-2011-title7-chap1-sec7a-1.pdf</p> <p>Regulation 39.11: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.2.7.3</p> <p>Regulation 39.13: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.2.7.5</p> <p>Regulation 39.16: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2126a23d5ef85fab6ef10a3a898280b8&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.2.7.8</p> <p>Regulation 39.33: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.3.7.4</p> <p>Regulation 39.35: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=0219c263077a29de96ebfe3534f53338&h=L&r=SECTION&n=17y1.0.1.1.3.2.3.7.6</p> <p>Regulation 39.36: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=0219c263077a29de96ebfe3534f53338&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.3.7.7</p>	<p>Consistent</p> <p>The implementation measures of the CFTC are consistent with Principle 4; however, there are gaps or shortcomings with key considerations 1 and 4. These shortcomings are not fully addressed by CFTC rule 39.40.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1 and 4.</p>
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<p>1. <i>An FMI should establish a robust framework to manage its credit exposures to its participants and the credit risks arising from its payment, clearing, and settlement processes. Credit exposure may arise from current exposures, potential future exposures, or both.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.11(a), (b), (c), (d); 39.33(a)(1)</p>	<p>Regulation 39.33(b) states that assessments for additional guaranty fund contributions (i.e. guaranty fund contributions that are not pre-funded) shall not be included in calculating the financial resources available to meet a systemically important derivatives or subpart C derivatives clearing organization’s obligations under Regulation 39.11(a)(1) or Regulation 39.33(a). Regulation 39.33(b) does not explicitly exclude default insurance (which is a contingent and not pre-funded resource) from the calculation. Regulation 39.40 might mitigate this gap, but does not fully address it.</p> <p>To date, the CFTC has received no applications to include financial resources that might be covered by “(vi) Any other financial resource deemed acceptable by the Commission”. The CFTC has advised that the intention would be to determine acceptability with reference to Regulation 39.40.</p>	
<p>2. <i>An FMI should identify sources of credit risk, routinely measure and monitor credit exposures, and use appropriate risk-management tools to control these risks.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(a), (b), (e), (g)(1)-(2), (g)(6)-(7), (h)(2)-(3); 39.14(c); 39.33(d)(2); 39.36(c), (g)</p>		

<p>4. <i>A CCP should cover its current and potential future exposures to each participant fully with a high degree of confidence using margin and other prefunded financial resources (see Principle 5 on collateral and Principle 6 on margin). In addition, a CCP that is involved in activities with a more-complex risk profile or that is systemically important in multiple jurisdictions should maintain additional financial resources to cover a wide range of potential stress scenarios that should include, but not be limited to, the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure for the CCP in extreme but plausible market conditions. All other CCPs should maintain additional financial resources sufficient to cover a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would potentially cause the largest aggregate credit exposure for the CCP in extreme but plausible market conditions. In all cases, a CCP should document its supporting rationale for, and should have appropriate governance arrangements relating to, the amount of total financial resources it maintains.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.11(a)(1), (f)(3)(i); 39.33(a)(1), (e)</p>	<p>Regulation 39.11(b)(1) specifies the types of financial resources that a CCP can use to satisfy the financial resources requirement of Regulation 39.11(a)(1), including margins, the CCP’s own capital, guaranty fund deposits, default insurance, potential assessments for additional guaranty fund contributions and any other financial resource deemed acceptable by the CFTC. Regulation 39.33(b) states that assessments for additional guaranty fund contributions (i.e. guaranty fund contributions that are not pre-funded) shall not be included in calculating the financial resources available to meet a systemically important derivatives or subpart C derivatives clearing organization’s obligations under Regulation 39.11(a)(1) or Regulation 39.33(a). However, in deviation to the objective of key consideration 4 to count only pre-funded financial resources, Regulation 39.33(b) does not explicitly exclude default insurance (which is a contingent and not pre-funded resource) from the calculation. This shortcoming is not fully addressed by CFTC rule 39.40.</p>	
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<p>5. <i>A CCP should determine the amount and regularly test the sufficiency of its total financial resources available in the event of a default or multiple defaults in extreme but plausible market conditions through rigorous stress testing. A CCP should have clear procedures to report the results of its stress tests to appropriate decision makers at the CCP and to use these results to evaluate the adequacy of and adjust its total financial resources. Stress tests should be performed daily using standard and predetermined parameters and assumptions. On at least a monthly basis, a CCP should perform a comprehensive and thorough analysis of stress testing scenarios, models, and underlying parameters and assumptions used to ensure they are appropriate for determining the CCP's required level of default protection in light of current and evolving market conditions. A CCP should perform this analysis of stress testing more frequently when the products cleared or markets served display high volatility, become less liquid, or when the size or concentration of positions held by a CCP's participants increases significantly. A full validation of a CCP's risk-management model should be performed at least annually.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(h)(3)(i)–(ii); 39.36(a)(1)-(3), (a)(5), (e)</p>		
<p>6. <i>In conducting stress testing, a CCP should consider the effect of a wide range of relevant stress scenarios in terms of both defaulters' positions and possible price changes in liquidation periods. Scenarios should include relevant peak historic price volatilities, shifts in other market factors such as price determinants and yield curves, multiple defaults over various time horizons, simultaneous pressures in funding and asset markets, and a spectrum of forward-looking stress scenarios in a variety of extreme but plausible market conditions.</i></p>	<p>CFTC regulations 17 C.F.R. 39.36(a)(4)</p>		

<p>7. <i>An FMI should establish explicit rules and procedures that address fully any credit losses it may face as a result of any individual or combined default among its participants with respect to any of their obligations to the FMI. These rules and procedures should address how potentially uncovered credit losses would be allocated, including the repayment of any funds an FMI may borrow from liquidity providers. These rules and procedures should also indicate the FMI's process to replenish any financial resources that the FMI may employ during a stress event, so that the FMI can continue to operate in a safe and sound manner.</i></p>	<p>CFTC regulations 17 C.F.R. 39.16(a); 39.35(a)</p>		
<p>Principle 5: Collateral An FMI that requires collateral to manage its or its participants' credit exposure should accept collateral with low credit, liquidity, and market risks. An FMI should also set and enforce appropriately conservative haircuts and concentration limits.</p>	<p>The standards set forth in Principle 5 are addressed in CFTC regulations 17 C.F.R. 1.25, 1.49, 39.11, 39.13, 39.14, 39.15, 39.33, and 39.36. The regulations are available at the following links: Regulation 1.25: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=81fae56e1d818620874f4f2db46d8671&ty=HTML&h=L&n=17y1.0.1.1.1&r=PART%2317:1.0.1.1.1.0.4.24#17:1.0.1.1.1.0.4.24 Regulation 1.49: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=81fae56e1d818620874f4f2db46d8671&ty=HTML&h=L&n=17y1.0.1.1.1&r=PART%2317:1.0.1.1.1.0.4.24#17:1.0.1.1.1.0.6.43 Regulation 39.11: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2126a23d5ef85fab6ef10a3a898280b8&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.3;</p>	<p>Consistent</p> <p>The implementation measures of the CFTC are consistent with Principle 5; however, there are gaps or shortcomings with key consideration 6.</p> <p>Gaps or shortcomings identified with other key considerations have no material impact on completeness or consistency.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 6.</p> <p>The CFTC is recommended to make public the intended interpretation of matters identified in the course of this assessment, and other matters as they may come to light, that rely on regulation 39.40 to clarify their consistency with the Principles.</p>

	<p>Regulation 39.13: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2126a23d5ef85fab6ef10a3a898280b8&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.5</p> <p>Regulation 39.14: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2126a23d5ef85fab6ef10a3a898280b8&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.5</p> <p>Regulation 39.15: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.7</p> <p>Regulation 39.33: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=0219c263077a29de96ebfe3534f53338&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.4</p> <p>Regulation 39.36: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.7</p>		
<p>1. <i>An FMI should generally limit the assets it (routinely) accepts as collateral to those with low credit, liquidity, and market risks.</i></p>	<p>CFTC regulations 17 C.F.R. 39.13(g)(10)-(14)</p>	<p>The CFTC’s collateral eligibility criteria are imposed only on assets for initial margins accepted by a CCP, but not on other financial resources that may be accepted by a CCP (e.g. assets for default fund contributions).</p>	

		<p>It is noted that not all financial resources available to satisfy the requirements of paragraph 39.11(a)(1) (and 39.33(a)) of this section are prefunded. Regulations 39.11(e)(1)(i), 39.33(c)(3) and 39.33(c)(4) with respect to liquidity have – given the interdependence of liquidity with credit and market risk – the effect of requiring that default resources have low credit, liquidity and market risks. However, pursuant to regulation 39.40, the liquidity requirements under regulation 39.11(e)(1)(i) would intend that default fund assets also had low credit and market risks.</p> <p>It should also be noted that contrary to the intended interpretation of key consideration 1, the CFTC rules would permit a CCP to accept letters of credit as initial margin for futures and options on futures, notwithstanding that these instruments would not be acceptable collateral for swaps.</p>	
<p>2. <i>An FMI should establish prudent valuation practices and develop haircuts that are regularly tested and take into account stressed market conditions.</i></p>	<p>CFTC regulations 17 C.F.R. 39.13(g)(11)-(14); 39.36(a)(1)-(5), (f)</p>		

<p>3. <i>In order to reduce the need for procyclical adjustments, an FMI should establish stable and conservative haircuts that are calibrated to include periods of stressed market conditions, to the extent practicable and prudent.</i></p>	<p>CFTC regulations 17 C.F.R. 39.13(g)(12); 39.36</p>	<p>In terms of completeness, it is noted that the text does not refer to “reducing the need for pro-cyclical adjustments.” This shortcoming may be addressed by CFTC rule 39.40 which states that Part 39 of the CFTC’s regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context.</p>	
<p>4. <i>An FMI should avoid concentrated holdings of certain assets where this would significantly impair the ability to liquidate such assets quickly without significant adverse price effects.</i></p>	<p>CFTC regulations 17 C.F.R.: 1.25(b)(3)(i)-(v); 39.13(g)(13)</p>		
<p>5. <i>An FMI that accepts cross-border collateral should mitigate the risks associated with its use and ensure that the collateral can be used in a timely manner.</i></p>	<p>CFTC regulations 17 C.F.R.: 1.49(c), (d) and (e); 39.27(c); 39.33(c)(2)</p>	<p>In terms of completeness, it is noted that the text does not refer to mitigating risks associated with cross-border collateral and their use in a timely manner. This shortcoming may be addressed by CFTC rule 39.40 which states that Part 39 of the CFTC’s regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context.</p>	

<p>6. <i>An FMI should use a collateral management system that is well-designed and operationally flexible.</i></p>	<p>CFTC regulations 17 C.F.R. 39.13(g)(8)(E)(iii), (g)(10)-(14); 39.15(a), (c), (e); 39.36(f)</p>	<p>While there are various rules and requirements on the handling of the financial resources by a CCP, there are no explicit references to the need for a collateral management system that is well-designed and operationally flexible. This shortcoming is not fully addressed by CFTC rule 39.40.</p>	
<p>Principle 6: Margin A CCP should cover its credit exposures to its participants for all products through an effective margin system that is risk-based and regularly reviewed.</p>	<p>The standards set forth in Principle 6 are addressed in CFTC regulations 17 C.F.R. 39.13, 39.14, and 39.36. The regulations are available at the following links: Regulation 39.13: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.5 Regulation 39.14: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.6 Regulation 39.36: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.7</p>	<p>Consistent The implementation measures of the CFTC are consistent with Principle 6; however, there are gaps or shortcomings with key consideration 5.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 5.</p>
<p>1. <i>A CCP should have a margin system that establishes margin levels commensurate with the risks and particular attributes of each product, portfolio, and market it serves.</i></p>	<p>CFTC regulations 17 C.F.R. 39.13(g)(2)</p>		
<p>2. <i>A CCP should have a reliable source of timely price data for its margin system. A CCP should also have procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable.</i></p>	<p>CFTC regulations 17 C.F.R. 39.13(g)(5)</p>		

<p>3. <i>A CCP should adopt initial margin models and parameters that are risk-based and generate margin requirements sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default. Initial margin should meet an established single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure. For a CCP that calculates margin at the portfolio level, this requirement applies to each portfolio's distribution of future exposure. For a CCP that calculates margin at more-granular levels, such as at the subportfolio level or by product, the requirement must be met for the corresponding distributions of future exposure. The model should (a) use a conservative estimate of the time horizons for the effective hedging or close out of the particular types of products cleared by the CCP (including in stressed market conditions), (b) have an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products, and (c) to the extent practicable and prudent, limit the need for destabilising, procyclical changes.</i></p>	<p>CFTC regulations 17. C.F.R.: 39.13(g)(1)-(2); 39.36(b)(1)-(3)</p>		
<p>4. <i>A CCP should mark participant positions to market and collect variation margin at least daily to limit the build-up of current exposures. A CCP should have the authority and operational capacity to make intraday margin calls and payments, both scheduled and unscheduled, to participants.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(e)(1); 39.14(b)</p>		

<p>5. <i>In calculating margin requirements, a CCP may allow offsets or reductions in required margin across products that it clears or between products that it and another CCP clear, if the risk of one product is significantly and reliably correlated with the risk of the other product. Where two or more CCPs are authorised to offer cross-margining, they must have appropriate safeguards and harmonised overall risk-management systems.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(g)(4), (h)(5)</p>	<p>The CFTC regulations do not explicitly address cross-margining, nor explicitly require CCPs to have appropriate safeguards and harmonized overall risk-management systems if two or more CCPs are authorised to offer cross-margining.</p>	
<p>6. <i>A CCP should analyse and monitor its model performance and overall margin coverage by conducting rigorous daily backtesting and at least monthly, and more-frequent where appropriate, sensitivity analysis. A CCP should regularly conduct an assessment of the theoretical and empirical properties of its margin model for all products it clears. In conducting sensitivity analysis of the model's coverage, a CCP should take into account a wide range of parameters and assumptions that reflect possible market conditions, including the most-volatile periods that have been experienced by the markets it serves and extreme changes in the correlations between prices.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(g)(7); 39.36(b)(1)-(2), (d)</p>		
<p>7. <i>A CCP should regularly review and validate its margin system.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(g)(3), (g)(6)</p>		

<p>Principle 7: Liquidity risk An FMI should effectively measure, monitor, and manage its liquidity risk. An FMI should maintain sufficient liquid resources in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would generate the largest aggregate liquidity obligation for the FMI in extreme but plausible market conditions.</p>	<p>The standards set forth in Principle 7 are addressed in CFTC regulations 17 C.F.R. 39.11, 39.14, 39.15, 39.33, 39.35, and 39.36. The regulations are available at the following links:</p> <p>Regulation 39.11: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2126a23d5ef85fab6ef10a3a898280b8&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.3;</p> <p>Regulation 39.14: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.6</p> <p>Regulation 39.15: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.7</p> <p>Regulation 39.33: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=0219c263077a29de96ebfe3534f53338&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.4</p> <p>Regulation 39.35: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=0219c263077a29de96ebfe3534f53338&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.6</p> <p>Regulation 39.36: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.7</p>	<p>Broadly consistent</p> <p>The implementation measures of the CFTC are broadly consistent with Principle 7. The overall rating has been influenced by the absence of implementation measures for key consideration 8.</p> <p>Gaps or shortcomings identified with other key considerations have no material impact on completeness or consistency.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 8.</p>
<p>1. <i>An FMI should have a robust framework to manage its liquidity risks from its participants, settlement banks, nostro agents, custodian banks, liquidity providers, and other entities.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.11(e)(1)(i); 39.14(c); 39.15(a), (c); 39.33(c)(1), (d)(2); 39.36(f)</p>		

<p>2. <i>An FMI should have effective operational and analytical tools to identify, measure, and monitor its settlement and funding flows on an ongoing and timely basis, including its use of intraday liquidity.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.11(e)(1)(i); 39.33(c)(1)(i), (d)(4); 39.36(g)</p>		
<p>4. <i>A CCP should maintain sufficient liquid resources in all relevant currencies to settle securities-related payments, make required variation margin payments, and meet other payment obligations on time with a high degree of confidence under a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would generate the largest aggregate payment obligation to the CCP in extreme but plausible market conditions. In addition, a CCP that is involved in activities with a more-complex risk profile or that is systemically important in multiple jurisdictions should consider maintaining additional liquidity resources sufficient to cover a wider range of potential stress scenarios that should include, but not be limited to, the default of the two participants and their affiliates that would generate the largest aggregate payment obligation to the CCP in extreme but plausible market conditions.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.11(a)(1), (e)(1)(ii); 39.33(c)(1)-(2)</p>		

<p>5. <i>For the purpose of meeting its minimum liquid resource requirement, an FMI's qualifying liquid resources in each currency include cash at the central bank of issue and at creditworthy commercial banks, committed lines of credit, committed foreign exchange swaps, and committed repos, as well as highly marketable collateral held in custody and investments that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions. If an FMI has access to routine credit at the central bank of issue, the FMI may count such access as part of the minimum requirement to the extent it has collateral that is eligible for pledging to (or for conducting other appropriate forms of transactions with) the relevant central bank. All such resources should be available when needed.</i></p>	<p>CFTC regulations 17 C.F.R. 39.33(c)(3)</p>		
<p>6. <i>An FMI may supplement its qualifying liquid resources with other forms of liquid resources. If the FMI does so, then these liquid resources should be in the form of assets that are likely to be saleable or acceptable as collateral for lines of credit, swaps, or repos on an ad hoc basis following a default, even if this cannot be reliably prearranged or guaranteed in extreme market conditions. Even if an FMI does not have access to routine central bank credit, it should still take account of what collateral is typically accepted by the relevant central bank, as such assets may be more likely to be liquid in stressed circumstances. An FMI should not assume the availability of emergency central bank credit as a part of its liquidity plan.</i></p>	<p>CFTC regulations 17 C.F.R. 39.33(c)(4)</p>		

<p>7. <i>An FMI should obtain a high degree of confidence, through rigorous due diligence, that each provider of its minimum required qualifying liquid resources, whether a participant of the FMI or an external party, has sufficient information to understand and to manage its associated liquidity risks, and that it has the capacity to perform as required under its commitment. Where relevant to assessing a liquidity provider's performance reliability with respect to a particular currency, a liquidity provider's potential access to credit from the central bank of issue may be taken into account. An FMI should regularly test its procedures for accessing its liquid resources at a liquidity provider.</i></p>	<p>CFTC regulations 17 C.F.R. 39.33(d)(2)-(4)</p>	<p>The CFTC implementation measures based on 17 C.F.R. 39.33 are considered consistent with key consideration 7, even if there is a minor gap in that the words "credit from" [...the central bank...] are missing in 39.33(d)(3).</p>	
<p>8. <i>An FMI with access to central bank accounts, payment services, or securities services should use these services, where practical, to enhance its management of liquidity risk.</i></p>	<p>Pursuant to regulations that were recently promulgated by the Board,²⁶ the two derivative clearing organizations that have been designated as systemically important by the Financial Stability Oversight Council may receive account services, from a Federal Reserve Bank, subject to successful completion of an application process. Each is in the process of applying for such services.</p>	<p>There are no references to the use of central bank services and thus no CFTC implementation measures for key consideration 8. CCPs are not required to use central bank services where available and practical. It is not considered that CFTC rule 39.40 can provide for consistency in the full absence of a rule. See also Principle 9 below.</p>	

²⁶ See Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule, 78 Fed.Reg. 76973 (December 20, 2013).

<p>9. <i>An FMI should determine the amount and regularly test the sufficiency of its liquid resources through rigorous stress testing. An FMI should have clear procedures to report the results of its stress tests to appropriate decision makers at the FMI and to use these results to evaluate the adequacy of and adjust its liquidity risk-management framework. In conducting stress testing, an FMI should consider a wide range of relevant scenarios. Scenarios should include relevant peak historic price volatilities, shifts in other market factors such as price determinants and yield curves, multiple defaults over various time horizons, simultaneous pressures in funding and asset markets, and a spectrum of forward-looking stress scenarios in a variety of extreme but plausible market conditions. Scenarios should also take into account the design and operation of the FMI, include all entities that might pose material liquidity risks to the FMI (such as settlement banks, nostro agents, custodian banks, liquidity providers, and linked FMIs), and where appropriate, cover a multiday period. In all cases, an FMI should document its supporting rationale for, and should have appropriate governance arrangements relating to, the amount and form of total liquid resources it maintains.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.33(e); 39.36(c)</p>		
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<p>10. An FMI should establish explicit rules and procedures that enable the FMI to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations on time following any individual or combined default among its participants. These rules and procedures should address unforeseen and potentially uncovered liquidity shortfalls and should aim to avoid unwinding, revoking, or delaying the same-day settlement of payment obligations. These rules and procedures should also indicate the FMI's process to replenish any liquidity resources it may employ during a stress event, so that it can continue to operate in a safe and sound manner.</p>	<p>CFTC regulations 17 C.F.R.: 39.33(c)(1); 39.35(b)(1)-(2)</p>		
<p>Principle 8: Settlement finality An FMI should provide clear and certain final settlement, at a minimum by the end of the value date. Where necessary or preferable, an FMI should provide final settlement intraday or in real time.</p>	<p>The standards set forth in Principle 8 are addressed in CFTC regulation 17 C.F.R. 39.14 and is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=80b1d65a7dda6acc83f8c6154e6630eb&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.6</p>	<p>Consistent The implementation measures of the CFTC are consistent with Principle 8, although there are some gaps or shortcomings with key consideration 2 that have no material impact on completeness or consistency.</p>	<p>The CFTC is recommended to make public the intended interpretation of matters identified in the course of this assessment, and other matters as they may come to light, that rely on regulation 39.40 to clarify their consistency with the Principles.</p>
<p>1. An FMI's rules and procedures should clearly define the point at which settlement is final.</p>	<p>CFTC regulations 17 C.F.R.: 39.14(a), (d)</p>		

<p>2. <i>An FMI should complete final settlement no later than the end of the value date, and preferably intraday or in real time, to reduce settlement risk. An LVPS or SSS should consider adopting RTGS or multiple-batch processing during the settlement day.</i></p>	<p>CFTC regulations 17 C.F.R. 39.14(b)</p>	<p>The regulation states that settlement with clearing members shall occur at least once each business day or intraday, which does not mean or imply in itself that each transaction will be settled by no later than end of the value date. However, CFTC regulation 39.40 states that Part 39 of the CFTC’s regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context. Thus, as relevant here, it is understood that CFTC regulation 39.14 should be read to include the requirement that the once-a-day settlement shall be completed no later than the end of the value date consistent with the Principles.</p> <p>The implementation measure implies that there could be exceptions to the referenced rule made by the CFTC. However, it has been made clear by CFTC that exceptions would be only for some CCPs which are not SIDCOs or Subpart C DCOs and clearing products in the physical market.</p>	
<p>3. <i>An FMI should clearly define the point after which unsettled payments, transfer instructions, or other obligations may not be revoked by a participant.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.12(b)(6); 39.14(d)</p>		

<p>Principle 9: Money settlements An FMI should conduct its money settlements in central bank money where practical and available. If central bank money is not used, an FMI should minimise and strictly control the credit and liquidity risk arising from the use of commercial bank money.</p>	<p>The standards set forth in Principle 9 are addressed in CFTC regulation 17 C.F.R. 39.14 and is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=80b1d65a7dda6acc83f8c6154e6630eb&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.6</p>	<p>Consistent The implementation measures of the CFTC are consistent with Principle 9, although there are some gaps or shortcomings with key considerations 1 and 4 that have no material impact on completeness or consistency.</p>	<p>The CFTC is recommended to make public the intended interpretation of matters identified in the course of this assessment, and other matters as they may come to light, that rely on regulation 39.40 to clarify their consistency with the Principles.</p>
<p>1. <i>An FMI should conduct its money settlements in central bank money, where practical and available, to avoid credit and liquidity risks.</i></p>	<p>Pursuant to regulations that were recently promulgated by the Board,²⁷ the two derivative clearing organizations that have been designated as systemically important by the Financial Stability Oversight Council may receive account services, from a Federal Reserve Bank, subject to successful completion of an application process. Each is in the process of applying for such services.</p>	<p>There is no requirement for CCPs to apply for account services with the central bank and to use them if the application process is successfully completed. In the context of regulation 39.40, which states that Part 39 of CFTC’s regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context, it is understood that, as relevant here, the requirements for all CCPs to protect and ensure the safety of funds and assets as well as to minimize risk of loss or of delay in access established in CFTC regulation 39.15 should be read to require the use by CCPs of central bank accounts and services, where practical and available, consistent with Principle 9 Key Consideration 1.</p>	

²⁷ See 78 Fed. Reg. 76973 (referenced in Response to Key Consideration 8, Principle 7).

<p>2. <i>If central bank money is not used, an FMI should conduct its money settlements using a settlement asset with little or no credit or liquidity risk.</i></p>	<p>CFTC regulations 17 C.F.R. 39.14(c)</p>		
<p>3. <i>If an FMI settles in commercial bank money, it should monitor, manage, and limit its credit and liquidity risks arising from the commercial settlement banks. In particular, an FMI should establish and monitor adherence to strict criteria for its settlement banks that take account of, among other things, their regulation and supervision, creditworthiness, capitalisation, access to liquidity, and operational reliability. An FMI should also monitor and manage the concentration of credit and liquidity exposures to its commercial settlement banks.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.14(c); 39.36(g)</p>		
<p>4. <i>If an FMI conducts money settlements on its own books, it should minimise and strictly control its credit and liquidity risks.</i></p>	<p>CFTC regulations 17 C.F.R. 39.40</p>	<p>There is no specific implementation measure for situations where a CCP would conduct settlement on its own books. However, in practice, CCPs conduct settlements through commercial settlement banks and do not offer cash settlement services to their clearing members. In the hypothetical situation in which a CCP seeks to conduct money settlement on its books, the CCP would need to adopt material rule changes which would require advance notice be given to the CFTC and subsequent review of the new rules. In any rule changes, the CFTC would seek, consistent with, inter alia, regulation 39.40, to</p>	

		ensure that the CCP took appropriate steps to adopt a structure that would protect the CCP against relevant risks and that the CCP observed all requirements under Principle 9 of the Principles.	
5. <i>An FMI's legal agreements with any settlement banks should state clearly when transfers on the books of individual settlement banks are expected to occur, that transfers are to be final when effected, and that funds received should be transferable as soon as possible, at a minimum by the end of the day and ideally intraday, in order to enable the FMI and its participants to manage credit and liquidity risks.</i>	CFTC regulations 17 C.F.R.: 39.14(b), (d)		
Principle 10: Physical deliveries An FMI should clearly state its obligations with respect to the delivery of physical instruments or commodities and should identify, monitor, and manage the risks associated with such physical deliveries.	The standards set forth in Principle 10 are addressed in CFTC regulation 17 C.F.R. 39.14. The regulation is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=80b1d65a7dda6acc83f8c6154e6630eb&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.6	Consistent The implementation measures of the CFTC are consistent with Principle 10, although there are some gaps or shortcomings with key consideration 2 that have no material impact on completeness or consistency.	
1. <i>An FMI's rules should clearly state its obligations with respect to the delivery of physical instruments or commodities.</i>	CFTC regulations 17 C.F.R. 39.14(g)		

<p>2. <i>An FMI should identify, monitor, and manage the risks and costs associated with the storage and delivery of physical instruments or commodities.</i></p>	<p>CFTC regulations 17 C.F.R. 39.14(g)</p>	<p>The CFTC rules do not explicitly state that a CCP should manage the risks and costs associated with the 'storage' of physical instruments or commodities. Nevertheless, the rules state that a CCP should ensure that the risks associated with its obligations are managed, including those arising from making or receiving physical instruments.</p>	
<p>Principle 12: Exchange-of-value settlement systems If an FMI settles transactions that involve the settlement of two linked obligations (for example, securities or foreign exchange transactions), it should eliminate principal risk by conditioning the final settlement of one obligation upon the final settlement of the other.</p>	<p>Derivatives Clearing Organizations are not exchange-of-value settlement systems. Accordingly, this Principle is not addressed in the CFTC's CCP regulatory framework.</p>	<p>Partly consistent The implementation measures of the CFTC are partly consistent with Principle 12. The overall rating has been influenced by the lack of explicit requirements in CFTC rules that implement key consideration 1.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 1. CFTC is recommended to implement explicit requirements for exchange-of-settlement systems in line with Principle 12 or to disclose its interpretation of regulation 39.13 (a) and 39.13 (f) as implementing key consideration 1. This could entail describing the means used to assess the appropriateness of settlement mechanisms implemented.</p>

<p>1. <i>An FMI that is an exchange-of-value settlement system should eliminate principal risk by ensuring that the final settlement of one obligation occurs if and only if the final settlement of the linked obligation also occurs, regardless of whether the FMI settles on a gross or net basis and when finality occurs.</i></p>	<p>CFTC regulations 17 C.F.R. 39.13 (a), (f)</p>	<p>While certain activities that CCPs perform fall under the category of exchange-of-value settlement services, there is no explicit requirement in CFTC rules that implements key consideration 1. CFTC regulation 39.13 (a) sets that a CCP must ensure it has the requisite “ability to manage the risks associated with discharging the responsibilities of the DCO through the use of appropriate tools and procedures,” and regulation 39.13 (f) sets that a CCP shall utilize “risk control mechanisms [to] limit its exposure to potential losses from defaults by clearing members”. It is also understood from CFTC that these provisions would require a CCP engaged in an exchange -of-value settlement service to ensure that settlement of one obligation occurs if and only if the final settlement of the linked obligation also occurs. Such interpretation would be reinforced by regulation 39.40, which states that Part 39 of CFTC’s regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context.</p>	
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<p>Principle 13: Participant-default rules and procedures An FMI should have effective and clearly defined rules and procedures to manage a participant default. These rules and procedures should be designed to ensure that the FMI can take timely action to contain losses and liquidity pressures and continue to meet its obligations.</p>	<p>The standards set forth in Principle 13 are addressed in CFTC regulations 17 C.F.R. 39.16, 39.21, 39.32, and 39.35. The regulations may be found at the following links: Regulation 39.16: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=80b1d65a7dda6acc83f8c6154e6630eb&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.8</p>	<p>Consistent</p>	

	<p>Regulation 39.21: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=80b1d65a7dda6acc83f8c6154e6630eb&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.13</p> <p>Regulation 39.32: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=6950097b7bdc09974f8a28f30f8b676d&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.3</p> <p>Regulation 39.35: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=8b4bac7ee052957af28c8bec4bf38293&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.6</p>		
1. <i>An FMI should have default rules and procedures that enable the FMI to continue to meet its obligations in the event of a participant default and that address the replenishment of resources following a default.</i>	CFTC regulations 17 C.F.R.: 39.16(a), (b), (c)(1)-(3), (d); 39.35(a), (b)		
2. <i>An FMI should be well prepared to implement its default rules and procedures, including any appropriate discretionary procedures provided for in its rules.</i>	CFTC regulations 17 C.F.R.: 39.16(a), (b), (c)(1)-(3), (d); 39.32(b)(9), (b)(10)(i); 39.35(a), (b)	.	
3. <i>An FMI should publicly disclose key aspects of its default rules and procedures.</i>	CFTC regulations 17 C.F.R. 39.16(c)(3); 39.21(c)(6)		
4. <i>An FMI should involve its participants and other stakeholders in the testing and review of the FMI's default procedures, including any close-out procedures. Such testing and review should be conducted at least annually or following material changes to the rules and procedures to ensure that they are practical and effective.</i>	CFTC regulations 17 C.F.R. 39.16(b)		

<p>Principle 14: Segregation and portability A CCP should have rules and procedures that enable the segregation and portability of positions of a participant’s customers and the collateral provided to the CCP with respect to those positions.</p>	<p>The standards set forth in Principle 14 are addressed in Section 4d of the Commodity Exchange Act, 7 U.S.C. 6d, Subchapter IV of Chapter 7 of the U.S. Bankruptcy Code, 11 U.S.C. 761-767, CFTC regulations 17 C.F.R. 1.20, 22.3, 22.11, 22.12, 22.13, 39.15, 39.37, 190.01-190.10. The statute and regulations are available at the following links:</p> <p>Commodity Exchange Act, Section 4d, 7 U.S.C. 6d: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title7/pdf/USCODE-2011-title7-chap1-sec6d.pdf</p> <p>Subchapter IV of Chapter 7 of the U.S. Bankruptcy Code, 11 U.S.C. :</p> <p>Section 761: http://www.gpo.gov/fdsys/pkg/USCODE-2006-title11/html/USCODE-2006-title11-chap7-subchapIV-sec761.htm</p> <p>Section 762: http://www.gpo.gov/fdsys/pkg/USCODE-2006-title11/html/USCODE-2006-title11-chap7-subchapIV-sec762.htm</p> <p>Section 763: http://www.gpo.gov/fdsys/pkg/USCODE-2006-title11/html/USCODE-2006-title11-chap7-subchapIV-sec763.htm</p> <p>Section 764: http://www.gpo.gov/fdsys/pkg/USCODE-2006-title11/html/USCODE-2006-title11-chap7-subchapIV-sec764.htm</p> <p>Section 765: http://www.gpo.gov/fdsys/pkg/USCODE-2006-title11/html/USCODE-2006-title11-chap7-subchapIV-sec765.htm</p> <p>Section 766: http://www.gpo.gov/fdsys/pkg/USCODE-2006-title11/html/USCODE-2006-title11-chap7-subchapIV-sec766.htm</p> <p>Section 767: http://www.gpo.gov/fdsys/pkg/USCODE-2006-title11/html/USCODE-2006-title11-chap7-subchapIV-sec767.htm</p>	<p>Consistent</p>	
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Regulation 1.20:
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=61dbd77d3055d6402eb8b479f7b69fe3&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.1.0.4.19>

Regulation 22.3:
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=61dbd77d3055d6402eb8b479f7b69fe3&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.21.0.7.3>

Regulation 22.11:
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=ebb37a6e6dab643ff5b59a2ab592665c&h=L&r=SECTION&n=17y1.0.1.1.21.0.7.11>

Regulation 22.12:
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=ebb37a6e6dab643ff5b59a2ab592665c&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.21.0.7.12>

Regulation 22.13:
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=ebb37a6e6dab643ff5b59a2ab592665c&h=L&r=SECTION&n=17y1.0.1.1.21.0.7.13>

Regulation 39.15:
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=61dbd77d3055d6402eb8b479f7b69fe3&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.7>

Regulation 39.37:
<http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=63a53840a19741f5355690fa929a703e&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.8>

	<p><u>Regulations 190.01-190.10:</u></p> <p>http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=c2709ddfedd750cc0e57f53342d2b25d&ty=HTML&h=L&r=PART&n=17y2.0.1.1.33#17:2.0.1.1.33.0.1.1</p>		
<p>1. <i>A CCP should, at a minimum, have segregation and portability arrangements that effectively protect a participant's customers' positions and related collateral from the default or insolvency of that participant. If the CCP additionally offers protection of such customer positions and collateral against the concurrent default of the participant and a fellow customer, the CCP should take steps to ensure that such protection is effective.</i></p>	<p>7 U.S.C.: 6d(a)(2); 6d(b)</p> <p>CFTC regulations 17 C.F.R.: 1.20(g)(1); 22.3(a), (b), (c), (d); 22.11(c), (e); 22.12(c); 39.15(b)(1)</p> <p>See also Subchapter IV of Chapter 7 of the Bankruptcy Code, 11 U.S.C. §§761-767, and the Commission's commodity broker bankruptcy regulations, 17 C.F.R. Part 190.</p>		
<p>2. <i>A CCP should employ an account structure that enables it readily to identify positions of a participant's customers and to segregate related collateral. A CCP should maintain customer positions and collateral in individual customer accounts or in omnibus customer accounts.</i></p>	<p>7 U.S.C.: 6d(a)(2); 6d(b)</p> <p>CFTC regulations 17 C.F.R.: 1.20(g)(1); 22.3(a), (b), (c), (d); 22.11(c), (e); 22.12(c); 22.13; 39.15(b)(1)</p> <p>See also Subchapter IV of Chapter 7 of the Bankruptcy Code, 11 U.S.C. §§761-767, and the Commission's commodity broker bankruptcy regulations, 17 C.F.R. Part 190.</p>		
<p>3. <i>A CCP should structure its portability arrangements in a way that makes it highly likely that the positions and collateral of a defaulting participant's customers will be transferred to one or more other participants.</i></p>	<p>CFTC regulations 17 C.F.R.: 22.11(c), (e); 22.12(c); 22.13(c); 39.13; 39.15; 190.02(e)(1)</p>		

<p>4. A CCP should disclose its rules, policies, and procedures relating to the segregation and portability of a participant's customers' positions and related collateral. In particular, the CCP should disclose whether customer collateral is protected on an individual or omnibus basis. In addition, a CCP should disclose any constraints, such as legal or operational constraints, that may impair its ability to segregate or port a participant's customers' positions and related collateral.</p>	<p>CFTC regulations 17 C.F.R. 39.37(c)</p>		
<p>Principle 15: General business risk An FMI should identify, monitor, and manage its general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that it can continue operations and services as a going concern if those losses materialise. Further, liquid net assets should at all times be sufficient to ensure a recovery or orderly wind-down of critical operations and services.</p>	<p>The standards set forth in Principle 15 are addressed in CFTC regulation 17 C.F.R. 39.11, 39.13, and 39.39. The regulation is available at the following link:</p> <p>Regulation 39.11: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=68f486c7e7dcb01460a4a66a82870676&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.3</p> <p>Regulation 39.13: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=22f77fcf888b8732ca305462f985b01d&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.5</p> <p>Regulation 39.39: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=63a53840a19741f5355690fa929a703e&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.10</p>	<p>Consistent</p>	
<p>1. An FMI should have robust management and control systems to identify, monitor, and manage general business risks, including losses from poor execution of business strategy, negative cash flows, or unexpected and excessively large operating expenses.</p>	<p>CFTC regulations 17 C.F.R.: 39.13(a), (b); 39.15(c); 39.39(c)(1)</p> <p>Also see Response to Principle 3, Key Considerations 1 and 4.</p>		

<p>2. <i>An FMI should hold liquid net assets funded by equity (such as common stock, disclosed reserves, or other retained earnings) so that it can continue operations and services as a going concern if it incurs general business losses. The amount of liquid net assets funded by equity an FMI should hold should be determined by its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.11(b)(2), (c)(2), (e)(2); 39.39(b), (d)(2)-(3)</p>		
<p>3. <i>An FMI should maintain a viable recovery or orderly wind-down plan and should hold sufficient liquid net assets funded by equity to implement this plan. At a minimum, an FMI should hold liquid net assets funded by equity equal to at least six months of current operating expenses. These assets are in addition to resources held to cover participant defaults or other risks covered under the financial resources principles. However, equity held under international risk-based capital standards can be included where relevant and appropriate to avoid duplicate capital requirements.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.39(b), (d)(2)-(3)</p>		
<p>4. <i>Assets held to cover general business risk should be of high quality and sufficiently liquid in order to allow the FMI to meet its current and projected operating expenses under a range of scenarios, including in adverse market conditions.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.11(e)(2); 39.39(c)(1), (d)(2)</p>		
<p>5. <i>An FMI should maintain a viable plan for raising additional equity should its equity fall close to or below the amount needed. This plan should be approved by the board of directors and updated regularly.</i></p>	<p>CFTC regulations 17 C.F.R. 39.39(e)</p>		

<p>Principle 16: Custody and investment risks An FMI should safeguard its own and its participants' assets and minimise the risk of loss on and delay in access to these assets. An FMI's investments should be in instruments with minimal credit, market, and liquidity risks.</p>	<p>The standards set forth in Principle 16 are addressed in CFTC regulations 17 C.F.R. 1.25, 1.49, 39.11, 39.14, 39.15, 39.21, 39.33, 39.36, and 39.37. The regulations are available at the following links:</p> <p>Regulation 1.25: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2dba2ce7a9c645084a9952da46c5fbde&h=L&r=SECTION&n=17y1.0.1.1.1.0.4.24</p> <p>Regulation 1.49: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=94a2104323506073dd3c31ac9344f8be&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.1.0.6.43</p> <p>Regulation 39.11: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=fde6216f825d8aa3cffaf64e22a417cd&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.3</p> <p>Regulation 39.14: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=dc61e63c840a38e3ed1e399b01ffb900&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.6</p> <p>Regulation 39.15: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=fde6216f825d8aa3cffaf64e22a417cd&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.7</p> <p>Regulation 39.21: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=86cc35488e4738eab57617ca16accb88&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.13</p> <p>Regulation 39.33: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=86cc35488e4738eab57617ca16accb88&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.4</p>	<p>Broadly consistent</p> <p>The implementation measures of the CFTC are broadly consistent with Principle 16. The overall rating has been influenced by gaps or shortcomings in CFTC rules implementing key considerations 3 and 4.</p> <p>Gaps or shortcomings identified with other key considerations have no material impact on consistency or completeness.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 3 and 4.</p> <p>The CFTC is recommended to make public the intended interpretation of matters identified in the course of this assessment, and other matters as they may come to light, that rely on regulation 39.40 to clarify their consistency with the Principles.</p>
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	<p>Regulation 39.36: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=94a2104323506073dd3c31ac9344f8be&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.7</p> <p>Regulation 39.37: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=86cc35488e4738eab57617ca16accb88&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.8</p>		
<p>1. <i>An FMI should hold its own and its participants' assets at supervised and regulated entities that have robust accounting practices, safekeeping procedures, and internal controls that fully protect these assets.</i></p>	<p>CFTC regulations 17 C.F.R. 1.49(d); 39.14(c); 39.15(c); 39.36(g)</p>	<p>There is no requirement in the CFTC rules that requires that the entities where assets are held shall be at entities that "have robust accounting practices, safekeeping procedures, and internal controls that fully protect these assets". The entities the CCP uses for this purpose shall however be licensed.</p> <p>According to the CFTC, the criteria a CCP shall have for its settlement banks shall include robust accounting practices, safekeeping procedures, and internal controls that fully protect these assets.</p> <p>The details not covered by the detailed CFTC rules may be addressed by the CFTC rule 39.40 which states that Part 39 of the CFTC's regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context.</p>	

2. <i>An FMI should have prompt access to its assets and the assets provided by participants, when required.</i>	CFTC regulations 17 C.F.R.: 1.25(b)(1); 39.11(e); 39.15(e); 39.33(c); 39.36(f)		
3. <i>An FMI should evaluate and understand its exposures to its custodian banks, taking into account the full scope of its relationships with each.</i>	CFTC regulations 17 C.F.R.: 1.25(a)(1), (b)(1), (b)(3); 39.14(c); 39.15(e); 39.36(g); 39.37(a), (b)	The CFTC regulation does not require that a CCP shall take a holistic view of its relationship with a custodian when evaluating and understanding its exposures to that custodian.	
4. <i>An FMI's investment strategy should be consistent with its overall risk-management strategy and fully disclosed to its participants, and investments should be secured by, or be claims on, high-quality obligors. These investments should allow for quick liquidation with little, if any, adverse price effect.</i>	CFTC regulations 17 C.F.R.: 1.25(a)(1), (b)(1), (b)(3); 39.15(e); 39.36(f); 39.37(a), (b)	The CFTC rules do not require that the CCP's investment strategy be disclosed to participants. Further, the CFTC rules do not require that the CCP's investment strategy be consistent with the CCP's overall risk management strategy.	
<p>Principle 17: Operational risk</p> <p>An FMI should identify the plausible sources of operational risk, both internal and external, and mitigate their impact through the use of appropriate systems, policies, procedures, and controls. Systems should be designed to ensure a high degree of security and operational reliability and should have adequate, scalable capacity. Business continuity management should aim for timely recovery of operations and fulfilment of the FMI's obligations, including in the event of a wide-scale or major disruption.</p>	<p>The standards set forth in Principle 17 are addressed in CFTC regulations 17 C.F.R. 39.18, 39.32, and 39.34. The regulations are available at the following links:</p> <p>Regulation 39.18: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=94a2104323506073dd3c31ac9344f8be&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.10</p> <p>Regulation 39.32: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=808673d51ba35fb23012abf9bc1a154b&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.3</p> <p>Regulation 39.34: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2dba2ce7a9c645084a9952da46c5fbde&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.5</p>	<p>Consistent</p> <p>The implementation measures of the CFTC are consistent with Principle 17, although there are some gaps or shortcomings with key considerations 2 and 7 that have no material impact on completeness or consistency.</p>	<p>The CFTC is recommended to make public the intended interpretation of matters identified in the course of this assessment, and other matters as they may come to light, that rely on regulation 39.40 to clarify their consistency with the Principles.</p>

<p>1. <i>An FMI should establish a robust operational risk-management framework with appropriate systems, policies, procedures, and controls to identify, monitor, and manage operational risks.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.18(b), (c), (d); 39.32(b)(10)(ii)</p>		
<p>2. <i>An FMI's board of directors should clearly define the roles and responsibilities for addressing operational risk and should endorse the FMI's operational risk-management framework. Systems, operational policies, procedures, and controls should be reviewed, audited, and tested periodically and after significant changes.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.18(d), (j)(1); 39.32(a)(1)(i)-(iii), (b)(9), (b)(10)(ii); 39.34(c);</p>	<p>The CFTC rules do not include an explicit requirement that the FMI's "systems, operational policies..." shall be "reviewed, audited and tested periodically" as set out in the key consideration. However the CFTC rules state that the FMI "shall follow generally accepted standards and industry best practices with respect to the development, operation, reliability, security, and capacity of automated systems" and the CFTC has explained that this includes the review, auditing and testing of systems, operational policies, procedures and controls after any significant changes.</p>	
<p>3. <i>An FMI should have clearly defined operational reliability objectives and should have policies in place that are designed to achieve those objectives.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.18(b), (c), (d); 39.32(b)(10)(ii)</p>		
<p>4. <i>An FMI should ensure that it has scalable capacity adequate to handle increasing stress volumes and to achieve its service-level objectives.</i></p>	<p>CFTC regulations 17 C.F.R. 39.18(c)</p>		
<p>5. <i>An FMI should have comprehensive physical and information security policies that address all potential vulnerabilities and threats.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.18(c), (e), (f), (j), (k)</p>		

<p>6. <i>An FMI should have a business continuity plan that addresses events posing a significant risk of disrupting operations, including events that could cause a wide-scale or major disruption. The plan should incorporate the use of a secondary site and should be designed to ensure that critical information technology (IT) systems can resume operations within two hours following disruptive events. The plan should be designed to enable the FMI to complete settlement by the end of the day of the disruption, even in case of extreme circumstances. The FMI should regularly test these arrangements.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.18(a); 39.34(a), (b), (c)</p>		
<p>7. <i>An FMI should identify, monitor, and manage the risks that key participants, other FMIs, and service and utility providers might pose to its operations. In addition, an FMI should identify, monitor, and manage the risks its operations might pose to other FMIs.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.18(f)(1), (f)(2)(i), (f)(2)(ii), (j)(1), (k)</p>	<p>There is no requirement in the CFTC rules that a CCP should “identify, monitor and manage risks” that it poses to other FMIs. However, this shortcoming may be addressed by CFTC rule 39.40 which states that Part 39 of the CFTC’s regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context.</p>	

<p>Principle 18: Access and participation requirements</p> <p>An FMI should have objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access.</p>	<p>The standards set forth in Principle 18 are addressed in CFTC regulation 17 C.F.R. 39.12 and 39.17 which are available at the following links:</p> <p>Regulation 39.12: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=94a2104323506073dd3c31ac9344f8be&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.4</p> <p>Regulation 39.17: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=86cc35488e4738eab57617ca16accb88&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.9</p>	<p>Consistent</p> <p>The implementation measures of the CFTC are consistent with Principle 18, although there are some gaps or shortcomings with key considerations 1 and 3 that have no material impact completeness or consistency.</p>	<p>The CFTC is recommended to make public the intended interpretation of matters identified in the course of this assessment, and other matters as they may come to light, that rely on regulation 39.40 to clarify their consistency with the Principles.</p>
<p>1. <i>An FMI should allow for fair and open access to its services, including by direct and, where relevant, indirect participants and other FMIs, based on reasonable risk-related participation requirements.</i></p>	<p>CFTC regulations 17 C.F.R. 39.12(a)(1)-(3)</p>	<p>It is not explicitly stated in the CFTC rules that fair and open access to its services extends to indirect participants or FMIs. Nonetheless, the generic use of “participant” in the CFTC regulation may encompass both direct and indirect participation.</p>	
<p>2. <i>An FMI’s participation requirements should be justified in terms of the safety and efficiency of the FMI and the markets it serves, be tailored to and commensurate with the FMI’s specific risks, and be publicly disclosed. Subject to maintaining acceptable risk control standards, an FMI should endeavour to set requirements that have the least-restrictive impact on access that circumstances permit.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.12(a)(1)(i); 39.12(a)(2)-(3)</p>		

<p>3. <i>An FMI should monitor compliance with its participation requirements on an ongoing basis and have clearly defined and publicly disclosed procedures for facilitating the suspension and orderly exit of a participant that breaches, or no longer meets, the participation requirements.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.12(a); 39.17(a)</p>	<p>The CFTC rules do not say that the FMI should “clearly define” procedures for suspension, but simply that they should establish them. The shortcoming may be addressed by the CFTC rule 39.40 which states that Part 39 of the CFTC’s regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context.</p>	
<p>Principle 19: Tiered participation arrangements An FMI should identify, monitor, and manage the material risks to the FMI arising from tiered participation arrangements.</p>	<p>The standards set forth in Principle 19 are addressed in CFTC regulations 17 C.F.R. 22.11, 22.12, 39.12, and 39.13. These regulations are available at the following links: Regulation 22.11: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=86cc35488e4738eab57617ca16accb88&h=L&r=SECTION&n=17y1.0.1.1.21.0.7.11 Regulation 22.12: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=86cc35488e4738eab57617ca16accb88&h=L&r=SECTION&n=17y1.0.1.1.21.0.7.12 Regulation 39.12: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=86cc35488e4738eab57617ca16accb88&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.4 Regulation 39.13: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=ebb37a6e6dab643ff5b59a2ab592665c&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.5</p>	<p>Consistent</p>	

<p>1. <i>An FMI should ensure that its rules, procedures, and agreements allow it to gather basic information about indirect participation in order to identify, monitor, and manage any material risks to the FMI arising from such tiered participation arrangements.</i></p>	<p>CFTC regulations 17 C.F.R.: 22.11(c), (e); 22.12(c); 39.12(a)(5)(ii); 39.13(a), (b), (g)(8)(i), (h)(2), (h)(3)(i), (h)(5), (h)(6), h(8)</p>		
<p>2. <i>An FMI should identify material dependencies between direct and indirect participants that might affect the FMI.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(h)(2), (h)(3)(i), (h)(5), (h)(6), h(8)</p>		
<p>3. <i>An FMI should identify indirect participants responsible for a significant proportion of transactions processed by the FMI and indirect participants whose transaction volumes or values are large relative to the capacity of the direct participants through which they access the FMI in order to manage the risks arising from these transactions.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(h)(1), (h)(2), (h)(3)(i), (h)(5), (h)(6), h(8)</p>		
<p>4. <i>An FMI should regularly review risks arising from tiered participation arrangements and should take mitigating action when appropriate.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(b), (e), (g)(2)(i), (g)(6), (g)(7), (h)(2), (h)(3)(i), (h)(5)(ii), (h)(6), h(8)</p>		

<p>Principle 20: FMI links An FMI that establishes a link with one or more FMIs should identify, monitor, and manage link-related risks.</p>	<p>The standards set forth in Principle 20 are addressed in CFTC regulations 17 C.F.R. 39.11, 39.13, 39.18, 39.27, 39.34, and 39.36. The regulations are available at the following links: Regulation 39.11: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=94a2104323506073dd3c31ac9344f8be&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.3 Regulation 39.13: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=ebb37a6e6dab643ff5b59a2ab592665c&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.5</p>	<p>Broadly consistent The implementation measures of the CFTC are broadly consistent with Principle 20. The overall rating has been influenced by gaps or shortcomings in the proposed implementation measures for key considerations 1, 7 and 8.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1, 7 and 8.</p>
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	<p>Regulation 39.18: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=68f486c7e7dcb01460a4a66a82870676&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.10</p> <p>Regulation 39.27: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=b222fd28e4e78b16cacab2eb0a319978&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.2.7.17</p> <p>Regulation 39.34: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2395b184a7fa246a0c205c50d42cc9f1&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.5</p> <p>Regulation 39.36: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2395b184a7fa246a0c205c50d42cc9f1&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.7</p>		
<p>1. <i>Before entering into a link arrangement and on an ongoing basis once the link is established, an FMI should identify, monitor, and manage all potential sources of risk arising from the link arrangement. Link arrangements should be designed such that each FMI is able to observe the other principles in this report.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.11(a)(1); 39.13(a), (b), (c), (e), (f), (g), (h); 39.18(b), (c), (d), (e), (f), (g), (h), (i), (j), (k); 39.33(a), (b), (c), (d), (e); 39.34(a), (b), (c); 39.36(a)</p>	<p>The SIDCO regime does not explicitly address FMI links, nor explicitly prescribe requirements for such links.</p>	
<p>2. <i>A link should have a well-founded legal basis, in all relevant jurisdictions, that supports its design and provides adequate protection to the FMIs involved in the link.</i></p>	<p>CFTC regulations 17 C.F.R. 39.27(b)</p>		

<p>7. <i>Before entering into a link with another CCP, a CCP should identify and manage the potential spill-over effects from the default of the linked CCP. If a link has three or more CCPs, each CCP should identify, assess, and manage the risks of the collective link arrangement.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.13(a), (b), (e), (f), (g), (h); 39.36(a), (b), (c), (d), (e), (f), (g)</p>	<p>The SIDCO regime does not explicitly address FMI links, nor explicitly prescribe requirements for such links.</p> <p>The SIDCO regime does not provide detail as to the consideration of spillover effects in relation to CCP-CCP links, beyond participant-type CCP links.</p>	
<p>8. <i>Each CCP in a CCP link arrangement should be able to cover, at least on a daily basis, its current and potential future exposures to the linked CCP and its participants, if any, fully with a high degree of confidence without reducing the CCP's ability to fulfil its obligations to its own participants at any time.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.11(a), (b), (c), (d), (e), (f); 39.33(a), (b), (c), (d), (e)</p>	<p>The SIDCO regime does not explicitly address FMI links, nor explicitly prescribe requirements for such links.</p> <p>In particular, all of the risk management requirements that apply to a CCP-link counterparty are identical to those that apply to clearing participants. With respect to links to other types of FMI, CFTC regulations require a DCO to clearly identify and document the range of risks to which it is exposed, and to monitor and manage the entirety of those risks. While such language is broad enough to encompass risks arising from link arrangements between DCOs and any type of FMI, the SIDCO regime does not explicitly require a CCP to consider risks arising from links (including that a CCP should be able to cover its potential future exposure to a linked CCP without reducing its ability to fulfil its obligations to its own participants at any time).</p>	

<p>Principle 21: Efficiency and effectiveness An FMI should be efficient and effective in meeting the requirements of its participants and the markets it serves.</p>	<p>The standards set forth in Principle 21 are addressed in CFTC regulation 17 C.F.R. 39.38. The regulations is available at the following link: Regulation 39.38: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=b222fd28e4e78b16cacab2eb0a319978&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.9</p>	<p>Consistent</p>	
<p>1. <i>An FMI should be designed to meet the needs of its participants and the markets it serves, in particular, with regard to choice of a clearing and settlement arrangement; operating structure; scope of products cleared, settled, or recorded; and use of technology and procedures.</i></p>	<p>CFTC regulations 17 C.F.R. 39.38(a)</p>		
<p>2. <i>An FMI should have clearly defined goals and objectives that are measurable and achievable, such as in the areas of minimum service levels, risk-management expectations, and business priorities.</i></p>	<p>CFTC regulations 17 C.F.R. 39.38(c)</p>		
<p>3. <i>An FMI should have established mechanisms for the regular review of its efficiency and effectiveness.</i></p>	<p>CFTC regulations 17 C.F.R. 39.38(b)</p>		
<p>Principle 22: Communication procedures and standards An FMI should use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, settlement, and recording.</p>	<p>The standards set forth in Principle 22 are addressed in CFTC regulation 17 C.F.R. 39.38. The regulation is available at the following link: Regulation 39.38: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=b222fd28e4e78b16cacab2eb0a319978&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.32.3.7.9</p>	<p>Consistent</p> <p>The implementation measures of the CFTC are consistent with Principle 22, although there are some gaps or shortcomings with key consideration 1 that have no material impact on completeness or consistency.</p>	

<p>1. <i>An FMI should use, or at a minimum accommodate, internationally accepted communication procedures and standards.</i></p>	<p>CFTC regulations 17 C.F.R. 39.38(d)</p>	<p>It is noted that only the minimal approach is applied for this Principle since the regulation does not require CCPs to ‘use’ internationally accepted communication procedures and standards, but only to ‘accommodate’ them.</p>	
<p>Principle 23: Disclosure of rules, key procedures, and market data An FMI should have clear and comprehensive rules and procedures and should provide sufficient information to enable participants to have an accurate understanding of the risks, fees, and other material costs they incur by participating in the FMI. All relevant rules and key procedures should be publicly disclosed.</p>	<p>The standards set forth in Principle 23 are addressed in CFTC regulations 17 C.F.R. 39.21, 39.37, 40.8, and Derivatives Clearing Organizations and International Standards (Part 39, Subpart C), 78 Fed. Reg. 72476 (December 2, 2013). The regulations and Federal Register release are available at the following links: Regulation 39.21: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2395b184a7fa246a0c205c50d42cc9f1&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.2.7.13 Regulation 39.37; http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=f120be2b793f55e82f5dad74f6846caa&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.2.3.7.8 Regulation 40.8 http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=2395b184a7fa246a0c205c50d42cc9f1&ty=HTML&h=L&r=SECTION&n=17y1.0.1.1.3.3.0.7.8 “Derivatives Clearing Organizations and International Standards” (Part 39, Subpart C): http://www.gpo.gov/fdsys/pkg/FR-2013-12-02/pdf/2013-27849.pdf</p>	<p>Consistent The implementation measures of the CFTC are consistent with Principle 23, although there are some gaps or shortcomings with key considerations 2 and 3 that have no material impact on completeness or consistency.</p>	<p>The CFTC is recommended to make public the intended interpretation of matters identified in the course of this assessment, and other matters as they may come to light, that rely on regulation 39.40 to clarify their consistency with the Principles.</p>

<p>1. <i>An FMI should adopt clear and comprehensive rules and procedures that are fully disclosed to participants. Relevant rules and key procedures should also be publicly disclosed.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.21(a), (b), (c), (d); 40.8(c), (d)</p>		
<p>2. <i>An FMI should disclose clear descriptions of the system's design and operations, as well as the FMI's and participants' rights and obligations, so that participants can assess the risks they would incur by participating in the FMI.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.21(a), (b), (c), (d); 40.8(c), (d)</p>	<p>The CFTC rules do not explicitly say that the CCP should disclose the rights and obligations of the CCP and the participants. However it is stated that the rules shall be disclosed so the participants can assess the risk associated with using the CCP. The shortcoming may be addressed by the CFTC rule 39.40 which states that Part 39 of the CFTC's regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context.</p>	
<p>3. <i>An FMI should provide all necessary and appropriate documentation and training to facilitate participants' understanding of the FMI's rules and procedures and the risks they face from participating in the FMI.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.21(a), (b), (c), (d); 40.8(c), (d)</p>	<p>There is no requirement in the CFTC rules about the FMI providing training to its participants to facilitate their understanding of rules and procedures and the risk they face by participating in the CCP. However, this shortcoming may be addressed by CFTC rule 39.40 which states that Part 39 of the CFTC's regulations is intended to establish standards that are consistent with the Principles and should be interpreted in that context.</p>	

<p>4. <i>An FMI should publicly disclose its fees at the level of individual services it offers as well as its policies on any available discounts. The FMI should provide clear descriptions of priced services for comparability purposes.</i></p>	<p>CFTC regulations 17 C.F.R.: 39.21(c)(1), (2), (7)</p>		
<p>5. <i>An FMI should complete regularly and disclose publicly responses to the CPSS-IOSCO Disclosure framework for financial market infrastructures. An FMI also should, at a minimum, disclose basic data on transaction volumes and values.</i></p>	<p>CFTC regulations 17 C.F.R. 39.37(a), (b), (c); "Further, the Commission notes that on October 15, 2013, CPMI-IOSCO published a consultative document on public quantitative disclosure standards for central counterparties.²⁸ Moreover, CPMI-IOSCO states that these quantitative disclosures, together with the PFMI Disclosure framework also published by CPMI-IOSCO, would form the minimum disclosures expected of CCPs under Principle 23, Key Consideration 5, of the Principles.²⁹ Thus, if and when such public quantitative disclosure standards are finalised, the Commission would expect SIDCOs and Subpart C DCOs to look to such standards in complying with the requirements set forth in regulation 39.37(c)." See Derivatives Clearing Organizations and International Standards (Part 39, Subpart C), 78 FR 72476, 72494 (December 2, 2013).</p>		

²⁸ CPSS-IOSCO, Consultative Report, Public Quantitative Disclosure Standards for Central Counterparties, October 15, 2013, available at <http://www.bis.org/publ/cps114.pdf>.

²⁹ *Id.* at 1.

4.2.2 Covered Clearing Agencies

Implementation monitoring of Principles: Level 2 assessment report for the U.S. Securities and Exchange Commission's Covered clearing agencies

Part 2: Implementation of the principles			
1. Text of applicable Principles and Key Considerations (KCs) ³⁰	2. Implementation measures of the jurisdiction	3. Key conclusions for principles	4. Recommendations and comments
<p>Principle 1: Legal basis</p> <p>An FMI should have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.</p>	<p>The standards in Principle 1 are addressed by the following statutory provisions, rules, and proposed rules:</p> <p>Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf</p> <p>17 C.F.R. § 240.17Ad-22(d)(1): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rules 17Ad-22(e)(1) and (a)(20): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	Consistent	
<p>1. <i>The legal basis should provide a high degree of certainty for each material aspect of an FMI's activities in all relevant jurisdictions.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A);</p> <p>Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>17 C.F.R. § 240.17Ad-22(d)(1): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p>		

³⁰ Only the relevant principles for CCPs (as set forth in the annex E of the PFMI) are included.

	<p>Proposed Rule 17Ad-22(e)(1); Proposed Rule 17Ad-22(a)(20): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>An FMI should have rules, procedures, and contracts that are clear, understandable, and consistent with relevant laws and regulations.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19(b) of the Exchange Act, 15 U.S.C. § 78s(b): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf 17 C.F.R. § 240.17Ad-22(d)(1): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(1); Proposed Rule 17Ad-22(a)(20): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>3. <i>An FMI should be able to articulate the legal basis for its activities to relevant authorities, participants, and, where relevant, participants' customers, in a clear and understandable way.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19(b) of the Exchange Act, 15 U.S.C. § 78s(b): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf 17 C.F.R. § 240.17Ad-22(d)(1): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p>		

	<p>Proposed Rule 17Ad-22(e)(1); Proposed Rule 17Ad-22(a)(20): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>4. <i>An FMI should have rules, procedures, and contracts that are enforceable in all relevant jurisdictions. There should be a high degree of certainty that actions taken by the FMI under such rules and procedures will not be voided, reversed, or subject to stays.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf 17 C.F.R. § 240.17Ad-22(d)(1): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(1); Proposed Rule 17Ad-22(a)(20): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf 11 U.S.C. §§ 362(b)(17), (27); <i>id.</i> §§ 546(e), (g), (j); <i>id.</i> §§ 555, 560</p>		
<p>5. <i>An FMI conducting business in multiple jurisdictions should identify and mitigate the risks arising from any potential conflict of laws across jurisdictions.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf 17 C.F.R. § 240.17Ad-22(d)(1): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(1); Proposed Rule 17Ad-22(a)(20): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		

	<p>Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865, at 16877 n.107 (Mar. 26, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>Principle 2: Governance An FMI should have governance arrangements that are clear and transparent, promote the safety and efficiency of the FMI, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders.</p>	<p>The standards in Principle 2 are addressed by the following statutory provisions, rules, and proposed rules:</p> <p>Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf</p> <p>Section 805(b) of the Clearing Supervision Act, 12 U.S.C. § 5464: http://www.gpo.gov/fdsys/pkg/USCODE-2013-title12/pdf/USCODE-2013-title12-chap53-subchapIV-sec5464.pdf</p> <p>17 C.F.R. § 240.17Ad-22(d)(8): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rules 17Ad-22(e)(2), (e)(3), and (a)(20): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p> <p>Proposed Rules 17Ad-25 and 17Ad-26: http://www.gpo.gov/fdsys/pkg/FR-2011-03-16/pdf/2011-5182.pdf</p> <p>Proposed Regulation MC, § 242.701: http://www.gpo.gov/fdsys/pkg/FR-2010-10-26/pdf/2010-26315.pdf</p>	<p>Broadly consistent</p> <p>The proposed implementation measures of the SEC are broadly consistent with Principle 2. The overall rating has been influenced by gaps or shortcomings in the proposed implementation measures for key considerations 1, 2, 4 and 5.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1, 2, 4 and 5.</p>

<p>1. <i>An FMI should have objectives that place a high priority on the safety and efficiency of the FMI and explicitly support financial stability and other relevant public interest considerations.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A), (C), and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (C), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 805(b) of the Clearing Supervision Act, 12 U.S.C. § 5464: http://www.gpo.gov/fdsys/pkg/USCODE-2013-title12/pdf/USCODE-2013-title12-chap53-subchapIV-sec5464.pdf Proposed Rule 17Ad-22(e)(2); Proposed Rule 17Ad-22(a)(20); Proposed Rule 17Ad-22(e)(3): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865, at 16879, 16968 (Mar. 26, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>The SEC has proposed to implement measures which require that a CCP establish, implement, maintain and enforce written policies and procedures that clearly prioritise the safety and efficiency of the CCP and support the public interest.</p> <p>Section 805(b) of Title VIII states that the objectives and principles for the risk management standards prescribed under Title VIII shall be, among other things, to support the stability of the broader financial system. However, the SEC has not proposed to implement measures which require that the objectives of a CCP explicitly support financial stability.</p>	
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<p>2. <i>An FMI should have documented governance arrangements that provide clear and direct lines of responsibility and accountability. These arrangements should be disclosed to owners, relevant authorities, participants, and, at a more general level, the public.</i></p>	<p>Sections 3(a)(27) of the Exchange Act, 15 U.S.C. § 78c(a)(27),: http://www.gpo.gov/fdsys/pkg/USCODE-2013-title15/pdf/USCODE-2013-title15-chap2B-sec78c.pdf Section 17A(b)(3)(C) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(C): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf Application for registration or for exemption from registration as a clearing agency: https://www.sec.gov/about/forms/formca-1.pdf</p>	<p>The SEC has proposed to implement measures which require that a CCP have governance arrangements that are clear and transparent, and are disclosed to the SEC and other relevant authorities, clearing members and their customers, to owners and the public.</p> <p>The SEC’s proposed requirements for application for registration of a CCP asks the CCP to supply exhibits outlining its business organization and must, among other things, for each officer, manager, or other persons occupying a similar status or performing similar functions who supervise, or are directly responsible for the conduct of, CCP activities, indicate their name, title, area of responsibility, and a brief account of their business experience during the last five years. In addition, the CCP must provide narrative and graphic descriptions of its organisational structure, specifying the CCP activities that are conducted by a division, subdivision, or other entity within the corporation, and the relationship of such entity to the CCP’s overall organizational structure. However, the form does not create an obligation on the CCP either at the point of registration</p>	
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		or on an ongoing basis. The SEC has therefore not implemented, or proposed to implement, explicit measures which require that a CCP have governance arrangements that provide clear and direct lines of responsibility and accountability.	
3. <i>The roles and responsibilities of an FMI's board of directors (or equivalent) should be clearly specified, and there should be documented procedures for its functioning, including procedures to identify, address, and manage member conflicts of interest. The board should review both its overall performance and the performance of its individual board members regularly.</i>	<p>Section 17A(b)(3)(C) of the Exchange Act, 15 U.S.C. 78q-1(b)(3)(C): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Proposed Rule 17Ad-25; Proposed Rule 17Ad-26: http://www.gpo.gov/fdsys/pkg/FR-2011-03-16/pdf/2011-5182.pdf</p>		
4. <i>The board should contain suitable members with the appropriate skills and incentives to fulfil its multiple roles. This typically requires the inclusion of non-executive board member(s).</i>	<p>Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865 (Mar. 26, 2014), corrected at 79 Fed. Reg. 29507, 29613 (May 22, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p> <p>Clearing Agency Standards for Operation and Governance; Proposed Rule; Exchange Act Release No. 34-64017 (Mar. 3, 2011), 76 Fed. Reg. 14472, 14539 (Mar. 16, 2011): http://www.gpo.gov/fdsys/pkg/FR-2011-03-16/pdf/2011-5182.pdf</p> <p>Exchange Act Release No. 34-16900 (July 1, 1980), at p. 7: http://www.sec.gov/rules/other/34-16900.pdf</p>	<p>With regard to incentives, the SEC's proposed requirement for the rules of a CCP to assure a fair representation of its shareholders (or members) and participants in the selection of its directors is considered to broadly implement the requirement to ensure that those elected to the board have appropriate incentives.</p> <p>It is also noted that there is no binding requirement that the board of a CCP include non-executive board member(s). However, this requirement is prefaced in the key consideration by the term 'typically' so it can be seen as falling short of a mandatory requirement.</p>	

<p>5. <i>The roles and responsibilities of management should be clearly specified. An FMI's management should have the appropriate experience, a mix of skills, and the integrity necessary to discharge their responsibilities for the operation and risk management of the FMI.</i></p>	<p>Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865 (Mar. 26, 2014), <u>corrected at</u> 79 Fed. Reg. 29507, 29520 (May 22, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf Application for registration or for exemption from registration as a clearing agency: https://www.sec.gov/about/forms/formca-1.pdf</p>	<p>The SEC has proposed to implement measures which require that the management of a CCP have appropriate experience and skills. However, the SEC has not implemented, or proposed to implement, explicit measures which require that the roles and responsibilities of management be clearly specified (see comments under key consideration 2 on the use of the registration form).</p>	
<p>6. <i>The board should establish a clear, documented risk-management framework that includes the FMI's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decision making in crises and emergencies. Governance arrangements should ensure that the risk-management and internal control functions have sufficient authority, independence, resources, and access to the board.</i></p>	<p>Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865 (Mar. 26, 2014), <u>corrected at</u> 79 Fed. Reg. 29507, 29521 (May 22, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>7. <i>The board should ensure that the FMI's design, rules, overall strategy, and major decisions reflect appropriately the legitimate interests of its direct and indirect participants and other relevant stakeholders. Major decisions should be clearly disclosed to relevant stakeholders and, where there is a broad market impact, the public.</i></p>	<p>Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865 (Mar. 26, 2014), <u>corrected at</u> 79 Fed. Reg. 29507, 29521 (May 22, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		

<p>Principle 3: Framework for the comprehensive management of risks</p> <p>An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.</p>	<p>The standards in Principle 3 are addressed by the following statutory provisions, proposed rules, and rules of the registered clearing agencies:</p> <p>Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf</p> <p>Proposed Rule 17Ad-22(e)(3): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Broadly consistent</p> <p>The proposed implementation measures of the SEC are broadly consistent with Principle 3. The overall rating has been influenced by minor gaps or shortcomings in the proposed implementation measures for key consideration 4.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 2 and 4.</p>
<p>1. <i>An FMI should have risk-management policies, procedures, and systems that enable it to identify, measure, monitor, and manage the range of risks that arise in or are borne by the FMI. Risk-management frameworks should be subject to periodic review.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A);</p> <p>Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F):</p> <p>http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Proposed Rule 17Ad-22(e)(3):</p> <p>http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>An FMI should provide incentives to participants and, where relevant, their customers to manage and contain the risks they pose to the FMI.</i></p>	<p>See above citations to Section 17A of the Exchange Act in response to Key Consideration 1.</p>	<p>The details of key consideration 2 are not addressed separately in the proposed rules and the headline does not provide sufficient details to be able to consider the substance of the key consideration to have been implemented. In practice the required implementing measures might be covered by other Principles (e.g. Principle 6 on margin and Principle 4 on default fund contributions and loss allocation act (among other</p>	

		<p>things)) as incentives for participants to manage the risks they pose to the CCP. Taking all this together, the shortcoming in details of the implementation measure regarding key consideration 2 is assessed to have no material impact on consistency.</p>	
<p>3. <i>An FMI should regularly review the material risks it bears from and poses to other entities (such as other FMIs, settlement banks, liquidity providers, and service providers) as a result of interdependencies and develop appropriate risk-management tools to address these risks.</i></p>	<p>See above citations to Section 17A of the Exchange Act and proposed Rule 17Ad-22(e)(3)(i) thereunder in response to Key Consideration 1.</p>		
<p>4. <i>An FMI should identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. An FMI should prepare appropriate plans for its recovery or orderly wind-down based on the results of that assessment. Where applicable, an FMI should also provide relevant authorities with the information needed for purposes of resolution planning.</i></p>	<p>See above citations to Section 17A of the Exchange Act and proposed Rule 17Ad-22(e)(3)(ii) thereunder in response to Key Consideration 1.</p>	<p>The proposed rules require that CCPs have recovery and orderly wind-down plans. The proposed SEC rules do not, however, require that a CCP identify scenarios that potentially could prevent the CCP from being able to provide its critical operations and services and assess the effectiveness of a full range of options for recovery or orderly wind-down. Further, the proposed SEC rules do not require that a CCP's plans for its recovery or orderly wind-down be based on the results of that assessment. Nor do the rules require a CCP to provide relevant authorities with the information needed for purposes of resolution planning although this is not a hard requirement in the key consideration.</p>	

<p>Principle 4: Credit risk</p> <p>An FMI should effectively measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes. An FMI should maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. In addition, a CCP that is involved in activities with a more-complex risk profile or that is systemically important in multiple jurisdictions should maintain additional financial resources sufficient to cover a wide range of potential stress scenarios that should include, but not be limited to, the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure to the CCP in extreme but plausible market conditions. All other CCPs should maintain additional financial resources sufficient to cover a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would potentially cause the largest aggregate credit exposure to the CCP in extreme but plausible market conditions.</p>	<p>The standards in Principle 4 are addressed by the following statutory provisions, rules, and proposed rules:</p> <p>Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf</p> <p>17 C.F.R. §§ 240.17Ad-22(b)(1), (b)(3), and (d)(14): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rules 17Ad-22(e)(4), (e)(13), (a)(5), and (a)(18): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Consistent</p> <p>The proposed implementation measures of the SEC are consistent with Principle 4; however, the SEC’s proposed rules are less detailed than key consideration 6.</p> <p>Gaps or shortcomings identified with other key considerations have no material impact on completeness or consistency.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 6.</p>
<p>1. <i>An FMI should establish a robust framework to manage its credit exposures to its participants and the credit risks arising from its payment, clearing, and settlement processes. Credit exposure may arise from current exposures, potential future exposures, or both.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A);</p> <p>Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Proposed Rule 17Ad-22(e)(4);</p> <p>Proposed Rule 17Ad-22(a)(5);</p> <p>Proposed Rule 17Ad-22(a)(18): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		

<p>2. <i>An FMI should identify sources of credit risk, routinely measure and monitor credit exposures, and use appropriate risk-management tools to control these risks.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(4) thereunder in response to Key Consideration 1, and the following rule under the Exchange Act: 17 C.F.R. § 240.17Ad-22(b)(1): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p>	<p>Proposed rule 17Ad-22(e)(4) substantially mirrors key consideration 2 and will require covered clearing agencies to credit risks arising from its participants and its ‘payment, clearing, and settlement processes’.</p> <p>While this rule is still narrower in drafting than key consideration 2, because it does not require a CCP to identify <i>all</i> sources of credit risk, this gap does not have a material impact on the completeness of the SEC’s proposed rules.</p> <p>There is no requirement in the SEC’s proposed rules to use ‘appropriate risk management tools.’</p>	
<p>4. <i>A CCP should cover its current and potential future exposures to each participant fully with a high degree of confidence using margin and other prefunded financial resources (see Principle 5 on collateral and Principle 6 on margin). In addition, a CCP that is involved in activities with a more-complex risk profile or that is systemically important in multiple jurisdictions should maintain additional financial resources to cover a wide range of potential stress scenarios that should include, but not be limited to, the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure for the CCP in extreme but plausible market conditions. All other CCPs should maintain additional financial resources sufficient to cover a wide range of</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(4)(i) through (iii) thereunder in response to Key Consideration 1, and the following rules under the Exchange Act: 17 C.F.R. § 240.17Ad-22(b)(3); 17 C.F.R. § 240.17Ad-22(d)(14): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p>	<p>The SEC’s proposed rules refer to ‘foreseeable stress scenarios’ while key consideration 4 refers to ‘potential stress scenarios’.</p> <p>This drafting should not affect the intention or completeness of the SEC’s rules.</p>	

<p><i>potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would potentially cause the largest aggregate credit exposure for the CCP in extreme but plausible market conditions. In all cases, a CCP should document its supporting rationale for, and should have appropriate governance arrangements relating to, the amount of total financial resources it maintains.</i></p>			
<p>5. <i>A CCP should determine the amount and regularly test the sufficiency of its total financial resources available in the event of a default or multiple defaults in extreme but plausible market conditions through rigorous stress testing. A CCP should have clear procedures to report the results of its stress tests to appropriate decision makers at the CCP and to use these results to evaluate the adequacy of and adjust its total financial resources. Stress tests should be performed daily using standard and predetermined parameters and assumptions. On at least a monthly basis, a CCP should perform a comprehensive and thorough analysis of stress testing scenarios, models, and underlying parameters and assumptions used to ensure they are appropriate for determining the CCP's required level of default protection in light of current and evolving market conditions. A CCP should perform this analysis of stress testing more frequently when the products cleared or markets served display high volatility, become less liquid, or when the size or concentration of positions held by a CCP's participants increases significantly. A full validation of a CCP's risk-management model should be performed at least annually.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(4)(vi), (e)(4)(vii), (a)(5), and (a)(18) thereunder in response to Key Consideration 1.</p>		

<p>6. <i>In conducting stress testing, a CCP should consider the effect of a wide range of relevant stress scenarios in terms of both defaulters' positions and possible price changes in liquidation periods. Scenarios should include relevant peak historic price volatilities, shifts in other market factors such as price determinants and yield curves, multiple defaults over various time horizons, simultaneous pressures in funding and asset markets, and a spectrum of forward-looking stress scenarios in a variety of extreme but plausible market conditions.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(4)(vi) and (a)(18) thereunder in response to Key Consideration 1.</p>	<p>Although the intention of the SEC's proposed rules is consistent with key consideration 6, the gaps outlined have a minor impact on the completeness of the SEC's rules with respect to key consideration 6.</p> <p>The SEC's proposed rules are less detailed than key consideration 6. While the SEC's proposed rules require CCPs to consider a 'wide range of scenarios' (proposed rule 17Ad-22(e)(4)((ii) and (iii)) and to consider 'extreme but plausible price changes or...other valuation inputs and assumptions' (17Ad-22(a)(18)), the rules do not set out the specific scenarios considered by key consideration 6.</p> <p>The proposed rules do not require CCPs to consider a wide range of defaulters' positions.</p>	
<p>7. <i>An FMI should establish explicit rules and procedures that address fully any credit losses it may face as a result of any individual or combined default among its participants with respect to any of their obligations to the FMI. These rules and procedures should address how potentially uncovered credit losses would be allocated, including the repayment of any funds an FMI may borrow from liquidity providers. These rules and procedures should also indicate the FMI's process to replenish any financial resources that the FMI may employ during a stress event, so that the FMI can continue to operate in a safe and sound manner.</i></p>	<p>See above citations to the Exchange Act and the following proposed rule thereunder: Proposed Rule 17Ad-22(e)(13): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		

<p>Principle 5: Collateral An FMI that requires collateral to manage its or its participants' credit exposure should accept collateral with low credit, liquidity, and market risks. An FMI should also set and enforce appropriately conservative haircuts and concentration limits.</p>	<p>The standards in Principle 5 are addressed by the following statutory provisions and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf Proposed Rule 17Ad-22(e)(5): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Consistent</p> <p>The proposed implementation measures of the SEC are consistent with Principle 5; however, there are minor gaps or shortcomings with key consideration 5.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 5.</p>
<p>1. <i>An FMI should generally limit the assets it (routinely) accepts as collateral to those with low credit, liquidity, and market risks.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Proposed Rule 17Ad-22(e)(5): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>An FMI should establish prudent valuation practices and develop haircuts that are regularly tested and take into account stressed market conditions.</i></p>	<p>See above response to Key Consideration 1 in full.</p>		
<p>3. <i>In order to reduce the need for procyclical adjustments, an FMI should establish stable and conservative haircuts that are calibrated to include periods of stressed market conditions, to the extent practicable and prudent.</i></p>	<p>See above response to Key Consideration 1 in full.</p>		
<p>4. <i>An FMI should avoid concentrated holdings of certain assets where this would significantly impair the ability to liquidate such assets quickly without significant adverse price effects.</i></p>	<p>See above response to Key Consideration 1 in full.</p>		

<p>5. <i>An FMI that accepts cross-border collateral should mitigate the risks associated with its use and ensure that the collateral can be used in a timely manner.</i></p>	<p>See above response to Key Consideration 1 in full.</p>	<p>The proposed regime is designed to minimise the risks associated with collateral, but it does not explicitly address cross-border legal risks. This gap has only a minor impact on the completeness of the regime.</p>	
<p>6. <i>An FMI should use a collateral management system that is well-designed and operationally flexible.</i></p>	<p>See above response to Key Consideration 1 in full.</p>		
<p>Principle 6: Margin A CCP should cover its credit exposures to its participants for all products through an effective margin system that is risk-based and regularly reviewed.</p>	<p>The standards in Principle 6 are addressed by the following statutory provisions, rules, and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf 17 C.F.R. §§ 240.17Ad-22(b)(2) and (b)(4): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rules 17Ad-22(e)(6), (a)(6), and (a)(14): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Consistent The proposed implementation measures of the SEC are consistent with the headline standard in Principle 6; some elements of key consideration 5, however, are not included explicitly. Gaps or shortcomings identified with other key considerations have no material impact on completeness or consistency.</p>	<p>The SEC is recommended to implement measures which address the gaps and inconsistencies identified, specifically those related to key consideration 5.</p>
<p>1. <i>A CCP should have a margin system that establishes margin levels commensurate with the risks and particular attributes of each product, portfolio, and market it serves.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A): Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p>		

	<p>17 C.F.R. § 240.17Ad-22(b)(2): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(a)(1), (a)(5), (a)(6), (a)(14), (e)(6): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>A CCP should have a reliable source of timely price data for its margin system. A CCP should also have procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(6)(iv) thereunder in response to Key Consideration 1.</p>		
<p>3. <i>A CCP should adopt initial margin models and parameters that are risk-based and generate margin requirements sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default. Initial margin should meet an established single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure. For a CCP that calculates margin at the portfolio level, this requirement applies to each portfolio's distribution of future exposure. For a CCP that calculates margin at more-granular levels, such as at the subportfolio level or by product, the requirement must be met for the corresponding distributions of future exposure. The model should (a) use a conservative estimate of the time horizons for the effective hedging or close out of the particular types of products cleared by the CCP (including in stressed market conditions), (b) have an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products, and (c) to the extent practicable and prudent, limit the need for destabilising, procyclical changes.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(6)(iii), (e)(6)(v), and (a)(14) thereunder in response to Key Consideration 1, and the following rule under the Exchange Act. 17 C.F.R. § 240.17Ad-22(b)(2): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p>	<p>The SEC's proposed rules do not explicitly require that: the model use a conservative estimate of the time horizon; or limit the need for destabilising procyclical changes.</p> <p>While the proposed rules would require a CCP to consider, and produce margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market, they do not explicitly contemplate CCPs that calculate margin at more granular levels such as subportfolio levels.</p>	

<p>4. <i>A CCP should mark participant positions to market and collect variation margin at least daily to limit the build-up of current exposures. A CCP should have the authority and operational capacity to make intraday margin calls and payments, both scheduled and unscheduled, to participants.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(6)(ii) thereunder in response to Key Consideration 1.</p>		
<p>5. <i>In calculating margin requirements, a CCP may allow offsets or reductions in required margin across products that it clears or between products that it and another CCP clear, if the risk of one product is significantly and reliably correlated with the risk of the other product. Where two or more CCPs are authorised to offer cross-margining, they must have appropriate safeguards and harmonised overall risk-management systems.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(6)(i) thereunder in response to Key Consideration 1.</p>	<p>There are no proposed requirements relating to margin offsets between products and cross-margining arrangements. However, 17Ad-22(e)(6)(i) requires CCPs to consider the attributes of relevant products; arguably, this rule may be applied to ensure prudent offsets and cross-margining arrangements.</p> <p>There are, however, no explicit provisions in the proposed regime regarding the scope of permissible margin offsets or rules requiring that if two or more CCPs are authorised to offer cross-margining, they must have appropriate safeguards and harmonised overall risk management systems.</p>	
<p>6. <i>A CCP should analyse and monitor its model performance and overall margin coverage by conducting rigorous daily backtesting and at least monthly, and more-frequent where appropriate, sensitivity analysis. A CCP should regularly conduct an assessment of the theoretical and empirical properties of its margin model for all products it clears. In conducting sensitivity analysis of the model's</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(6)(vi), (a)(1), and (a)(6) thereunder in response to Key Consideration 1.</p>		

<p><i>coverage, a CCP should take into account a wide range of parameters and assumptions that reflect possible market conditions, including the most-volatile periods that have been experienced by the markets it serves and extreme changes in the correlations between prices.</i></p>			
<p>7. <i>A CCP should regularly review and validate its margin system.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(6)(vi), (e)(6)(vii), (a)(1), (a)(5), and (a)(6) thereunder in response to Key Consideration 1, and the following rule under the Exchange Act: 17 C.F.R. § 240.17Ad-22(b)(4): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p>		
<p>Principle 7: Liquidity risk An FMI should effectively measure, monitor, and manage its liquidity risk. An FMI should maintain sufficient liquid resources in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would generate the largest aggregate liquidity obligation for the FMI in extreme but plausible market conditions.</p>	<p>The standards in Principle 7 are addressed by the following statutory provisions and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf Proposed Rules 17Ad-22(e)(7), (a)(5), (a)(15), and (a)(18): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Broadly consistent The proposed implementation measures of the SEC are broadly consistent with Principle 7. The overall rating has been influenced by a shortcoming in key consideration 10. Gaps or shortcomings identified with other key considerations have no material impact on completeness or consistency.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 10.</p>

<p>1. <i>An FMI should have a robust framework to manage its liquidity risks from its participants, settlement banks, nostro agents, custodian banks, liquidity providers, and other entities.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A): Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Proposed Rule 17Ad-22(a)(5), (a)(15), (a)(18), (e)(7): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Although proposed rule 17Ad-22(e)(7) does not list the entities which a CCP should consider in managing its liquidity risks, the rule requires a CCP to measure, monitor and manage the liquidity risks it faces; the intention of the rule is clearly to include all entities listed in key consideration 1.</p>	
<p>2. <i>An FMI should have effective operational and analytical tools to identify, measure, and monitor its settlement and funding flows on an ongoing and timely basis, including its use of intraday liquidity.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(7) thereunder in response to Key Consideration 1.</p>		
<p>4. <i>A CCP should maintain sufficient liquid resources in all relevant currencies to settle securities-related payments, make required variation margin payments, and meet other payment obligations on time with a high degree of confidence under a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would generate the largest aggregate payment obligation to the CCP in extreme but plausible market conditions. In addition, a CCP that is involved in activities with a more-complex risk profile or that is systemically important in multiple jurisdictions should consider maintaining additional liquidity resources sufficient to cover a wider range of potential stress scenarios that should include, but not be limited to, the default of the two participants and their affiliates that would generate the largest aggregate payment obligation to the CCP in extreme but plausible market conditions.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(7)(i) and (x) thereunder in response to Key Consideration 1.</p>		

<p>5. <i>For the purpose of meeting its minimum liquid resource requirement, an FMI's qualifying liquid resources in each currency include cash at the central bank of issue and at creditworthy commercial banks, committed lines of credit, committed foreign exchange swaps, and committed repos, as well as highly marketable collateral held in custody and investments that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions. If an FMI has access to routine credit at the central bank of issue, the FMI may count such access as part of the minimum requirement to the extent it has collateral that is eligible for pledging to (or for conducting other appropriate forms of transactions with) the relevant central bank. All such resources should be available when needed.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(7)(ii) and (a)(15) thereunder in response to Key Consideration 1.</p>		
<p>6. <i>An FMI may supplement its qualifying liquid resources with other forms of liquid resources. If the FMI does so, then these liquid resources should be in the form of assets that are likely to be saleable or acceptable as collateral for lines of credit, swaps, or repos on an ad hoc basis following a default, even if this cannot be reliably prearranged or guaranteed in extreme market conditions. Even if an FMI does not have access to routine central bank credit, it should still take account of what collateral is typically accepted by the relevant central bank, as such assets may be more likely to be liquid in stressed circumstances. An FMI should not assume the availability of emergency central bank credit as a part of its liquidity plan.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(7)(ii) and (a)(15) thereunder in response to Key Consideration 1.</p> <p>In addition, see Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865, at 16890–91 (Mar. 26, 2014):</p> <p>http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Although there are no proposed measures to provide for a CCP to 'supplement' its qualifying liquid resources, this is not a requirement on CCPs and therefore there is no inconsistency between the SEC's implementation measures and key consideration 6.</p>	

<p>7. <i>An FMI should obtain a high degree of confidence, through rigorous due diligence, that each provider of its minimum required qualifying liquid resources, whether a participant of the FMI or an external party, has sufficient information to understand and to manage its associated liquidity risks, and that it has the capacity to perform as required under its commitment. Where relevant to assessing a liquidity provider's performance reliability with respect to a particular currency, a liquidity provider's potential access to credit from the central bank of issue may be taken into account. An FMI should regularly test its procedures for accessing its liquid resources at a liquidity provider.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(7)(iv) and (v) thereunder in response to Key Consideration 1.</p>	<p>The SEC's proposed rules require a CCP to have only 'a reasonable basis to believe' its liquidity providers will perform, rather than a 'high degree of confidence'. The SEC has clarified that this reflects differing drafting conventions, but that, in practice, CCPs would be expected to conduct due diligence equivalent to that required by key consideration 7. The SEC's proposed rules are silent on whether a CCP may consider a liquidity provider's access to central bank liquidity.</p>	
<p>8. <i>An FMI with access to central bank accounts, payment services, or securities services should use these services, where practical, to enhance its management of liquidity risk.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(7)(iii) thereunder in response to Key Consideration 1.</p>		
<p>9. <i>An FMI should determine the amount and regularly test the sufficiency of its liquid resources through rigorous stress testing. An FMI should have clear procedures to report the results of its stress tests to appropriate decision makers at the FMI and to use these results to evaluate the adequacy of and adjust its liquidity risk-management framework. In conducting stress testing, an FMI should consider a wide range of relevant scenarios. Scenarios should include relevant peak historic price volatilities, shifts in other market factors such as price determinants and yield curves, multiple defaults over various time horizons, simultaneous pressures in funding and asset markets, and a spectrum of forward-looking stress scenarios in</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(7)(vi), (e)(7)(vii), (a)(5), and (a)(18) thereunder in response to Key Consideration 1.</p>		

<p><i>a variety of extreme but plausible market conditions. Scenarios should also take into account the design and operation of the FMI, include all entities that might pose material liquidity risks to the FMI (such as settlement banks, nostro agents, custodian banks, liquidity providers, and linked FMIs), and where appropriate, cover a multiday period. In all cases, an FMI should document its supporting rationale for, and should have appropriate governance arrangements relating to, the amount and form of total liquid resources it maintains.</i></p>			
<p><i>10. An FMI should establish explicit rules and procedures that enable the FMI to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations on time following any individual or combined default among its participants. These rules and procedures should address unforeseen and potentially uncovered liquidity shortfalls and should aim to avoid unwinding, revoking, or delaying the same-day settlement of payment obligations. These rules and procedures should also indicate the FMI's process to replenish any liquidity resources it may employ during a stress event, so that it can continue to operate in a safe and sound manner.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(7)(viii) and (ix) thereunder in response to Key Consideration 1.</p>	<p>Proposed rule 17Ad-22(e)(7)(viii) requires a CCP to maintain policies and procedures to address <i>foreseeable</i> liquidity shortfalls; however key consideration 10 also expects a CCP to address '<i>unforeseen</i> and potentially uncovered liquidity shortfalls'.</p>	

<p>Principle 8: Settlement finality An FMI should provide clear and certain final settlement, at a minimum by the end of the value date. Where necessary or preferable, an FMI should provide final settlement intraday or in real time.</p>	<p>The standards in Principle 8 are addressed by the following statutory provisions, rules, and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf 17 C.F.R. § 240.17Ad-22(d)(12): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(8): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Broadly consistent The proposed implementation measures of the SEC are broadly consistent with Principle 8. The overall rating has been influenced by the absence of a strict requirement implementing key consideration 3.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 3.</p>
<p>1. <i>An FMI's rules and procedures should clearly define the point at which settlement is final.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf 17 C.F.R. § 240.17Ad-22(d)(12): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(8): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>An FMI should complete final settlement no later than the end of the value date, and preferably intraday or in real time, to reduce settlement risk. An LVPS or SSS should consider adopting RTGS or multiple-batch processing during the settlement day.</i></p>	<p>See response to Key Consideration 1 in full. In addition, see Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865, at 16895–96 (Mar. 26, 2014) http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		

<p>3. <i>An FMI should clearly define the point after which unsettled payments, transfer instructions, or other obligations may not be revoked by a participant.</i></p>	<p>See response to Key Consideration 1 in full.</p> <p>In addition, see Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865, at 16896 (Mar. 26, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>There is no provision in the proposed implementing measures that explicitly requires a CCP to clearly define the point after which unsettled payments, transfer instructions, or other obligations may not be revoked by a participant. However the proposed regulation preamble mentions the key consideration requirement as one possibility for the CCP to implement.</p>	
<p>Principle 9: Money settlements An FMI should conduct its money settlements in central bank money where practical and available. If central bank money is not used, an FMI should minimise and strictly control the credit and liquidity risk arising from the use of commercial bank money.</p>	<p>The standards in Principle 9 are addressed by the following statutory provisions, rules, and proposed rules:</p> <p>Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf</p> <p>17 C.F.R. § 240.17Ad-22(d)(5): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rule 17Ad-22(e)(9): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Partly consistent</p> <p>The proposed implementation measures of the SEC are partly consistent with Principle 9. The overall rating has been influenced by the absence of rules implementing key considerations 3 and 5.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 3 and 5.</p>

<p>1. <i>An FMI should conduct its money settlements in central bank money, where practical and available, to avoid credit and liquidity risks.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf 17 C.F.R. § 240.17Ad-22(d)(5): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(9): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>There is a requirement in the proposed CCA regime that a CCP use central bank money where available and practical. However, the SEC states in the preamble to the proposed regulations for the CCA regime that it may be appropriate for a CCP to use commercial bank money even where the use of central bank money is available. This ambiguity may lead CCPs to adopt commercial bank arrangements even where central bank money is available and practicable.</p>	
<p>2. <i>If central bank money is not used, an FMI should conduct its money settlements using a settlement asset with little or no credit or liquidity risk.</i></p>	<p>See above response to Key Consideration 1 in full.</p>		
<p>3. <i>If an FMI settles in commercial bank money, it should monitor, manage, and limit its credit and liquidity risks arising from the commercial settlement banks. In particular, an FMI should establish and monitor adherence to strict criteria for its settlement banks that take account of, among other things, their regulation and supervision, creditworthiness, capitalisation, access to liquidity, and operational reliability. An FMI should also monitor and manage the concentration of credit and liquidity exposures to its commercial settlement banks.</i></p>	<p>See above response to Key Consideration 1 in full. In addition, see Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865, at 16897 29507, 29539 (Mar. 26, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf 17 C.F.R. § 240.17Ad-22(d)(5): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Where central bank money is not used, the proposed CCA regime requires CCPs to ‘consider’ adopting eligibility criteria for settlement banks. This does not explicitly require that a CCP do so, in variance with key consideration 3. In addition, there is no requirement that a CCP continue to monitor its settlement banks’ adherence with these criteria.</p>	
<p>4. <i>If an FMI conducts money settlements on its own books, it should minimise and strictly control its credit and liquidity risks.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(9) thereunder in response to Key Consideration 1.</p>		

<p>5. <i>An FMI's legal agreements with any settlement banks should state clearly when transfers on the books of individual settlement banks are expected to occur, that transfers are to be final when effected, and that funds received should be transferable as soon as possible, at a minimum by the end of the day and ideally intraday, in order to enable the FMI and its participants to manage credit and liquidity risks.</i></p>	<p>See above citations to the Exchange Act and 17 C.F.R. § 240.17Ad-22(d)(5) thereunder in response to Key Consideration 1. Proposed Rule 17Ad-22(e)(8)</p>	<p>Key consideration 5 requires that a CCP's agreements with its settlement banks clearly state when transfers are expected to occur and that funds be available as soon as possible, and at a minimum by the end of the day. There are no comparable explicit requirements with respect to settlement bank agreements in the proposed CCA regime.</p>	
<p>Principle 10: Physical deliveries An FMI should clearly state its obligations with respect to the delivery of physical instruments or commodities and should identify, monitor, and manage the risks associated with such physical deliveries.</p>	<p>The standards in Principle 10 are addressed by the following statutory provisions, rules, and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf 17 C.F.R. § 240.17Ad-22(d)(15): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rules 17Ad-22(e)(10) and (a)(20): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Consistent</p>	
<p>1. <i>An FMI's rules should clearly state its obligations with respect to the delivery of physical instruments or commodities.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p>		

	<p>17 C.F.R. § 240.17Ad-22(d)(15): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(a)(20), (e)(10): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>An FMI should identify, monitor, and manage the risks and costs associated with the storage and delivery of physical instruments or commodities.</i></p>	<p>See above response to Key Consideration 1 in full.</p>		
<p>Principle 12: Exchange-of-value settlement systems If an FMI settles transactions that involve the settlement of two linked obligations (for example, securities or foreign exchange transactions), it should eliminate principal risk by conditioning the final settlement of one obligation upon the final settlement of the other.</p>	<p>The standards in Principle 12 are addressed by the following statutory provisions, rules, and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf 17 C.F.R. § 240.17Ad-22(d)(13): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(12): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Consistent</p>	
<p>1. <i>An FMI that is an exchange-of-value settlement system should eliminate principal risk by ensuring that the final settlement of one obligation occurs if and only if the final settlement of the linked obligation also occurs, regardless of whether the FMI settles on a gross or net basis and when finality occurs.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A): Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p>		

	<p>17 C.F.R. § 240.17Ad-22(d)(13): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rule 17Ad-22(e)(12): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>Principle 13: Participant-default rules and procedures</p> <p>An FMI should have effective and clearly defined rules and procedures to manage a participant default. These rules and procedures should be designed to ensure that the FMI can take timely action to contain losses and liquidity pressures and continue to meet its obligations.</p>	<p>The standards in Principle 13 are addressed by the following statutory provisions, rules, and proposed rules:</p> <p>Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf</p> <p>17 C.F.R. § 240.17Ad-22(d)(11): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rule 17Ad-22(e)(7), (e)(13), and (e)(23): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Consistent</p>	
<p>1. <i>An FMI should have default rules and procedures that enable the FMI to continue to meet its obligations in the event of a participant default and that address the replenishment of resources following a default.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A);</p> <p>Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>17 C.F.R. § 240.17Ad-22(d)(11): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rule 17Ad-22(e)(13): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		

<p>2. <i>An FMI should be well prepared to implement its default rules and procedures, including any appropriate discretionary procedures provided for in its rules.</i></p>	<p>See above in response to Key Consideration 1 in full.</p>		
<p>3. <i>An FMI should publicly disclose key aspects of its default rules and procedures.</i></p>	<p>See above response to Key Consideration 1 in full. In addition, see the following rule proposed under the Exchange Act: Proposed Rule 17Ad-22(e)(23): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>4. <i>An FMI should involve its participants and other stakeholders in the testing and review of the FMI's default procedures, including any close-out procedures. Such testing and review should be conducted at least annually or following material changes to the rules and procedures to ensure that they are practical and effective.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(13)(iii) thereunder in response to Key Consideration 1.</p>		

<p>Principle 14: Segregation and portability A CCP should have rules and procedures that enable the segregation and portability of positions of a participant's customers and the collateral provided to the CCP with respect to those positions.</p>	<p>The standards in Principle 14 are addressed by the following statutory provisions and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf Proposed Rule 17Ad-22(e)(14) and (e)(23): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Broadly consistent The proposed implementation measures of the SEC are broadly consistent with Principle 14; the details of key considerations 2 and 3, however, are not included explicitly in the proposed rulemaking. In relation to clearing agencies operating in cash securities and listed options market, it is considered that the SEC's regulatory regime for broker-dealers falls within the alternate approach for CCPs serving cash markets.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 2 and 3.</p>
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<p>1. A CCP should, at a minimum, have segregation and portability arrangements that effectively protect a participant's customers' positions and related collateral from the default or insolvency of that participant. If the CCP additionally offers protection of such customer positions and collateral against the concurrent default of the participant and a fellow customer, the CCP should take steps to ensure that such protection is effective.</p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Proposed Rule 17Ad-22(e)(14): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. A CCP should employ an account structure that enables it readily to identify positions of a participant's customers and to segregate related collateral. A CCP should maintain customer positions and collateral in individual customer accounts or in omnibus customer accounts.</p>	<p>See above response to Key Consideration 1 in full. In addition, see Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865, at 16905 (Mar. 26, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>The proposed SEC rules do not explicitly address the more granular requirement for a CCP to 'employ an account structure that enables it readily to identify positions of a participant's customers and to segregate related collateral', and to 'maintain customer positions and collateral in individual customer accounts or in omnibus customer accounts'.</p>	
<p>3. A CCP should structure its portability arrangements in a way that makes it highly likely that the positions and collateral of a defaulting participant's customers will be transferred to one or more other participants.</p>	<p>See above response to Key Consideration 1 in full. In addition, see Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865, at 16905 (Mar. 26, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>The proposed SEC rules do not explicitly address the more granular requirement for a CCP to 'structure its portability arrangements in a way that makes it highly likely that the positions and collateral of a defaulting participant's customers will be transferred to one or more other participants'.</p>	

<p>4. <i>A CCP should disclose its rules, policies, and procedures relating to the segregation and portability of a participant's customers' positions and related collateral. In particular, the CCP should disclose whether customer collateral is protected on an individual or omnibus basis. In addition, a CCP should disclose any constraints, such as legal or operational constraints, that may impair its ability to segregate or port a participant's customers' positions and related collateral.</i></p>	<p>See above response to Key Consideration 1 in full. In addition, see the following rule proposed under the Exchange Act: Proposed Rule 17Ad-22(e)(23): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>Principle 15: General business risk An FMI should identify, monitor, and manage its general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that it can continue operations and services as a going concern if those losses materialise. Further, liquid net assets should at all times be sufficient to ensure a recovery or orderly wind-down of critical operations and services.</p>	<p>The standards in Principle 15 are addressed by the following statutory provisions and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf Proposed Rule 17Ad-22(e)(15): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Consistent The proposed implementation measures of the SEC are consistent with Principle 15, although there are some gaps or shortcomings with key consideration 1 that have no material impact on completeness or consistency.</p>	
<p>1. <i>An FMI should have robust management and control systems to identify, monitor, and manage general business risks, including losses from poor execution of business strategy, negative cash flows, or unexpected and excessively large operating expenses.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Proposed Rule 17Ad-22(e)(15): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>The proposed SEC rules do not say that the CCP shall have robust management and control systems. However, the proposed rules do say that the CCP shall identify, monitor and manage general business risks, which are assessed to be equivalent.</p>	

<p>2. <i>An FMI should hold liquid net assets funded by equity (such as common stock, disclosed reserves, or other retained earnings) so that it can continue operations and services as a going concern if it incurs general business losses. The amount of liquid net assets funded by equity an FMI should hold should be determined by its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(15)(i) and (ii) thereunder in response to Key Consideration 1.</p> <p>In addition, see Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865, at 16907 (Mar. 26, 2014): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>3. <i>An FMI should maintain a viable recovery or orderly wind-down plan and should hold sufficient liquid net assets funded by equity to implement this plan. At a minimum, an FMI should hold liquid net assets funded by equity equal to at least six months of current operating expenses. These assets are in addition to resources held to cover participant defaults or other risks covered under the financial resources principles. However, equity held under international risk-based capital standards can be included where relevant and appropriate to avoid duplicate capital requirements.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(15)(ii)(A) thereunder in response to Key Consideration 1.</p>		
<p>4. <i>Assets held to cover general business risk should be of high quality and sufficiently liquid in order to allow the FMI to meet its current and projected operating expenses under a range of scenarios, including in adverse market conditions.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(15)(ii)(B) thereunder in response to Key Consideration 1.</p>		
<p>5. <i>An FMI should maintain a viable plan for raising additional equity should its equity fall close to or below the amount needed. This plan should be approved by the board of directors and updated regularly.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(15)(iii) thereunder in response to Key Consideration 1.</p>		

<p>Principle 16: Custody and investment risks An FMI should safeguard its own and its participants’ assets and minimise the risk of loss on and delay in access to these assets. An FMI’s investments should be in instruments with minimal credit, market, and liquidity risks.</p>	<p>The standards in Principle 16 are addressed by the following statutory provisions, rules, and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf 17 C.F.R. § 240.17Ad-22(d)(3): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(16): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Broadly consistent The proposed implementation measures of the SEC are broadly consistent with Principle 16. The overall rating has been influenced by minor gaps or shortcomings in the proposed implementation measures for key considerations 3 and 4.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 3 and 4.</p>
<p>1. <i>An FMI should hold its own and its participants’ assets at supervised and regulated entities that have robust accounting practices, safekeeping procedures, and internal controls that fully protect these assets.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf 17 C.F.R. § 240.17Ad-22(d)(3): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(16): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>An FMI should have prompt access to its assets and the assets provided by participants, when required.</i></p>	<p>See above response to Key Consideration 1 in full.</p>		

<p>3. <i>An FMI should evaluate and understand its exposures to its custodian banks, taking into account the full scope of its relationships with each.</i></p>	<p>See above response to Key Consideration 1 in full. In addition, see Standards for Covered Clearing Agencies; Proposed Rule; Exchange Act Release No. 34-71699 (Mar. 12, 2014), 79 Fed. Reg. 16865, at 16908 (Mar. 26, 2014). http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>There are no requirements on CCPs to evaluate and understand its exposures to its custodian banks, taking into account the full scope of its relationships with each custodian bank. While CCPs are required to assess custodians across several risk criteria, there is no implementation measure to address the requirement that CCPs take an holistic view of risks stemming from the full scope of its relationships with each custodian.</p>	
<p>4. <i>An FMI's investment strategy should be consistent with its overall risk-management strategy and fully disclosed to its participants, and investments should be secured by, or be claims on, high-quality obligors. These investments should allow for quick liquidation with little, if any, adverse price effect.</i></p>	<p>See above response to Key Consideration 1 in full.</p>	<p>The SEC rules do not require a CCP to have an investment strategy that is consistent with the CCP's overall risk-management strategy. There are no requirements that the CCP fully disclose the investment strategy to its participants.</p>	
<p>Principle 17: Operational risk An FMI should identify the plausible sources of operational risk, both internal and external, and mitigate their impact through the use of appropriate systems, policies, procedures, and controls. Systems should be designed to ensure a high degree of security and operational reliability and should have adequate, scalable capacity. Business continuity management should aim for timely recovery of operations and fulfilment of the FMI's obligations, including in the event of a wide-scale or major disruption.</p>	<p>The standards in Principle 17 are addressed by the following statutory provisions, rules, and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf 17 C.F.R. § 240.17Ad-22(d)(4): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p>	<p>Partly consistent The proposed implementation measures of the SEC are partly consistent with Principle 17. The overall rating has been influenced by gaps or shortcomings in the proposed implementation measures for key considerations 2 and 6.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 2 and 6.</p>

	<p>Proposed Rule 17Ad-22(e)(17): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p> <p>Proposed Regulation Systems Compliance and Integrity ("Reg. SCI"), § 242.1000: http://www.gpo.gov/fdsys/pkg/FR-2013-03-25/pdf/2013-05888.pdf</p>		
<p>1. <i>An FMI should establish a robust operational risk-management framework with appropriate systems, policies, procedures, and controls to identify, monitor, and manage operational risks.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf 17 C.F.R. § 240.17Ad-22(d)(4): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(17): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>An FMI's board of directors should clearly define the roles and responsibilities for addressing operational risk and should endorse the FMI's operational risk-management framework. Systems, operational policies, procedures, and controls should be reviewed, audited, and tested periodically and after significant changes.</i></p>	<p>See above citations to Section 17A of the Exchange Act in response to Key Consideration 1. In addition, see the following proposed rule under the Exchange Act: Proposed Regulation Systems Compliance and Integrity ("Reg. SCI"), § 242.1000(b) : http://www.gpo.gov/fdsys/pkg/FR-2013-03-25/pdf/2013-05888.pdf</p>	<p>There is no provision in the proposed SEC rules to implement the requirement that the 'board of directors should clearly define the roles and responsibilities for addressing operational risk and should endorse the FMI's operational risk-management framework'.</p> <p>There is no provision in the SEC rules equivalent to the requirement that the 'systems, operational policies, procedures, and controls should be audited'.</p>	

3. <i>An FMI should have clearly defined operational reliability objectives and should have policies in place that are designed to achieve those objectives.</i>	See above citations to Section 17A of the Exchange Act, 17 C.F.R. § 240.17Ad-22(d)(4) thereunder, and proposed Rule 17Ad-22(e)(17)(ii) thereunder in response to Key Consideration 1.		
4. <i>An FMI should ensure that it has scalable capacity adequate to handle increasing stress volumes and to achieve its service-level objectives.</i>	See above citations to Section 17A of the Exchange Act, 17 C.F.R. § 240.17Ad-22(d)(4) thereunder, and proposed Rule 17Ad-22(e)(17)(ii) thereunder in response to Key Consideration 1.		
5. <i>An FMI should have comprehensive physical and information security policies that address all potential vulnerabilities and threats.</i>	See above citations to Section 17A of the Exchange Act in response to Key Consideration 1. In addition, see proposed § 242.1000(b)(1) of Reg. SCI under the Exchange Act in response to Key Consideration 2.		
6. <i>An FMI should have a business continuity plan that addresses events posing a significant risk of disrupting operations, including events that could cause a wide-scale or major disruption. The plan should incorporate the use of a secondary site and should be designed to ensure that critical information technology (IT) systems can resume operations within two hours following disruptive events. The plan should be designed to enable the FMI to complete settlement by the end of the day of the disruption, even in case of extreme circumstances. The FMI should regularly test these arrangements.</i>	See above citations to Section 17A of the Exchange Act, 17 C.F.R. § 240.17Ad-22(d)(4) thereunder, and proposed Rule 17Ad-22(e)(17)(iii) thereunder in response to Key Consideration 1. In addition, see proposed § 242.1000(b)(1)(i) of Reg. SCI under the Exchange Act in response to Key Consideration 2.	There is no requirement that the plan should be designed to enable the FMI to complete settlement by the end of the day of the disruption, even in case of extreme circumstances.	
7. <i>An FMI should identify, monitor, and manage the risks that key participants, other FMIs, and service and utility providers might pose to its operations. In addition, an FMI should identify, monitor, and manage the risks its operations might pose to other FMIs.</i>	See above citations to Section 17A of the Exchange Act and 17 C.F.R. § 240.17Ad-22(d)(4) thereunder in response to Key Consideration 1. In addition, see proposed § 242.1000(b)(1) of Reg. SCI under the Exchange Act in response to Key Consideration 2.		

<p>Principle 18: Access and participation requirements</p> <p>An FMI should have objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access.</p>	<p>The standards in Principle 18 are addressed by the following statutory provisions, rules, and proposed rules:</p> <p>Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf</p> <p>17 C.F.R. §§ 240.17Ad-22(b)(5), (b)(6), (b)(7), and (d)(2): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rule 17Ad-22(e)(18): http://www.gpo.gov/fdsys/pkg/FR-2014-02-28/pdf/2014-04433.pdf</p>	<p>Consistent</p>	
<p>1. <i>An FMI should allow for fair and open access to its services, including by direct and, where relevant, indirect participants and other FMIs, based on reasonable risk-related participation requirements.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A);</p> <p>Section 17A(b)(3)(A) through (C) and (F) through (I) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A)–(C), (F)–(I);</p> <p>Section 17A(a)(6) of the Exchange Act, 15 U.S.C. § 78q-1(a)(6): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>17 C.F.R. § 240.17Ad-22(d)(2): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rule 17Ad-22(e)(18): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		

<p>2. <i>An FMI's participation requirements should be justified in terms of the safety and efficiency of the FMI and the markets it serves, be tailored to and commensurate with the FMI's specific risks, and be publicly disclosed. Subject to maintaining acceptable risk control standards, an FMI should endeavour to set requirements that have the least-restrictive impact on access that circumstances permit.</i></p>	<p>See above response to Key Consideration 1 in full. In addition, see the following rules under the Exchange Act: 17 C.F.R. § 240.17Ad-22(b)(5)-(7): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p>		
<p>3. <i>An FMI should monitor compliance with its participation requirements on an ongoing basis and have clearly defined and publicly disclosed procedures for facilitating the suspension and orderly exit of a participant that breaches, or no longer meets, the participation requirements.</i></p>	<p>See above response to Key Consideration 1 in full.</p>		
<p>Principle 19: Tiered participation arrangements An FMI should identify, monitor, and manage the material risks to the FMI arising from tiered participation arrangements.</p>	<p>The standards in Principle 19 are addressed by the following statutory provisions and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf Proposed Rule 17Ad-22(e)(19): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Consistent The proposed implementation measures of the SEC are consistent with Principle 19, although there are some gaps or shortcomings with key considerations 2 and 3 that have no material impact on completeness or consistency.</p>	

<p>1. <i>An FMI should ensure that its rules, procedures, and agreements allow it to gather basic information about indirect participation in order to identify, monitor, and manage any material risks to the FMI arising from such tiered participation arrangements.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F); http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Proposed Rule 17Ad-22(e)(19): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>An FMI should identify material dependencies between direct and indirect participants that might affect the FMI.</i></p>	<p>See above response to Key Consideration 1 in full.</p>	<p>The SEC’s proposed rules are consistent with the intention of key consideration 2, but are more high level than key consideration 2. Proposed rule 17Ad-22(e)(19) requires a CCP to ‘identify and monitor’ the risks of tiered participation arrangements, but is silent on the more-detailed requirement to identify material dependencies between direct and indirect participants.</p>	
<p>3. <i>An FMI should identify indirect participants responsible for a significant proportion of transactions processed by the FMI and indirect participants whose transaction volumes or values are large relative to the capacity of the direct participants through which they access the FMI in order to manage the risks arising from these transactions.</i></p>	<p>See above response to Key Consideration 1 in full.</p>	<p>The SEC’s proposed rules are consistent with the intention of key consideration 3, but are more high-level than key consideration 3. Proposed rule 17Ad-22(e)(19) requires a CCP to ‘identify and monitor’ the risks of tiered participation arrangements, but is silent on the more-detailed requirement to identify those indirect participants that are responsible for a large proportion of transactions processed by either the CCP, or a direct participant.</p>	

4. <i>An FMI should regularly review risks arising from tiered participation arrangements and should take mitigating action when appropriate.</i>	See above response to Key Consideration 1 in full.		
<p>Principle 20: FMI links An FMI that establishes a link with one or more FMIs should identify, monitor, and manage link-related risks.</p>	<p>The standards in Principle 20 are addressed by the following statutory provisions, rules, and proposed rules:</p> <p>Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf</p> <p>17 C.F.R. § 240.17Ad-22(d)(7): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rules 17Ad-22(e)(1), (e)(3), (e)(4), and (e)(20): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Broadly consistent</p> <p>The proposed implementation measures of the SEC are broadly consistent with Principle 3. The overall rating has been influenced by gaps or shortcomings in the proposed implementation measures for key considerations 1, 7 and 8.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1, 7 and 8.</p>
1. <i>Before entering into a link arrangement and on an ongoing basis once the link is established, an FMI should identify, monitor, and manage all potential sources of risk arising from the link arrangement. Link arrangements should be designed such that each FMI is able to observe the other principles in this report.</i>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A):</p> <p>Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>17 C.F.R. § 240.17Ad-22(d)(7): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rule 17Ad-22(e)(3), (e)(20): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>While the SEC's proposed rule requires a CCP to identify, monitor, and manage risks related to any link the CCP establishes with one or more other clearing agencies, financial market utilities or trading markets, it is observed that the implementation measures do not extend to links with TRs.</p>	

<p>2. <i>A link should have a well-founded legal basis, in all relevant jurisdictions, that supports its design and provides adequate protection to the FMIs involved in the link.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(20) thereunder in response to Key Consideration 1. In addition, see the following proposed rule under the Exchange Act: Proposed Rule 17Ad-22(e)(1): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>While the proposed rule does not make specific reference to circumstances relating to links, it may be read broadly with 17Ad-22(e)(20) to be consistent with key consideration 2.</p>	
<p>7. <i>Before entering into a link with another CCP, a CCP should identify and manage the potential spill-over effects from the default of the linked CCP. If a link has three or more CCPs, each CCP should identify, assess, and manage the risks of the collective link arrangement.</i></p>	<p>See the above citations to the Exchange Act and proposed Rules 17Ad-22(e)(3) and (20) thereunder in response to Key Consideration 1. In addition, see the following proposed rule under the Exchange Act: Proposed Rule 17Ad-22(e)(13): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>The SEC’s proposed rules may be read to apply to CCP links, and require a CCP to identify and manage risks that arise in or are borne by the CCP. In general, the implementation measures are broadly consistent with key consideration 7, although they do not identify the specific circumstances described under key consideration 7.</p>	
<p>8. <i>Each CCP in a CCP link arrangement should be able to cover, at least on a daily basis, its current and potential future exposures to the linked CCP and its participants, if any, fully with a high degree of confidence without reducing the CCP’s ability to fulfil its obligations to its own participants at any time.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(20) thereunder in response to Key Consideration 1. In addition, see the following proposed rule under the Exchange Act: Proposed Rule 17Ad-22(e)(4): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>There is no mention in the SEC’s proposed rules for the CCP to cover its credit exposure arising from a link at least on a daily basis, as stated under key consideration 8. In addition, while the implementation measures set out details on the stress scenarios used in the calculation of the financial resources, they do not address the concern under key consideration 8 that a CCP should be able to manage its financial exposures to a linked CCP ‘without reducing the CCP’s ability to fulfil its obligations to its own participants at any time’.</p>	

<p>Principle 21: Efficiency and effectiveness An FMI should be efficient and effective in meeting the requirements of its participants and the markets it serves.</p>	<p>The standards in Principle 21 are addressed by the following statutory provisions, rules, and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf 17 C.F.R. § 240.17Ad-22(d)(6): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf Proposed Rule 17Ad-22(e)(21): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Broadly consistent The proposed implementation measures of the SEC are broadly consistent with Principle 21. The overall rating has been influenced by the absence of rules implementing key consideration 2.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 2.</p>
<p>1. <i>An FMI should be designed to meet the needs of its participants and the markets it serves, in particular, with regard to choice of a clearing and settlement arrangement; operating structure; scope of products cleared, settled, or recorded; and use of technology and procedures.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A), (D), and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (D), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Proposed Rule 17Ad-22(e)(21): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>An FMI should have clearly defined goals and objectives that are measurable and achievable, such as in the areas of minimum service levels, risk-management expectations, and business priorities.</i></p>		<p>While CCPs may implement the content of key consideration 2 in their rule books, there is no obligation in the regulatory framework that they do so.</p>	
<p>3. <i>An FMI should have established mechanisms for the regular review of its efficiency and effectiveness.</i></p>	<p>See above response to Key Consideration 1 in full.</p>		

<p>Principle 22: Communication procedures and standards An FMI should use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, settlement, and recording.</p>	<p>The standards in Principle 22 are addressed by the following statutory provisions and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf Proposed Rule 17Ad-22(e)(22): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>	<p>Consistent</p>	
<p>1. <i>An FMI should use, or at a minimum accommodate, internationally accepted communication procedures and standards.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A); Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Proposed Rule 17Ad-22(e)(22): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>Principle 23: Disclosure of rules, key procedures, and market data An FMI should have clear and comprehensive rules and procedures and should provide sufficient information to enable participants to have an accurate understanding of the risks, fees, and other material costs they incur by participating in the FMI. All relevant rules and key procedures should be publicly disclosed.</p>	<p>The standards in Principle 23 are addressed by the following statutory provisions, rules, and proposed rules: Section 17A of the Exchange Act, 15 U.S.C. § 78q-1: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf Section 19 of the Exchange Act, 15 U.S.C. § 78s: http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78s.pdf</p>	<p>Consistent The proposed implementation measures of the SEC are consistent with Principle 23, although there are gaps or shortcomings with key considerations 3 and 5 that have no material impact on completeness or consistency.</p>	

	<p>17 C.F.R. §§ 240.17Ad-22(c)(2) and (d)(9): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p> <p>Proposed Rule 17Ad-22(e)(23): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>1. <i>An FMI should adopt clear and comprehensive rules and procedures that are fully disclosed to participants. Relevant rules and key procedures should also be publicly disclosed.</i></p>	<p>Section 17A(a)(2)(A) of the Exchange Act, 15 U.S.C. § 78q-1(a)(2)(A):</p> <p>Section 17A(b)(3)(A) and (F) of the Exchange Act, 15 U.S.C. § 78q-1(b)(3)(A), (F): http://www.gpo.gov/fdsys/pkg/USCODE-2011-title15/pdf/USCODE-2011-title15-chap2B-sec78q-1.pdf</p> <p>Proposed Rule 17Ad-22(e)(23): http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05806.pdf</p>		
<p>2. <i>An FMI should disclose clear descriptions of the system's design and operations, as well as the FMI's and participants' rights and obligations, so that participants can assess the risks they would incur by participating in the FMI.</i></p>	<p>See above citations to the Exchange Act and proposed Rules 17Ad-22(e)(23)(i) and (ii) thereunder in response to Key Consideration 1.</p>		
<p>3. <i>An FMI should provide all necessary and appropriate documentation and training to facilitate participants' understanding of the FMI's rules and procedures and the risks they face from participating in the FMI.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(23)(ii) thereunder in response to Key Consideration 1.</p>	<p>The proposed SEC rules do not explicitly say that a CCP should provide all necessary and appropriate documentation and training, but 'sufficient information.' The assessment is that this shortcoming is of no material impact.</p>	
<p>4. <i>An FMI should publicly disclose its fees at the level of individual services it offers as well as its policies on any available discounts. The FMI should provide clear descriptions of priced services for comparability purposes.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(23)(ii) thereunder in response to Key Consideration 1.</p>		

<p>5. <i>An FMI should complete regularly and disclose publicly responses to the CPSS-IOSCO Disclosure framework for financial market infrastructures. An FMI also should, at a minimum, disclose basic data on transaction volumes and values.</i></p>	<p>See above citations to the Exchange Act and proposed Rule 17Ad-22(e)(23)(iii) through (v) thereunder in response to Key Consideration 1. 17 C.F.R. § 240.17Ad-22(c)(2): http://www.gpo.gov/fdsys/pkg/CFR-2013-title17-vol3/pdf/CFR-2013-title17-vol3-sec240-17Ad-22.pdf</p>	<p>The content of the required disclosure is assessed to be consistent with the exception of Principle 21 key consideration 2 (because the proposed rule does not implement that specific key consideration) taking into account that the proposed SEC rules do not reference the CPSS-IOSCO disclosure framework.</p>	
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4.2.3 Systemically Important CCPs Organised as State-chartered Banks or Edge Act Corporations

Implementation monitoring of Principles: Level 2 assessment report for the Board of Governors of the Federal Reserve’s CCPs Organised as State-chartered Banks or Edge Act Corporations

Part 2: Implementation of the principles			
1. Text of applicable Principles and Key Considerations (KCs) ³¹	1. Implementation measures of the jurisdiction	2. Key conclusions for principles	3. Recommendations and comments
	<p>Note regarding Regulation HH: 12 CFR § 234.3(a) is the lead in paragraph for each of the risk management standards that are numbered (1) through (23); thus, it applies to each of the risk management standards. For readability, we have not repeated this paragraph throughout the template; instead, we provide it here for reference:</p> <p>“(a) A designated financial market utility must implement rules, procedures, or operations designed to ensure that it meets or exceeds the following risk-management standards with respect to its payment, clearing, and settlement activities.”</p> <p>(see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>Principle 1: Legal basis</p> <p>An FMI should have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.</p>	<p>Regulation HH: 2 CFR § 234.3(a)(1) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	Consistent	
<p>1. <i>The legal basis should provide a high degree of certainty for each material aspect of an FMI's activities in all relevant jurisdictions.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(1) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

³¹ Only the relevant principles for CCPs (as set forth in the annex E of the PFMI) are included.

<p>2. <i>An FMI should have rules, procedures, and contracts that are clear, understandable, and consistent with relevant laws and regulations.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(1) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>12 CFR § 243.3(a)(23) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>3. <i>An FMI should be able to articulate the legal basis for its activities to relevant authorities, participants, and, where relevant, participants' customers, in a clear and understandable way.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(1) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>12 CFR § 243.3(a)(23) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>4. <i>An FMI should have rules, procedures, and contracts that are enforceable in all relevant jurisdictions. There should be a high degree of certainty that actions taken by the FMI under such rules and procedures will not be voided, reversed, or subject to stays.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(1) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>12 CFR § 243.3(a)(23) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>5. <i>An FMI conducting business in multiple jurisdictions should identify and mitigate the risks arising from any potential conflict of laws across jurisdictions.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(1) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>Preamble to proposed rules: <i>Federal Register</i> p. 3670 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>	<p>The preamble mentions that if a designated FMU operates across multiple jurisdictions, it must confirm the legal basis for all material aspects of its activities in all relevant jurisdictions. This introduces a materiality threshold not present in the key consideration. However, this shortcoming is considered non material.</p>	

<p>Principle 2: Governance</p> <p>An FMI should have governance arrangements that are clear and transparent, promote the safety and efficiency of the FMI, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(2)(i)-(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p> <p>The proposed amendments to Regulation HH are consistent with the headline standard in Principle 2; some elements of key consideration 4 however, are not included explicitly in the proposed rulemaking.</p> <p>These gaps or shortcomings identified have no material impact on completeness or consistency.</p>	<p>The Board is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 4.</p>
<p>1. <i>An FMI should have objectives that place a high priority on the safety and efficiency of the FMI and explicitly support financial stability and other relevant public interest considerations.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(2)(i)-(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>An FMI should have documented governance arrangements that provide clear and direct lines of responsibility and accountability. These arrangements should be disclosed to owners, relevant authorities, participants, and, at a more general level, the public.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(2)(iv)(A) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>12 CFR § 234.3(a)(23) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>3. <i>The roles and responsibilities of an FMI's board of directors (or equivalent) should be clearly specified, and there should be documented procedures for its functioning, including procedures to identify, address, and manage member conflicts of interest. The board should review both its overall performance and the performance of its individual board members regularly.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(2)(iv)(B)&(E) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p>4. <i>The board should contain suitable members with the appropriate skills and incentives to fulfil its multiple roles. This typically requires the inclusion of non-executive board member(s).</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(2)(iv)(C)&(D) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>The implementation measure does not require that the board of a CCP have suitable members with appropriate incentives to fulfil its multiple roles.</p>	
<p>5. <i>The roles and responsibilities of management should be clearly specified. An FMI's management should have the appropriate experience, a mix of skills, and the integrity necessary to discharge their responsibilities for the operation and risk management of the FMI.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(2)(iv)(B)&(G) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>6. <i>The board should establish a clear, documented risk-management framework that includes the FMI's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decision making in crises and emergencies. Governance arrangements should ensure that the risk-management and internal control functions have sufficient authority, independence, resources, and access to the board.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(2)(iv)(F)&(H)&(I) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>7. <i>The board should ensure that the FMI's design, rules, overall strategy, and major decisions reflect appropriately the legitimate interests of its direct and indirect participants and other relevant stakeholders. Major decisions should be clearly disclosed to relevant stakeholders and, where there is a broad market impact, the public.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(2)(iv)(J) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p>Principle 3: Framework for the comprehensive management of risks</p> <p>An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(3) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p> <p>The proposed amendments to Regulation HH are consistent with the headline standard in Principle 3; the details of key consideration 2, however, are not implemented separately in the proposed rulemaking.</p> <p>These gaps or shortcomings identified have no material impact on completeness or consistency.</p>	
<p>1. <i>An FMI should have risk-management policies, procedures, and systems that enable it to identify, measure, monitor, and manage the range of risks that arise in or are borne by the FMI. Risk-management frameworks should be subject to periodic review.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(3)(i) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>An FMI should provide incentives to participants and, where relevant, their customers to manage and contain the risks they pose to the FMI.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(3) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>The details of key consideration 2 are not implemented separately and the headline does not provide sufficient details to be able to consider the substance of the key consideration to have been implemented. However, In practice the required implementing measures might be covered by other Principles (e.g. Principle 6 on margin and Principle 4 on default fund contributions and loss allocation act (among other things)) as incentives for participants to manage their risks towards the CCP. Taking all this together the</p>	

		shortcoming in details of the implementation measure regarding key consideration 2 is assessed to have no material impact on consistency.	
3. <i>An FMI should regularly review the material risks it bears from and poses to other entities (such as other FMIs, settlement banks, liquidity providers, and service providers) as a result of interdependencies and develop appropriate risk-management tools to address these risks.</i>	Regulation HH: 12 CFR § 234.3(a)(3)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)		
4. <i>An FMI should identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. An FMI should prepare appropriate plans for its recovery or orderly wind-down based on the results of that assessment. Where applicable, an FMI should also provide relevant authorities with the information needed for purposes of resolution planning.</i>	Regulation HH: 12 CFR § 234.3(a)(3)(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)		
Principle 4: Credit risk An FMI should effectively measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes. An FMI should maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. In addition, a CCP that is involved in activities with a more-complex risk profile or that is systemically important in multiple jurisdictions should	Regulation HH: 12 CFR § 234.3(a)(4)(i)-(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)	Consistent	

<p>maintain additional financial resources sufficient to cover a wide range of potential stress scenarios that should include, but not be limited to, the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure to the CCP in extreme but plausible market conditions. All other CCPs should maintain additional financial resources sufficient to cover a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would potentially cause the largest aggregate credit exposure to the CCP in extreme but plausible market conditions.</p>			
<p>1. <i>An FMI should establish a robust framework to manage its credit exposures to its participants and the credit risks arising from its payment, clearing, and settlement processes. Credit exposure may arise from current exposures, potential future exposures, or both.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(4) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>An FMI should identify sources of credit risk, routinely measure and monitor credit exposures, and use appropriate risk-management tools to control these risks.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(4) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>4. <i>A CCP should cover its current and potential future exposures to each participant fully with a high degree of confidence using margin and other prefunded financial resources (see Principle 5 on collateral and Principle 6 on margin). In addition, a CCP that is involved in activities with a more-complex risk profile or that is systemically important in multiple jurisdictions should maintain additional financial resources to cover a wide range of potential stress scenarios that should include, but not be limited to, the</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(4)(i)&(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>To determine whether to direct a CCP to meet the cover two requirement, as contemplated by Regulation HH, the Board will evaluate a CCP's activities and risk profile to determine whether its risk profile is more complex, using criteria consistent with key consideration 4. If the Board determined that the CCP's risk profile was more complex, then</p>	

<p><i>default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure for the CCP in extreme but plausible market conditions. All other CCPs should maintain additional financial resources sufficient to cover a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would potentially cause the largest aggregate credit exposure for the CCP in extreme but plausible market conditions. In all cases, a CCP should document its supporting rationale for, and should have appropriate governance arrangements relating to, the amount of total financial resources it maintains.</i></p>		<p>the Board would inform the CCP of this determination and would expect that CCP to maintain resources sufficient to cover stress scenarios including the default of the largest two participants.</p>	
<p>5. <i>A CCP should determine the amount and regularly test the sufficiency of its total financial resources available in the event of a default or multiple defaults in extreme but plausible market conditions through rigorous stress testing. A CCP should have clear procedures to report the results of its stress tests to appropriate decision makers at the CCP and to use these results to evaluate the adequacy of and adjust its total financial resources. Stress tests should be performed daily using standard and predetermined parameters and assumptions. On at least a monthly basis, a CCP should perform a comprehensive and thorough analysis of stress testing scenarios, models, and underlying parameters and assumptions used to ensure they are appropriate for determining the CCP's required level of default protection in light of current and evolving market conditions. A CCP should perform this analysis of stress testing more frequently when the products cleared or</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(4)(iii)-(v) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p><i>markets served display high volatility, become less liquid, or when the size or concentration of positions held by a CCP's participants increases significantly. A full validation of a CCP's risk-management model should be performed at least annually.</i></p>			
<p>6. <i>In conducting stress testing, a CCP should consider the effect of a wide range of relevant stress scenarios in terms of both defaulters' positions and possible price changes in liquidation periods. Scenarios should include relevant peak historic price volatilities, shifts in other market factors such as price determinants and yield curves, multiple defaults over various time horizons, simultaneous pressures in funding and asset markets, and a spectrum of forward-looking stress scenarios in a variety of extreme but plausible market conditions.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(4)(iii)(A)&(B) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>Preamble to proposed rules: see <i>Federal Register</i> p. 3674 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		
<p>7. <i>An FMI should establish explicit rules and procedures that address fully any credit losses it may face as a result of any individual or combined default among its participants with respect to any of their obligations to the FMI. These rules and procedures should address how potentially uncovered credit losses would be allocated, including the repayment of any funds an FMI may borrow from liquidity providers. These rules and procedures should also indicate the FMI's process to replenish any financial resources that the FMI may employ during a stress event, so that the FMI can continue to operate in a safe and sound manner.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(4)(vi) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p>Principle 5: Collateral An FMI that requires collateral to manage its or its participants' credit exposure should accept collateral with low credit, liquidity, and market risks. An FMI should also set and enforce appropriately conservative haircuts and concentration limits.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(5) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p>	
<p>1. <i>An FMI should generally limit the assets it (routinely) accepts as collateral to those with low credit, liquidity, and market risks.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(5) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>An FMI should establish prudent valuation practices and develop haircuts that are regularly tested and take into account stressed market conditions.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(5)(i) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>3. <i>In order to reduce the need for procyclical adjustments, an FMI should establish stable and conservative haircuts that are calibrated to include periods of stressed market conditions, to the extent practicable and prudent.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(5)(ii)&(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>4. <i>An FMI should avoid concentrated holdings of certain assets where this would significantly impair the ability to liquidate such assets quickly without significant adverse price effects.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(5)(iv) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>5. <i>An FMI that accepts cross-border collateral should mitigate the risks associated with its use and ensure that the collateral can be used in a timely manner.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(5) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>6. <i>An FMI should use a collateral management system that is well-designed and operationally flexible.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(5)(v) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p>Principle 6: Margin A CCP should cover its credit exposures to its participants for all products through an effective margin system that is risk-based and regularly reviewed.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(6)(vii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p> <p>The proposed amendments to Regulation HH are consistent with the headline standard in Principle 6; while some requirements under the key considerations are not included explicitly in the proposed rulemaking, these gaps or shortcomings identified have no material impact on completeness or consistency.</p>	
<p>1. <i>A CCP should have a margin system that establishes margin levels commensurate with the risks and particular attributes of each product, portfolio, and market it serves.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(6)(i)&(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>A CCP should have a reliable source of timely price data for its margin system. A CCP should also have procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(6)(iii)&(iv) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>3. <i>A CCP should adopt initial margin models and parameters that are risk-based and generate margin requirements sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default. Initial margin should meet an established single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure. For a CCP that calculates margin at the portfolio level, this requirement applies to each portfolio's distribution of future exposure. For a CCP that calculates margin at more-granular levels, such as at the subportfolio level or by product, the requirement must be met for the corresponding distributions of future exposure. The model</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(6)(i)&(ii)&(vi) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p><i>should (a) use a conservative estimate of the time horizons for the effective hedging or close out of the particular types of products cleared by the CCP (including in stressed market conditions), (b) have an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products, and (c) to the extent practicable and prudent, limit the need for destabilising, procyclical changes.</i></p>			
<p>4. <i>A CCP should mark participant positions to market and collect variation margin at least daily to limit the build-up of current exposures. A CCP should have the authority and operational capacity to make intraday margin calls and payments, both scheduled and unscheduled, to participants.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(1) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) 12 CFR § 234.3(a)(6)(v) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>5. <i>In calculating margin requirements, a CCP may allow offsets or reductions in required margin across products that it clears or between products that it and another CCP clear, if the risk of one product is significantly and reliably correlated with the risk of the other product. Where two or more CCPs are authorised to offer cross-margining, they must have appropriate safeguards and harmonised overall risk-management systems.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(6)(i)&(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>There are no explicit provisions in the proposed regime regarding the scope of permissible margin offsets or rules requiring that if two or more CCPs are authorised to offer cross-margining, they must have appropriate safeguards and harmonised overall risk management systems.</p>	
<p>6. <i>A CCP should analyse and monitor its model performance and overall margin coverage by conducting rigorous daily backtesting and at least monthly, and more-frequent where appropriate, sensitivity analysis. A CCP should regularly conduct an assessment of the theoretical and empirical properties of its margin model for all products it clears. In</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(6)(vii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) Preamble to proposed rules: see <i>Federal Register</i> p. 3676 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>	<p>The Board has proposed to implement measures to require a CCP to conduct sensitivity analysis of the model's coverage. However, the measure itself does not explicitly state that the CCP should take into account extreme changes in the</p>	

<p><i>conducting sensitivity analysis of the model's coverage, a CCP should take into account a wide range of parameters and assumptions that reflect possible market conditions, including the most-volatile periods that have been experienced by the markets it serves and extreme changes in the correlations between prices.</i></p>		<p>correlations between prices. The Board does discuss the scope of sensitivity analysis in the preamble.</p>	
<p>7. <i>A CCP should regularly review and validate its margin system.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(6)(vii)(C) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>Principle 7: Liquidity risk An FMI should effectively measure, monitor, and manage its liquidity risk. An FMI should maintain sufficient liquid resources in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would generate the largest aggregate liquidity obligation for the FMI in extreme but plausible market conditions.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(7)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent The proposed amendments to Regulation HH are consistent with the headline standard in Principle 7; the details of key consideration 9, however, are not included explicitly in the proposed rulemaking. Gaps or shortcomings identified with other key considerations have no material impact on completeness or consistency.</p>	

<p>1. <i>An FMI should have a robust framework to manage its liquidity risks from its participants, settlement banks, nostro agents, custodian banks, liquidity providers, and other entities.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(7) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>Preamble to proposed rules: <i>Federal Register</i> p. 3677 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>	<p>Proposed Regulation HH lists the entities which a CCP should consider in managing its liquidity risks, other than a custodian bank. The rule nevertheless requires a CCP to measure, monitor and manage the liquidity risks it faces; the intention of the rule is clearly to include all entities listed in key consideration 1.</p>	
<p>2. <i>An FMI should have effective operational and analytical tools to identify, measure, and monitor its settlement and funding flows on an ongoing and timely basis, including its use of intraday liquidity.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(7)(i) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>4. <i>A CCP should maintain sufficient liquid resources in all relevant currencies to settle securities-related payments, make required variation margin payments, and meet other payment obligations on time with a high degree of confidence under a wide range of potential stress scenarios that should include, but not be limited to, the default of the participant and its affiliates that would generate the largest aggregate payment obligation to the CCP in extreme but plausible market conditions. In addition, a CCP that is involved in activities with a more-complex risk profile or that is systemically important in multiple jurisdictions should consider maintaining additional liquidity resources sufficient to cover a wider range of potential stress scenarios that should include, but not be limited to, the default of the two participants and their affiliates that would generate the largest aggregate payment obligation to the CCP in extreme but plausible market conditions.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(7)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>Preamble to proposed rules: <i>Federal Register</i> p. 3677 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		

<p>5. For the purpose of meeting its minimum liquid resource requirement, an FMI's qualifying liquid resources in each currency include cash at the central bank of issue and at creditworthy commercial banks, committed lines of credit, committed foreign exchange swaps, and committed repos, as well as highly marketable collateral held in custody and investments that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions. If an FMI has access to routine credit at the central bank of issue, the FMI may count such access as part of the minimum requirement to the extent it has collateral that is eligible for pledging to (or for conducting other appropriate forms of transactions with) the relevant central bank. All such resources should be available when needed.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(7)(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>6. An FMI may supplement its qualifying liquid resources with other forms of liquid resources. If the FMI does so, then these liquid resources should be in the form of assets that are likely to be saleable or acceptable as collateral for lines of credit, swaps, or repos on an ad hoc basis following a default, even if this cannot be reliably prearranged or guaranteed in extreme market conditions. Even if an FMI does not have access to routine central bank credit, it should still take account of what collateral is typically accepted by the relevant central bank, as such assets may be more likely to be liquid in stressed circumstances. An FMI should not assume the availability of emergency central bank credit as a part of its liquidity plan.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(7)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Although the proposed rules implement the headline principle, there are no proposed measures to provide for a CCP to 'supplement' its qualifying liquid resources. However, this is not a requirement on CCPs and therefore there is no inconsistency between the Board's implementation measures and key consideration 6.</p>	

<p>7. An FMI should obtain a high degree of confidence, through rigorous due diligence, that each provider of its minimum required qualifying liquid resources, whether a participant of the FMI or an external party, has sufficient information to understand and to manage its associated liquidity risks, and that it has the capacity to perform as required under its commitment. Where relevant to assessing a liquidity provider's performance reliability with respect to a particular currency, a liquidity provider's potential access to credit from the central bank of issue may be taken into account. An FMI should regularly test its procedures for accessing its liquid resources at a liquidity provider.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(7)(iv)&(v) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>8. An FMI with access to central bank accounts, payment services, or securities services should use these services, where practical, to enhance its management of liquidity risk.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(7)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) 12 CFR § 234.3(a)(9) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>9. An FMI should determine the amount and regularly test the sufficiency of its liquid resources through rigorous stress testing. An FMI should have clear procedures to report the results of its stress tests to appropriate decision makers at the FMI and to use these results to evaluate the adequacy of and adjust its liquidity risk-management framework. In conducting stress testing, an FMI should consider a wide range of relevant scenarios. Scenarios should include relevant peak historic price volatilities, shifts in other market factors such as price determinants and yield curves, multiple defaults</p>	<p>Regulation HH: 12 CFR § 234.3(a)(7)(vi)&(vii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) Preamble to proposed rules: <i>Federal Register</i> pp. 3678 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		

<p>over various time horizons, simultaneous pressures in funding and asset markets, and a spectrum of forward-looking stress scenarios in a variety of extreme but plausible market conditions. Scenarios should also take into account the design and operation of the FMI, include all entities that might pose material liquidity risks to the FMI (such as settlement banks, nostro agents, custodian banks, liquidity providers, and linked FMIs), and where appropriate, cover a multiday period. In all cases, an FMI should document its supporting rationale for, and should have appropriate governance arrangements relating to, the amount and form of total liquid resources it maintains.</p>			
<p>10. An FMI should establish explicit rules and procedures that enable the FMI to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations on time following any individual or combined default among its participants. These rules and procedures should address unforeseen and potentially uncovered liquidity shortfalls and should aim to avoid unwinding, revoking, or delaying the same-day settlement of payment obligations. These rules and procedures should also indicate the FMI's process to replenish any liquidity resources it may employ during a stress event, so that it can continue to operate in a safe and sound manner.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(7)(ii)&(viii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p>Principle 8: Settlement finality An FMI should provide clear and certain final settlement, at a minimum by the end of the value date. Where necessary or preferable, an FMI should provide final settlement intraday or in real time.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(8) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p>	
<p>1. <i>An FMI's rules and procedures should clearly define the point at which settlement is final.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(8) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>An FMI should complete final settlement no later than the end of the value date, and preferably intraday or in real time, to reduce settlement risk. An LVPS or SSS should consider adopting RTGS or multiple-batch processing during the settlement day.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(8) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>3. <i>An FMI should clearly define the point after which unsettled payments, transfer instructions, or other obligations may not be revoked by a participant.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(8) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>Principle 9: Money settlements An FMI should conduct its money settlements in central bank money where practical and available. If central bank money is not used, an FMI should minimise and strictly control the credit and liquidity risk arising from the use of commercial bank money.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(9) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p>	
<p>1. <i>An FMI should conduct its money settlements in central bank money, where practical and available, to avoid credit and liquidity risks.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(9) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>If central bank money is not used, an FMI should conduct its money settlements using a settlement asset with little or no credit or liquidity risk.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(9) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p>3. <i>If an FMI settles in commercial bank money, it should monitor, manage, and limit its credit and liquidity risks arising from the commercial settlement banks. In particular, an FMI should establish and monitor adherence to strict criteria for its settlement banks that take account of, among other things, their regulation and supervision, creditworthiness, capitalisation, access to liquidity, and operational reliability. An FMI should also monitor and manage the concentration of credit and liquidity exposures to its commercial settlement banks.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(9)(i)&(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>4. <i>If an FMI conducts money settlements on its own books, it should minimise and strictly control its credit and liquidity risks.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(9) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>5. <i>An FMI's legal agreements with any settlement banks should state clearly when transfers on the books of individual settlement banks are expected to occur, that transfers are to be final when effected, and that funds received should be transferable as soon as possible, at a minimum by the end of the day and ideally intraday, in order to enable the FMI and its participants to manage credit and liquidity risks.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(9)(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>Principle 10: Physical deliveries An FMI should clearly state its obligations with respect to the delivery of physical instruments or commodities and should identify, monitor, and manage the risks associated with such physical deliveries.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(10) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p>	
<p>1. <i>An FMI's rules should clearly state its obligations with respect to the delivery of physical instruments or commodities.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(10) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p>2. <i>An FMI should identify, monitor, and manage the risks and costs associated with the storage and delivery of physical instruments or commodities.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(10) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>Preamble to proposed rules: <i>Federal Register</i> p. 3679 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		
<p>Principle 12: Exchange-of-value settlement systems</p> <p>If an FMI settles transactions that involve the settlement of two linked obligations (for example, securities or foreign exchange transactions), it should eliminate principal risk by conditioning the final settlement of one obligation upon the final settlement of the other.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(12) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	Consistent	
<p>1. <i>An FMI that is an exchange-of-value settlement system should eliminate principal risk by ensuring that the final settlement of one obligation occurs if and only if the final settlement of the linked obligation also occurs, regardless of whether the FMI settles on a gross or net basis and when finality occurs.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(12) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>Preamble to proposed rules: <i>Federal Register</i> p. 3680 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		
<p>Principle 13: Participant-default rules and procedures</p> <p>An FMI should have effective and clearly defined rules and procedures to manage a participant default. These rules and procedures should be designed to ensure that the FMI can take timely action to contain losses and liquidity pressures and continue to meet its obligations.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(13) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	Consistent	

<p>1. <i>An FMI should have default rules and procedures that enable the FMI to continue to meet its obligations in the event of a participant default and that address the replenishment of resources following a default.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(4)(vi)(B) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>12 CFR § 234.3(a)(5)(viii)(B) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>12 CFR § 234.3(a)(13) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>An FMI should be well prepared to implement its default rules and procedures, including any appropriate discretionary procedures provided for in its rules.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(13) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>3. <i>An FMI should publicly disclose key aspects of its default rules and procedures.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(23)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>4. <i>An FMI should involve its participants and other stakeholders in the testing and review of the FMI's default procedures, including any close-out procedures. Such testing and review should be conducted at least annually or following material changes to the rules and procedures to ensure that they are practical and effective.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(13) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>Principle 14: Segregation and portability A CCP should have rules and procedures that enable the segregation and portability of positions of a participant's customers and the collateral provided to the CCP with respect to those positions.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(14) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Broadly consistent</p> <p>The proposed amendments to Regulation HH are broadly consistent with the headline standard in Principle 14; the details of key considerations 2</p>	<p>The Board is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 2 and 3.</p>

		and 3, however, are not included explicitly in the proposed rulemaking.	
<p>1. A CCP should, at a minimum, have segregation and portability arrangements that effectively protect a participant's customers' positions and related collateral from the default or insolvency of that participant. If the CCP additionally offers protection of such customer positions and collateral against the concurrent default of the participant and a fellow customer, the CCP should take steps to ensure that such protection is effective.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(14) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. A CCP should employ an account structure that enables it readily to identify positions of a participant's customers and to segregate related collateral. A CCP should maintain customer positions and collateral in individual customer accounts or in omnibus customer accounts.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(14) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>The Board's proposed rules do not explicitly address the more granular requirement for a CCP to 'employ an account structure that enables it readily to identify positions of a participant's customers and to segregate related collateral; maintain customer positions and collateral in individual customer accounts or in omnibus customer accounts'.</p>	
<p>3. A CCP should structure its portability arrangements in a way that makes it highly likely that the positions and collateral of a defaulting participant's customers will be transferred to one or more other participants.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(14) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>The Board's proposed rules do not explicitly address the more granular requirement for a CCP to 'structure its portability arrangements in a way that makes it highly likely that the positions and collateral of a defaulting participant's customers will be transferred to one or more other participants'.</p>	

<p>4. A CCP should disclose its rules, policies, and procedures relating to the segregation and portability of a participant's customers' positions and related collateral. In particular, the CCP should disclose whether customer collateral is protected on an individual or omnibus basis. In addition, a CCP should disclose any constraints, such as legal or operational constraints, that may impair its ability to segregate or port a participant's customers' positions and related collateral.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(14) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>12 CFR § 234.3(a)(23)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>Principle 15: General business risk An FMI should identify, monitor, and manage its general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that it can continue operations and services as a going concern if those losses materialise. Further, liquid net assets should at all times be sufficient to ensure a recovery or orderly wind-down of critical operations and services.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(15)(i) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p> <p>The proposed amendments to Regulation HH are consistent with Principle 15, although there are some gaps or shortcomings with key consideration 1 that have no material impact on completeness or consistency.</p>	
<p>1. An FMI should have robust management and control systems to identify, monitor, and manage general business risks, including losses from poor execution of business strategy, negative cash flows, or unexpected and excessively large operating expenses.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(3) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>12 CFR § 234.3(a)(15) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>Preamble to proposed rules: <i>Federal Register</i> p. 3681 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		

<p>2. <i>An FMI should hold liquid net assets funded by equity (such as common stock, disclosed reserves, or other retained earnings) so that it can continue operations and services as a going concern if it incurs general business losses. The amount of liquid net assets funded by equity an FMI should hold should be determined by its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken.</i></p>	<p>Regulation HH: (A) 12 CFR § 234.3(a)(15)(i)(B) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>3. <i>An FMI should maintain a viable recovery or orderly wind-down plan and should hold sufficient liquid net assets funded by equity to implement this plan. At a minimum, an FMI should hold liquid net assets funded by equity equal to at least six months of current operating expenses. These assets are in addition to resources held to cover participant defaults or other risks covered under the financial resources principles. However, equity held under international risk-based capital standards can be included where relevant and appropriate to avoid duplicate capital requirements.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(15)(i)(A) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>4. <i>Assets held to cover general business risk should be of high quality and sufficiently liquid in order to allow the FMI to meet its current and projected operating expenses under a range of scenarios, including in adverse market conditions.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(15)(i)(A) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>5. <i>An FMI should maintain a viable plan for raising additional equity should its equity fall close to or below the amount needed. This plan should be approved by the board of directors and updated regularly.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(15)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p>Principle 16: Custody and investment risks An FMI should safeguard its own and its participants' assets and minimise the risk of loss on and delay in access to these assets. An FMI's investments should be in instruments with minimal credit, market, and liquidity risks.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(16)(i)&(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p>	
<p>1. <i>An FMI should hold its own and its participants' assets at supervised and regulated entities that have robust accounting practices, safekeeping procedures, and internal controls that fully protect these assets.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(16)(i)(A) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>An FMI should have prompt access to its assets and the assets provided by participants, when required.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(16)(i)&(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>3. <i>An FMI should evaluate and understand its exposures to its custodian banks, taking into account the full scope of its relationships with each.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(16)(i)(B) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>4. <i>An FMI's investment strategy should be consistent with its overall risk-management strategy and fully disclosed to its participants, and investments should be secured by, or be claims on, high-quality obligors. These investments should allow for quick liquidation with little, if any, adverse price effect.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(16)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p>Principle 17: Operational risk An FMI should identify the plausible sources of operational risk, both internal and external, and mitigate their impact through the use of appropriate systems, policies, procedures, and controls. Systems should be designed to ensure a high degree of security and operational reliability and should have adequate, scalable capacity. Business continuity management should aim for timely recovery of operations and fulfilment of the FMI’s obligations, including in the event of a wide-scale or major disruption.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(17)(i)&(iii)&(vi) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent The proposed amendments to Regulation HH are consistent with Principle 17, although there are some gaps or shortcomings with key consideration 7 that have no material impact on completeness or consistency.</p>	
<p>1. <i>An FMI should establish a robust operational risk-management framework with appropriate systems, policies, procedures, and controls to identify, monitor, and manage operational risks.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(17)(i)&(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>An FMI’s board of directors should clearly define the roles and responsibilities for addressing operational risk and should endorse the FMI’s operational risk-management framework. Systems, operational policies, procedures, and controls should be reviewed, audited, and tested periodically and after significant changes.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(17)(i) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) 12 CFR § 234.3(a)(2)(i) &(iv)(A),(B),(F) & (G) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>3. <i>An FMI should have clearly defined operational reliability objectives and should have policies in place that are designed to achieve those objectives.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(17)(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>4. <i>An FMI should ensure that it has scalable capacity adequate to handle increasing stress volumes and to achieve its service-level objectives.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(17)(iv) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

5. <i>An FMI should have comprehensive physical and information security policies that address all potential vulnerabilities and threats.</i>	Regulation HH: 12 CFR § 234.3(a)(17)(v) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)		
6. <i>An FMI should have a business continuity plan that addresses events posing a significant risk of disrupting operations, including events that could cause a wide-scale or major disruption. The plan should incorporate the use of a secondary site and should be designed to ensure that critical information technology (IT) systems can resume operations within two hours following disruptive events. The plan should be designed to enable the FMI to complete settlement by the end of the day of the disruption, even in case of extreme circumstances. The FMI should regularly test these arrangements.</i>	Regulation HH: 12 CFR § 234.3(a)(17)(vi)&(vii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)		
7. <i>An FMI should identify, monitor, and manage the risks that key participants, other FMIs, and service and utility providers might pose to its operations. In addition, an FMI should identify, monitor, and manage the risks its operations might pose to other FMIs.</i>	Regulation HH: 12 CFR § 234.3(a)(17)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)	It is not explicit that ‘an FMI should identify, monitor, and manage the risks that key participants, other FMIs, and service and utility providers might pose to its operations’. However, it is assessed that that this is included through implementation of key consideration 1 and the headline.	
<p>Principle 18: Access and participation requirements</p> <p>An FMI should have objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access.</p>	Regulation HH: 12 CFR § 234.3(a)(18) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)	Consistent	

<p>1. <i>An FMI should allow for fair and open access to its services, including by direct and, where relevant, indirect participants and other FMIs, based on reasonable risk-related participation requirements.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(18) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>An FMI's participation requirements should be justified in terms of the safety and efficiency of the FMI and the markets it serves, be tailored to and commensurate with the FMI's specific risks, and be publicly disclosed. Subject to maintaining acceptable risk control standards, an FMI should endeavour to set requirements that have the least-restrictive impact on access that circumstances permit.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(18) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) 12 CFR § 234.3(a)(23)(i)&(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>3. <i>An FMI should monitor compliance with its participation requirements on an ongoing basis and have clearly defined and publicly disclosed procedures for facilitating the suspension and orderly exit of a participant that breaches, or no longer meets, the participation requirements.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(18)(i)&(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>Principle 19: Tiered participation arrangements An FMI should identify, monitor, and manage the material risks to the FMI arising from tiered participation arrangements.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(19) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p>	
<p>1. <i>An FMI should ensure that its rules, procedures, and agreements allow it to gather basic information about indirect participation in order to identify, monitor, and manage any material risks to the FMI arising from such tiered participation arrangements.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(19) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) Preamble to proposed rules: <i>Federal Register</i> p. 3685 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		

<p>2. <i>An FMI should identify material dependencies between direct and indirect participants that might affect the FMI.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(19) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) Preamble to proposed rules: <i>Federal Register</i> p. 3685 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		
<p>3. <i>An FMI should identify indirect participants responsible for a significant proportion of transactions processed by the FMI and indirect participants whose transaction volumes or values are large relative to the capacity of the direct participants through which they access the FMI in order to manage the risks arising from these transactions.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(19) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) Preamble to proposed rules: <i>Federal Register</i> p. 3685 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		
<p>4. <i>An FMI should regularly review risks arising from tiered participation arrangements and should take mitigating action when appropriate.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(19) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) Preamble to proposed rules: <i>Federal Register</i> p. 3685 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		
<p>Principle 20: FMI links An FMI that establishes a link with one or more FMIs should identify, monitor, and manage link-related risks.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(20) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Broadly consistent The proposed amendments to Regulation HH are broadly consistent with the headline standard in Principle 20. The overall rating has been influenced by the fact that the Board’s implementation measures applicable to key consideration 1 do not extend to links with TRs.</p>	<p>The Board is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 1. The Board is recommended to extend its regulations to linkages with TRs to avoid a gap in implementation of Principle 20.</p>

<p>1. <i>Before entering into a link arrangement and on an ongoing basis once the link is established, an FMI should identify, monitor, and manage all potential sources of risk arising from the link arrangement. Link arrangements should be designed such that each FMI is able to observe the other principles in this report.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(20) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>While the Board’s proposed rule requires a designated financial market utility that has established a link with one or more other financial market utilities to identify, monitor, and manage link-related risks, it is observed that the term financial market utility does not include TRs. Hence, the implementation measures do not extend to links with TRs.</p>	
<p>2. <i>A link should have a well-founded legal basis, in all relevant jurisdictions, that supports its design and provides adequate protection to the FMIs involved in the link.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(1) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) Preamble to proposed rules: <i>Federal Register</i> p. 3685 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		
<p>7. <i>Before entering into a link with another CCP, a CCP should identify and manage the potential spill-over effects from the default of the linked CCP. If a link has three or more CCPs, each CCP should identify, assess, and manage the risks of the collective link arrangement.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(20) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Proposed Rule 234.3(a)(20) requires a designated financial market utility to identify, monitor and manage risks related to any link it establishes with one or more other financial market utilities, although not identifying the specific circumstances described under key consideration 7. While the proposed rule does not explicitly state the requirements under key consideration 7, it is understood that the Board will be using the PFMI as a reference in establishing its supervisory</p>	

		planning and analysis tools for each designated FMU for which it is the Supervisory Agency.	
8. <i>Each CCP in a CCP link arrangement should be able to cover, at least on a daily basis, its current and potential future exposures to the linked CCP and its participants, if any, fully with a high degree of confidence without reducing the CCP's ability to fulfil its obligations to its own participants at any time.</i>	Regulation HH: 12 CFR § 234.3(a)(4) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)		
Principle 21: Efficiency and effectiveness An FMI should be efficient and effective in meeting the requirements of its participants and the markets it serves.	Regulation HH: 12 CFR § 234.3(a)(21)(i) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)	Consistent	
1. <i>An FMI should be designed to meet the needs of its participants and the markets it serves, in particular, with regard to choice of a clearing and settlement arrangement; operating structure; scope of products cleared, settled, or recorded; and use of technology and procedures.</i>	Regulation HH: 12 CFR § 234.3(a)(21)(i) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)		
2. <i>An FMI should have clearly defined goals and objectives that are measurable and achievable, such as in the areas of minimum service levels, risk-management expectations, and business priorities.</i>	Regulation HH: 12 CFR § 234.3(a)(21)(ii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)		
3. <i>An FMI should have established mechanisms for the regular review of its efficiency and effectiveness.</i>	Regulation HH: 12 CFR § 234.3(a)(21)(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)		

<p>Principle 22: Communication procedures and standards An FMI should use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, settlement, and recording.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(22) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent</p>	
<p>1. <i>An FMI should use, or at a minimum accommodate, internationally accepted communication procedures and standards.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(22) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>Principle 23: Disclosure of rules, key procedures, and market data An FMI should have clear and comprehensive rules and procedures and should provide sufficient information to enable participants to have an accurate understanding of the risks, fees, and other material costs they incur by participating in the FMI. All relevant rules and key procedures should be publicly disclosed.</p>	<p>Regulation HH: 12 CFR § 234.3(a)(23)(i)-(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Consistent The proposed amendments to Regulation HH are consistent with Principle 23, although there are some gaps or shortcomings with key considerations 3, 4 and 5 that have no material impact on completeness or consistency.</p>	
<p>1. <i>An FMI should adopt clear and comprehensive rules and procedures that are fully disclosed to participants. Relevant rules and key procedures should also be publicly disclosed.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(23)(i)-(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		
<p>2. <i>An FMI should disclose clear descriptions of the system's design and operations, as well as the FMI's and participants' rights and obligations, so that participants can assess the risks they would incur by participating in the FMI.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(23)(i)-(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf) 12 CFR § 234.3(a)(23)(iv)(C) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>		

<p>3. <i>An FMI should provide all necessary and appropriate documentation and training to facilitate participants' understanding of the FMI's rules and procedures and the risks they face from participating in the FMI.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(23)(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p> <p>Preamble to proposed rules: <i>Federal Register</i> pp. 3686-3687 http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf</p>		
<p>4. <i>An FMI should publicly disclose its fees at the level of individual services it offers as well as its policies on any available discounts. The FMI should provide clear descriptions of priced services for comparability purposes.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(23)(i)-(iii) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>The substance of the key consideration is mostly included in the headline, but overall the rule does not require a detailed disclosure of fees.</p>	
<p>5. <i>An FMI should complete regularly and disclose publicly responses to the CPSS-IOSCO Disclosure framework for financial market infrastructures. An FMI also should, at a minimum, disclose basic data on transaction volumes and values.</i></p>	<p>Regulation HH: 12 CFR § 234.3(a)(23)(iv)&(v) (see <i>Federal Register</i> pp. 3689 – 3693, http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf)</p>	<p>Regulation HH does not explicitly mention 'CPSS-IOSCO Disclosure...' but the rule requires the same outline.</p>	

4.2.4 Swap Data Repositories

Implementation monitoring of Principles: Level 2 assessment report for the U.S. Commodity Futures Trading Commission’s Swap Data Repositories

Part 2: Implementation of the principles			
1. Text of applicable Principles and Key Considerations (KCs) ³²	2. Implementation measures of the jurisdiction	3. Key conclusions for principles	4. Recommendations and comments
<p>Principle 1: Legal basis</p> <p>An FMI should have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.</p>	<ul style="list-style-type: none"> The CEA is available at the following link: http://www.house.gov/legcoun/Comps/COMEX_NE_W.pdf 17 C.F.R. 40 is available at the following link: http://www.ecfr.gov/cgi-bin/text-idx?SID=470d2004ef0ed95c2407dd26dc37af2b&node=17:1.0.1.1.33&rgn=div5 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 	<p>Partly consistent</p> <p>The implementation measures of the CFTC are partly consistent with Principle 1. The overall rating has been influenced by the absence of measures implementing key considerations 1 and 5 and gaps or shortcomings in the implementation measures for key consideration 4.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1, 4 and 5.</p>
<p>1. <i>The legal basis should provide a high degree of certainty for each material aspect of an FMI's activities in all relevant jurisdictions.</i></p>	<p>CEA Sections 1a(48), 21(a)(1)(A), 21(a)(3)(A)(i)-(ii), 21(f)(2), 21(h)</p>	<p>The CEA provides the legal basis for TRs but this does not include a requirement that the TRs themselves have a legal basis that provides a high degree of certainty for each material aspect of the TR's activities in all relevant jurisdictions.</p>	
<p>2. <i>An FMI should have rules, procedures, and contracts that are clear, understandable, and consistent with relevant laws and regulations.</i></p>	<p>CEA Sections 1a(40), 5c(c)(1) – 5(A), 21(a)(1)(A), 21(a)(3)(A)(i)-(ii), 21(f)(2)</p> <p>CFTC regulations 17 C.F.R.: 40.1(i); 40.5(a), (b); 40.6(a)(2), (7), (8); 40.6(c)(1), (3); 49.3(a)(1), (2), (4), (5); 49.8(a), (c); 49.20(a), (b); 49.26; and Appendix A to Part 49</p>		

³² Only the relevant principles for TRs (as set forth in the annex E of the PFMI) are included.

<p>3. <i>An FMI should be able to articulate the legal basis for its activities to relevant authorities, participants, and, where relevant, participants' customers, in a clear and understandable way.</i></p>	<p>CEA Section 21(a)(3)(A)(i)-(ii) CFTC regulations 17 C.F.R.: 40.8; 49.20(a), (b); and Appendix A to Part 49</p>		
<p>4. <i>An FMI should have rules, procedures, and contracts that are enforceable in all relevant jurisdictions. There should be a high degree of certainty that actions taken by the FMI under such rules and procedures will not be voided, reversed, or subject to stays.</i></p>	<p>CEA Sections 1a(40), 5c(c)(1) – 5(A), 21(a)(1)(A), 21(a)(3)(A)(i)-(ii), 21(f)(2) CFTC regulations 17 C.F.R.: 40.1(i); 40.5(a), (b); 40.6(a)(2), (7), (8); 40.6(c)(1), (3); 49.3(a)(1), (2), (4), (5); 49.8(a), (c); 49.20(a), (b); 49.26; and Appendix A to Part 49</p>	<p>TRs are required to have rules that are compliant with the applicable provisions of the CEA and the CFTC's regulations thereunder, but they are not required to ensure that such rules (along with their procedures and contracts) are enforceable in all relevant jurisdictions. Furthermore, the rules, procedures and contracts of TRs are not required to ensure that actions taken by the TR will not be voided, reversed, or subject to stays.</p>	
<p>5. <i>An FMI conducting business in multiple jurisdictions should identify and mitigate the risks arising from any potential conflict of laws across jurisdictions.</i></p>		<p>There are no effective implementation measures consistent with key consideration 5.</p>	
<p>Principle 2: Governance An FMI should have governance arrangements that are clear and transparent, promote the safety and efficiency of the FMI, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders.</p>	<ul style="list-style-type: none"> The CEA is available at the following link: http://www.house.gov/legcoun/Comps/COMEX_NE_W.pdf 17 C.F.R. 40 is available at the following link: http://www.ecfr.gov/cgi-bin/text-idx?SID=54b5044a35e16e678a520e228b7aa79e&node=17:1.0.1.1.33&rgn=div5 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 	<p>Partly consistent The implementation measures of the CFTC are partly consistent with Principle 2. The overall rating has been influenced by gaps or shortcomings in the implementation measures for key considerations 1 and 6.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1 and 6.</p>

	<ul style="list-style-type: none"> • The DTCC Data Repository Rulebook is available at the following link: http://www.dtcc.com/~media/Files/Downloads/legal/rules/DDR_Rulebook.ashx • The ICE Trade Vault Rulebook is available at the following link: https://www.theice.com/publicdocs/Trade_Vault_Rulebook.pdf • The CME SDR Rulebook is available at the following link: http://www.cmegroup.com/market-data/files/cme-sdr-rulebook-c.pdf • The Bloomberg Swap Data Repository Rulebook is available at the following link: http://www.cftc.gov/stellent/groups/public/@otherif/documents/ifdocs/bsdrrulebook011414.pdf 		
<p>1. <i>An FMI should have objectives that place a high priority on the safety and efficiency of the FMI and explicitly support financial stability and other relevant public interest considerations.</i></p>	<p>CEA Sections 21(f)(2), 21(f)(4)(C) CFTC regulations 17 C.F.R.: 49.20(a)(1), (b)(1)</p>	<p>The CEA and the implementation measures of the CFTC prescribe requirements with regard to the governance arrangements of a TR and the need for such arrangements to support public interest requirements, but TRs are not specifically required to have objectives that place a high priority on the safety and efficiency of the TR and that explicitly support financial stability.</p>	
<p>2. <i>An FMI should have documented governance arrangements that provide clear and direct lines of responsibility and accountability. These arrangements should be disclosed to owners, relevant authorities, participants, and, at a more general level, the public.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.20 (a)(2), (b)(2)-(4); 49.22(g)(1)(i)</p>		

<p>3. <i>The roles and responsibilities of an FMI's board of directors (or equivalent) should be clearly specified, and there should be documented procedures for its functioning, including procedures to identify, address, and manage member conflicts of interest. The board should review both its overall performance and the performance of its individual board members regularly.</i></p>	<p>CEA Section 21(f)(3) CFTC regulations 17 C.F.R.: 49.20(c)(1)(i)(C), 49.20(c)(3); 49.21(b)(1); 49.22(a), (g)</p>		
<p>4. <i>The board should contain suitable members with the appropriate skills and incentives to fulfil its multiple roles. This typically requires the inclusion of non-executive board member(s).</i></p>	<p>CFTC regulations 17 C.F.R.: 49.2(a)(6); 49.20(b)(2)(v), (c)(1)(i)(A)-(B), (c)(4), (c)(5)</p>		
<p>5. <i>The roles and responsibilities of management should be clearly specified. An FMI's management should have the appropriate experience, a mix of skills, and the integrity necessary to discharge their responsibilities for the operation and risk management of the FMI.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.20(a)(2), (c)(5)</p>		
<p>6. <i>The board should establish a clear, documented risk-management framework that includes the FMI's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decision making in crises and emergencies. Governance arrangements should ensure that the risk-management and internal control functions have sufficient authority, independence, resources, and access to the board.</i></p>	<p>CEA Section 21(c)(8) CFTC regulations 17 C.F.R.: 49.3(a)(5); 49.20(a)(2); 49.23(a)-(d); 49.24(a)-(d), (i); 49.25(a), (c), (d); and Appendix A to Part 49</p>	<p>TRs are required to establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk and appropriate controls and procedures to manage such risk. Such arrangements are only required in respect of operational risk, however this is the primary source of risk for a TR.</p> <p>However, the risk-management and internal control functions of a TR are not specifically required to have sufficient authority, independence, resources or access to the board.</p>	

<p>7. <i>The board should ensure that the FMI's design, rules, overall strategy, and major decisions reflect appropriately the legitimate interests of its direct and indirect participants and other relevant stakeholders. Major decisions should be clearly disclosed to relevant stakeholders and, where there is a broad market impact, the public.</i></p>	<p>CEA sections 1a(40), 5c(c)(1) – 5(A), 21(a)(1)(A), 21(a)(3)(A)(i)-(ii), 21(f)(2)</p> <p>CFTC regulations 17 C.F.R.: 40.1(i); 40.5(a), (b); 40.6(a)(2), (7), (8); 40.6(c)(1), (3); 40.8, 49.3(a)(1), (2), (4), (5); 49.8(a), (c); 49.20(a)(1), (b); 49.27(a); and Appendix A to Part 49</p>		
<p>Principle 3: Framework for the comprehensive management of risks</p> <p>An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.</p>	<ul style="list-style-type: none"> 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 76 Fed. Reg. 54538 (Sept. 1, 2011) is available at the following link: http://www.cftc.gov/u/cm/groups/public/@lrfederalregister/documents/file/2011-20817a.pdf 	<p>Partly consistent</p> <p>The implementation measures of the CFTC are partly consistent with Principle 3. The overall rating has been influenced by the absence of measures implementing key consideration 4 and gaps or shortcomings in the implementation measures for key consideration 3.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 3 and 4.</p>
<p>1. <i>An FMI should have risk-management policies, procedures, and systems that enable it to identify, measure, monitor, and manage the range of risks that arise in or are borne by the FMI. Risk-management frameworks should be subject to periodic review.</i></p>	<p>CEA Section 21(e)(1)-(2)</p> <p>CFTC regulations 17 C.F.R.: 49.16(a); 49.22(b) (d), (e); 49.24(a)-(d), (h)-(j); 49.25(a), (c), (d), (f), Appendix A to Part 49</p>		
<p>2. <i>An FMI should provide incentives to participants and, where relevant, their customers to manage and contain the risks they pose to the FMI.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.10(a)(1), (c), (d); 49.24(a)(1), Appendix A to Part 49</p>		
<p>3. <i>An FMI should regularly review the material risks it bears from and poses to other entities (such as other FMIs, settlement banks, liquidity providers, and service providers) as a result of interdependencies and develop appropriate risk-management tools to address these risks.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.24(a)-(c), (j); 49.25(d)</p>	<p>A TR is required to regularly review the risks that it bears from other entities and develop appropriate risk-management tools to address these risks.</p> <p>In particular, TRs are required to establish and maintain a</p>	

		<p>program of risk analysis and oversight to identify and minimize sources of operational risk and appropriate controls and procedures to manage such risk. Such arrangements are only required in respect of operational risk, however this is the primary source of risk for a TR. TRs are also required to establish and maintain emergency procedures, back-up facilities and a business continuity-disaster recovery plan. However, a TR is not specifically required to regularly review the risks that it poses to other entities as a result of interdependencies and develop appropriate risk-management tools to address these risks.</p>	
<p>4. <i>An FMI should identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. An FMI should prepare appropriate plans for its recovery or orderly wind-down based on the results of that assessment. Where applicable, an FMI should also provide relevant authorities with the information needed for purposes of resolution planning.</i></p>	<p>CFTC regulations 17 C.F.R. 49.24(a)-(c), (j); 49.25(a)(1)(3), (c), (d) Swap Data Repositories: Registration Standards, Duties and Core Principles, 76 Fed. Reg. 54567-54568 (Sept. 1, 2011)</p>	<p>TRs are required to establish and maintain a program of risk analysis and oversight as well as emergency procedures, back-up facilities and a business continuity-disaster recovery plan, and to conduct regular, periodic and objective testing and review of their automated systems and disaster recovery plan. However, a TR is not specifically required to identify scenarios that may potentially prevent it from being able to provide its critical operations and services</p>	

		<p>as a going concern or assess the effectiveness of a full range of options for recovery or orderly wind-down. A TR is not required to prepare appropriate plans for its recovery or orderly wind-down based on the results of that assessment or provide relevant authorities with the information needed for purposes of resolution planning.</p>	
<p>Principle 15: General business risk An FMI should identify, monitor, and manage its general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that it can continue operations and services as a going concern if those losses materialise. Further, liquid net assets should at all times be sufficient to ensure a recovery or orderly wind-down of critical operations and services.</p>	<ul style="list-style-type: none"> 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 76 Fed. Reg. 54538 (Sept. 11, 2011) is available at the following link: http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2011-20817a.pdf 	<p>Partly consistent</p> <p>The implementation measures of the CFTC are partly consistent with Principle 15. The overall rating has been influenced by the absence of measures implementing key considerations 1 and 5 and gaps or shortcomings in the implementation measures for key considerations 2, 3 and 4.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified for all relevant key considerations.</p>
<p>1. <i>An FMI should have robust management and control systems to identify, monitor, and manage general business risks, including losses from poor execution of business strategy, negative cash flows, or unexpected and excessively large operating expenses.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.24(a)-(c); 49.25(a)(1), (a)(3), (a)(4), (b), (c), (d), (e)</p>	<p>TRs are not required to have management and control systems to identify, monitor, and manage general business risks.</p>	

<p>2. <i>An FMI should hold liquid net assets funded by equity (such as common stock, disclosed reserves, or other retained earnings) so that it can continue operations and services as a going concern if it incurs general business losses. The amount of liquid net assets funded by equity an FMI should hold should be determined by its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.25(a)(1), (a)(3), (a)(4), (b), (c), (d), (e) Swap Data Repositories: Registration Standards, Duties and Core Principles, 76 Fed. Reg. 54567-54568 (Sept. 1, 2011)</p>	<p>TRs are not required to hold liquid net assets funded by equity specifically so that they can continue operations and services as a going concern if they incur general business losses. However, a TR is required to hold sufficient financial resources so as to cover operating costs for a period of at least one year, calculated on a rolling basis, and these resources must include unencumbered, liquid financial assets equal to at least six months' operating costs. These financial resource requirements are intended not only to ensure the continued viability of an operating TR, but also the orderly wind-down of a failing TR.</p>	
<p>3. <i>An FMI should maintain a viable recovery or orderly wind-down plan and should hold sufficient liquid net assets funded by equity to implement this plan. At a minimum, an FMI should hold liquid net assets funded by equity equal to at least six months of current operating expenses. These assets are in addition to resources held to cover participant defaults or other risks covered under the financial resources principles. However, equity held under international risk-based capital standards can be included where relevant and appropriate to avoid duplicate capital requirements.</i></p>	<p>CFTC regulations 17 C.F.R: 49.25(a)(3), (a)(4), (e) Swap Data Repositories: Registration Standards, Duties and Core Principles, 76 Fed. Reg. 54567-54568 (Sept. 1, 2011)</p>	<p>A TR is required to hold the minimum liquid net assets required by key consideration 3. However, a TR is not required to maintain a viable recovery or orderly wind-down plan.</p>	

<p>4. <i>Assets held to cover general business risk should be of high quality and sufficiently liquid in order to allow the FMI to meet its current and projected operating expenses under a range of scenarios, including in adverse market conditions.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.25(a)(3), (c), (d), (e)</p>	<p>The assets held by a TR to cover general business risk are not required to be of high quality and sufficiently liquid in order to allow the TR to meet its current and projected operating expenses under a range of scenarios, including in adverse market conditions.</p>	
<p>5. <i>An FMI should maintain a viable plan for raising additional equity should its equity fall close to or below the amount needed. This plan should be approved by the board of directors and updated regularly.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.20(a)(1)-(2); 49.25(a)-(e)</p>	<p>TRs are not required to maintain a viable plan for raising additional equity should its equity fall close to or below the amount needed.</p>	
<p>Principle 17: Operational risk An FMI should identify the plausible sources of operational risk, both internal and external, and mitigate their impact through the use of appropriate systems, policies, procedures, and controls. Systems should be designed to ensure a high degree of security and operational reliability and should have adequate, scalable capacity. Business continuity management should aim for timely recovery of operations and fulfilment of the FMI's obligations, including in the event of a wide-scale or major disruption.</p>	<ul style="list-style-type: none"> The CEA is available at the following link: http://www.house.gov/legcoun/Comps/COMEX_NE_W.pdf 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/text-idx?SID=e3f235f58bdc6ba54e03502f82d1d64e&node=17:2.0.1.1.8&rgn=div5 	<p>Partly consistent The implementation measures of the CFTC are partly consistent with Principle 17. The overall rating has been influenced by the absence of measures implementing key consideration 6 and gaps or shortcomings in the implementation measures for key considerations 2, 5 and 7.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 2, 5, 6 and 7.</p>
<p>1. <i>An FMI should establish a robust operational risk-management framework with appropriate systems, policies, procedures, and controls to identify, monitor, and manage operational risks.</i></p>	<p>CEA Section 21(c)(8) CFTC regulations 17 C.F.R. 49.24(a)-(b)</p>		

<p>2. <i>An FMI's board of directors should clearly define the roles and responsibilities for addressing operational risk and should endorse the FMI's operational risk-management framework. Systems, operational policies, procedures, and controls should be reviewed, audited, and tested periodically and after significant changes.</i></p>	<p>CEA Section 21(c)(8) CFTC regulations 17 C.F.R.: 49.20(a)(2), (b)(2)(vi), (c)(1)(i)(C); 49.24(a)(1)-(3), (b), (j)</p>	<p>A TR is required to conduct regular, periodic, objective testing and review of its automated systems to ensure that they are reliable, secure, and have adequate scalable capacity. It is also required to conduct regular, periodic testing and review of its business continuity-disaster recovery capabilities.</p> <p>The CFTC's regulations provide that both types of testing should be conducted by qualified, independent professionals and that such qualified independent professionals, while they may be independent contractors or employees of the TR, should not be persons responsible for development or operation of the systems or capabilities being tested.</p> <p>However, a TR's board is not required to clearly define the roles and responsibilities for addressing operational risk and endorse the FMI's operational risk-management framework.</p>	
<p>3. <i>An FMI should have clearly defined operational reliability objectives and should have policies in place that are designed to achieve those objectives.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.24(a)-(d), (j)</p>		
<p>4. <i>An FMI should ensure that it has scalable capacity adequate to handle increasing stress volumes and to achieve its service-level objectives.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.24(a)(1), (b), (c), (j)</p>		

<p>5. <i>An FMI should have comprehensive physical and information security policies that address all potential vulnerabilities and threats.</i></p>	<p>CFTC regulations 17 C.F.R. 49.10(a)(1); 49.24(a)(1)-(3), (b), (c), Appendix A to Part 49</p>	<p>A TR is required to have technological protocols which ensure that its mechanisms for swap data acceptance are reliable and secure.</p> <p>However, a TR is not required to have comprehensive physical security policies that address all potential vulnerabilities and threats.</p>	
<p>6. <i>An FMI should have a business continuity plan that addresses events posing a significant risk of disrupting operations, including events that could cause a wide-scale or major disruption. The plan should incorporate the use of a secondary site and should be designed to ensure that critical information technology (IT) systems can resume operations within two hours following disruptive events. The plan should be designed to enable the FMI to complete settlement by the end of the day of the disruption, even in case of extreme circumstances. The FMI should regularly test these arrangements.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.24(a)(1)-(3), (d), (j)</p>	<p>A TR's business continuity and disaster recovery plan and resources, emergency procedures, and backup facilities are required to be sufficient to enable timely recovery and resumption of the TR's operations and resumption of its ongoing fulfillment of its duties and obligations as a TR following any disruption of its operations. A TR's business continuity and disaster recovery plan and resources generally should enable resumption of operations during the next business day following a disruption whereas the key consideration requirement is that the TR be able to complete operations by the end of the day of the disruption, even in case of extreme circumstances.</p> <p>Moreover, TRs are not specifically required to ensure that critical information technology systems can resume operations within two hours following disruptive events.</p>	

<p>7. <i>An FMI should identify, monitor, and manage the risks that key participants, other FMIs, and service and utility providers might pose to its operations. In addition, an FMI should identify, monitor, and manage the risks its operations might pose to other FMIs.</i></p>	<p>CFTC regulations 17 C.F.R. 49.10(a), (c); 49.11(a); 49.24(k)</p>	<p>A TR is required to regularly review the risks that other entities might pose to its operations and develop appropriate risk-management tools to address these risks.</p> <p>In particular, TRs are required to establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk and appropriate controls and procedures to manage such risk. Such arrangements are only required in respect of operational risk, however this is the primary source of risk for a TR. TRs are also required to establish and maintain emergency procedures, back-up facilities and a business continuity-disaster recovery plan.</p> <p>However, a TR is only specifically required to identify, monitor and manage the risks its operations might pose to other FMIs in the context of business continuity and disaster recovery plans.</p>	
<p>Principle 18: Access and participation requirements An FMI should have objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access.</p>	<ul style="list-style-type: none"> The CEA is available at the following link: http://www.house.gov/legcoun/Comps/COMEX_NE_W.pdf 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 	<p>Partly consistent</p> <p>The implementation measures of the CFTC are partly consistent with Principle 18. The overall rating has been influenced by the absence of measures implementing key</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 2 and 3.</p>

	<ul style="list-style-type: none"> • The DTCC Data Repository Rulebook is available at the following link: http://www.dtcc.com/~media/Files/Downloads/legal/rules/DDR_Rulebook.ashx • The ICE Trade Vault Rulebook is available at the following link: https://www.theice.com/publicdocs/Trade_Vault_Rulebook.pdf • The CME SDR Rulebook is available at the following link: http://www.cmegroup.com/market-data/files/cme-sdr-rulebook-c.pdf • The Bloomberg Swap Data Repository Rulebook is available at the following link: http://www.cftc.gov/stellent/groups/public/@otherif/documents/ifdocs/bsdrrulebook011414.pdf 	<p>consideration 3 and gaps or shortcomings in the implementation measures for key consideration 2.</p>	
<p>1. <i>An FMI should allow for fair and open access to its services, including by direct and, where relevant, indirect participants and other FMIs, based on reasonable risk-related participation requirements.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.19(e)(3); 49.27(a), (b)(1)-(2)</p>		
<p>2. <i>An FMI's participation requirements should be justified in terms of the safety and efficiency of the FMI and the markets it serves, be tailored to and commensurate with the FMI's specific risks, and be publicly disclosed. Subject to maintaining acceptable risk control standards, an FMI should endeavour to set requirements that have the least-restrictive impact on access that circumstances permit.</i></p>	<p>CEA Section 21(f)(1) CFTC regulations 17 C.F.R.: 40.1(i), 40.5, 40.6, 49.19(b); 49.20(b)(2)(vii), (b)(3)-(4); 49.26; 49.27(a)(1), (b)</p>	<p>Unless necessary or appropriate to achieve the purposes of the CEA, a TR is prevented from having participation requirements that result in an unreasonable restraint of trade or from imposing material anticompetitive burdens on trading, clearing or reporting swaps.</p> <p>However, the participation requirements of the TR are not required to be justified in terms of the safety and efficiency of the TR and the markets it serves, or be tailored to and commensurate with the TR's specific risks.</p>	

<p>3. <i>An FMI should monitor compliance with its participation requirements on an ongoing basis and have clearly defined and publicly disclosed procedures for facilitating the suspension and orderly exit of a participant that breaches, or no longer meets, the participation requirements.</i></p>	<p>CEA Section 21(e)(1) and (2) CFTC regulations 17 C.F.R.: 40.5; 40.6; 49.3(a)(5); 49.22(d)(5)-(6), (e)(5); and Appendix A to Part 49</p>	<p>A TR is not required to monitor compliance with its participation requirements on an ongoing basis or have clearly defined and publicly disclosed procedures for facilitating the suspension and orderly exit of a participant that breaches, or no longer meets, the participation requirements.</p>	
<p>Principle 19: Tiered participation arrangements An FMI should identify, monitor, and manage the material risks to the FMI arising from tiered participation arrangements.</p>	<ul style="list-style-type: none"> 17 C.F.R. 45 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&r=PART&n=17y2.0.1.1.5 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 	<p>Partly consistent</p> <p>The implementation measures of the CFTC are partly consistent with Principle 19. The overall rating has been influenced by gaps or shortcomings in the implementation measures for key considerations 1, 2 and 3.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1, 2 and 3.</p>
<p>1. <i>An FMI should ensure that its rules, procedures, and agreements allow it to gather basic information about indirect participation in order to identify, monitor, and manage any material risks to the FMI arising from such tiered participation arrangements.</i></p>	<p>CFTC regulations 17 C.F.R.: 45.9; 49.10(a); 49.11(a)-(b)</p>	<p>A TR is required to establish policies and procedures to ensure the accuracy of swap data received from reporting entities and third-party service providers which is the primary source of risk for a TR arising from indirect participant and tiered participation arrangements. However, a TR is not specifically required to have rules, procedures, and agreements that allow it to gather basic information about indirect participation in order to identify, monitor, and manage any material risks to the TR arising from such tiered participation arrangements.</p>	

<p>2. <i>An FMI should identify material dependencies between direct and indirect participants that might affect the FMI.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.10(a); 49.11(a)-(b); 49.24(a)-(c)</p>	<p>A TR is required to establish policies and procedures to ensure the accuracy of data received from reporting entities and third-party service providers. However, a TR is not required to identify material dependencies between direct and indirect participants that might affect the TR.</p>	
<p>3. <i>An FMI should identify indirect participants responsible for a significant proportion of transactions processed by the FMI and indirect participants whose transaction volumes or values are large relative to the capacity of the direct participants through which they access the FMI in order to manage the risks arising from these transactions.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.10(a); 49.11(a)-(b); 49.24(a); 49.25</p>	<p>A TR is required to establish policies and procedures to ensure the accuracy of swap data received from reporting entities and third-party service providers which is the primary source of risk for a TR arising from indirect participant arrangements. However, a TR is not specifically required to identify indirect participants responsible for a significant proportion of transactions processed by the TR or to identify indirect participants whose transaction volumes or values are large relative to the capacity of the direct participants through which they access the TR in order to manage the risks arising from these transactions.</p>	
<p>4. <i>An FMI should regularly review risks arising from tiered participation arrangements and should take mitigating action when appropriate.</i></p>	<p>CFTC regulations 17 C.F.R.: 45; 49.10(a); 49.11(a)-(b); 49.24(a), 49.25</p>		

<p>Principle 20: FMI links An FMI that establishes a link with one or more FMIs should identify, monitor, and manage link-related risks.</p>	<ul style="list-style-type: none"> The CEA is available at the following link: http://www.house.gov/legcoun/Comps/COMEX_NE_W.pdf 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47ee4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 	<p>Not consistent</p> <p>The implementation measures of the CFTC are not consistent with Principle 20. The overall rating has been influenced by the absence of measures implementing key considerations 2 and 3 and gaps or shortcomings in the implementation measures for key consideration 1.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified for all relevant key considerations.</p>
<p>1. <i>Before entering into a link arrangement and on an ongoing basis once the link is established, an FMI should identify, monitor, and manage all potential sources of risk arising from the link arrangement. Link arrangements should be designed such that each FMI is able to observe the other principles in this report.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.16(a) 49.24(a)-(c)</p>	<p>A TR is required to identify, monitor, and manage risk arising from link arrangements on an ongoing basis as part of its operational risk management and business continuity planning. However, before entering into a link arrangement a TR is not required to identify, monitor, and manage all potential sources of risk arising from the link arrangement. Moreover, link arrangements are not required to be designed such that a TR is able to observe the other PFMLs.</p>	
<p>2. <i>A link should have a well-founded legal basis, in all relevant jurisdictions, that supports its design and provides adequate protection to the FMIs involved in the link.</i></p>	<p>CEA Sections 21(e)(1)-(2) CFTC regulations 17 C.F.R.: 49.17(e); 49.22(d)(4)</p>	<p>Link arrangements are not required to have a well-founded legal basis, in all relevant jurisdictions, that supports its design and provides adequate protection to the TRs involved in the link.</p>	

<p>9. <i>A TR should carefully assess the additional operational risks related to its links to ensure the scalability and reliability of IT and related resources.</i></p>	<p>CFTC regulations 17 C.F.R. 49.24(a)-(c)</p>	<p>A TR is not required to carefully assess the additional operational risks related to its links to ensure the scalability and reliability of IT and related resources.</p>	
<p>Principle 21: Efficiency and effectiveness An FMI should be efficient and effective in meeting the requirements of its participants and the markets it serves.</p>	<ul style="list-style-type: none"> The CEA is available at the following link: http://www.house.gov/legcoun/Comps/COMEX_NE_W.pdf 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47ee4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 	<p>Broadly consistent</p> <p>The implementation measures of the CFTC are broadly consistent with Principle 21. The overall rating has been influenced by gaps or shortcomings in the implementation measures for key considerations 1, 2 and 3.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified for all relevant key considerations.</p>
<p>1. <i>An FMI should be designed to meet the needs of its participants and the markets it serves, in particular, with regard to choice of a clearing and settlement arrangement; operating structure; scope of products cleared, settled, or recorded; and use of technology and procedures.</i></p>	<p>CEA Section 21(f)(2) CFTC regulations 17 C.F.R.: 49.10(a)-(b); 49.20(a); 49.27(a)</p>	<p>A TR is required to establish transparent governance arrangements to, among other things, support the objectives of participants, which could be interpreted to mean the markets that it serves. However, a TR is not specifically required to have regard to offering a choice with regards to its operating structure and use of technology and procedures.</p>	
<p>2. <i>An FMI should have clearly defined goals and objectives that are measurable and achievable, such as in the areas of minimum service levels, risk-management expectations, and business priorities.</i></p>	<p>CEA Section 21(f)(2) CFTC regulations 17 C.F.R.: 43.3(f)-(g); 49.10(a)-(b); 49.20(a), (b)(2)(i)-(ii); 49.24(a)-(d); 49.27(a)</p>	<p>A TR is required to have a business continuity and a disaster recovery plan and resources which generally should enable resumption of the TR's operations and resumption of ongoing fulfilment of the TR's</p>	

		duties and obligations during the next business day following a disruption. However, a TR is not required to have clearly defined goals and objectives that are measurable and achievable, in the areas of minimum service levels, risk-management expectations, and business priorities.	
3. <i>An FMI should have established mechanisms for the regular review of its efficiency and effectiveness.</i>	CEA Sections 21(e)(1)-(3) CFTC regulations 17 C.F.R.: 49.20(a)(2), (c)(1)(i)(A)(3); 49.22(d), (e)(1)-(2); 49.24(j)	A TR is required to annually review the effectiveness of its policies and procedures. However, a TR is not required to regularly review its efficiency.	
Principle 22: Communication procedures and standards An FMI should use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, settlement, and recording.	<ul style="list-style-type: none"> 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 	Not consistent The implementation measures of the CFTC are not consistent with Principle 22. The overall rating has been influenced by the absence of measures or proposed measures implementing key consideration 1.	The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 1.
1. <i>An FMI should use, or at a minimum accommodate, internationally accepted communication procedures and standards.</i>	CFTC regulations 17 C.F.R. 49.10(a)	A TR is not required to use, or at a minimum accommodate, internationally accepted communication procedures and standards.	

<p>Principle 23: Disclosure of rules, key procedures, and market data</p> <p>An FMI should have clear and comprehensive rules and procedures and should provide sufficient information to enable participants to have an accurate understanding of the risks, fees, and other material costs they incur by participating in the FMI. All relevant rules and key procedures should be publicly disclosed.</p>	<ul style="list-style-type: none"> The CEA is available at the following link: http://www.house.gov/legcoun/Comps/COMEX_NE_W.pdf 17 C.F.R. 40 is available at the following link: http://www.ecfr.gov/cgi-bin/text-idx?SID=846ee813330f5df152d60db1c60b4e25&node=17:1.0.1.1.33&rgn=div5 17 C.F.R. 43 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=470d2004ef0ed95c2407dd26dc37af2b&n=17y2.0.1.1.3&r=PART&ty=HTML 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 	<p>Broadly consistent</p> <p>The implementation measures of the CFTC are broadly consistent with Principle 23. The overall rating has been influenced by gaps or shortcomings in the measures implementing key consideration 5.</p>	<p>The CFTC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 5.</p>
<p>1. <i>An FMI should adopt clear and comprehensive rules and procedures that are fully disclosed to participants. Relevant rules and key procedures should also be publicly disclosed.</i></p>	<p>CEA Section 1a(40), 5c(c)(1) – 5(A), 21(a)(1)(A), 21(a)(3)(A)(i)-(ii), 21(f)(2)</p> <p>CFTC regulations 17 C.F.R.: 40.1(i); 40.5(a), (b); 40.6(a)(2), (7), (8); 40.6(c)(1), (3); 40.8; 49.3(a)(1), (2), (4), (5); 49.8(a), (c); 49.20(a), (b); 49.22(g)(1)(i); 49.23(a); 49.26; and Appendix A to Part 49</p>		
<p>2. <i>An FMI should disclose clear descriptions of the system's design and operations, as well as the FMI's and participants' rights and obligations, so that participants can assess the risks they would incur by participating in the FMI.</i></p>	<p>CFTC regulations 17 C.F.R.: 49.20(b)(2)-(4); 49.26</p>		
<p>3. <i>An FMI should provide all necessary and appropriate documentation and training to facilitate participants' understanding of the FMI's rules and procedures and the risks they face from participating in the FMI.</i></p>	<p>CFTC regulations 17 C.F.R. 49.26</p>		

4. <i>An FMI should publicly disclose its fees at the level of individual services it offers as well as its policies on any available discounts. The FMI should provide clear descriptions of priced services for comparability purposes.</i>	CFTC regulations 17 C.F.R.: 49.26(h); 49.27(b)(1)-(2)		
5. <i>An FMI should complete regularly and disclose publicly responses to the CPSS-IOSCO Disclosure framework for financial market infrastructures. An FMI also should, at a minimum, disclose basic data on transaction volumes and values.</i>	CFTC regulations 17 C.F.R. 49.15	The CFTC has not implemented measures which require that TRs complete regularly and disclose publicly responses to the CPSS-IOSCO Disclosure framework for financial market infrastructures.	
<p>Principle 24: Disclosure of market data by trade repositories</p> <p>A TR should provide timely and accurate data to relevant authorities and the public in line with their respective needs.</p>	<ul style="list-style-type: none"> • The CEA is available at the following link: http://www.house.gov/legcoun/Comps/COMEX_NE_W.pdf • 17 C.F.R. 43 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=470d2004ef0ed95c2407dd26dc37af2b&n=17y2.0.1.1.3&r=PART&ty=HTML • 17 C.F.R. 45 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&r=PART&n=17y2.0.1.1.5 • 17 C.F.R. 49 is available at the following link: http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b869c925c838bbfb47e4a8adb078cd&n=17y2.0.1.1.8&r=PART&ty=HTML 	<p>Consistent</p> <p>The implementation measures of the CFTC are consistent with Principle 24.</p>	
1. <i>A TR should provide data in line with regulatory and industry expectations to relevant authorities and the public, respectively, that is comprehensive and at a level of detail sufficient to enhance market transparency and support other public policy objectives.</i>	CEA Section 2(a)(13)(A)-(D), 21(c) CFTC regulations 17 C.F.R.: 43.3(b)(2); 43.4(b); 45.2(f), (h); 49.12; 49.15; 49.17(c)(1)-(2); 49.9, and Appendix A to Part 43 and Appendix 1 to Part 45		

<p>2. <i>A TR should have effective processes and procedures to provide data to relevant authorities in a timely and appropriate manner to enable them to meet their respective regulatory mandates and legal responsibilities.</i></p>	<p>CEA Section 21(c)(4), 21(d) CFTC regulations 17 C.F.R.: 45.2(f), (h); 49.12; 49.17(b)(1)-(2), (c)(1)-(2), (d); 49.9; 49.18(b)</p>		
<p>3. <i>A TR should have robust information systems that provide accurate current and historical data. Data should be provided in a timely manner and in a format that permits it to be easily analysed.</i></p>	<p>CEA Section 21(c)(1)-4(a) CFTC regulations 17 C.F.R.: 45.2(f), 45.2(h), 45.13(a), 49.9, 49.10(a)(1), (c), (d); 49.11(a)-(b); 49.12(a)-(d); 49.13; 49.17(b)(1)-(2), (c)(1)-(2), (d); 49.18;</p>		

4.2.5 Security-based Swap Data Repositories

Implementation monitoring of Principles: Level 2 assessment report for the U.S. Securities and Exchange Commission’s Security-based Swap Data Repositories

Part 2: Implementation of the principles			
1. Text of applicable Principles and Key Considerations (KCs)³³	2. Implementation measures of the jurisdiction	3. Key conclusions for principles	4. Recommendations and comments
<p>Principle 1: Legal basis</p> <p>An FMI should have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.</p>	<ul style="list-style-type: none"> The Securities Exchange Act of 1934 (“Securities Exchange Act” or “Exchange Act” or “Act”) available at this link: http://www.sec.gov/about/laws/sea34.pdf; Proposed Rules 13n-1 to13n-11 contained in the SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf; Proposed Rule 13n-12 contained in the SEC Cross-Border Proposing Release available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf; and SEC Re-Proposed Reg SBSR available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. 	<p>Partly consistent</p> <p>The proposed implementation measures of the SEC are partly consistent with Principle 1. The overall rating has been influenced by the absence of measures or proposed measures implementing key consideration 5 and gaps or shortcomings in the proposed implementation measures for key considerations 1, 3 and 4.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1, 3, 4 and 5.</p>
<p>1. <i>The legal basis should provide a high degree of certainty for each material aspect of an FMI’s activities in all relevant jurisdictions.</i></p>	<p>Securities Exchange Act Sections: 3(a)(75); 3C(e); 13A(a)(1); 13(m)(1)(G); 13(n)(1); 13(n)(3)(A); 13(n)(5); 13(n)(7); 13(n)(8); 13(n)(9)</p>	<p>The Exchange Act describes the legal basis of TRs but it is not proposed that TRs be required to themselves have a legal basis that provides a high degree of certainty for each material aspect of the TR’s activities in all relevant jurisdictions.</p>	

³³ Only the relevant principles for TRs (as set forth in the Annex E of the PFMI) are included.

<p>2. <i>An FMI should have rules, procedures, and contracts that are clear, understandable, and consistent with relevant laws and regulations.</i></p>	<p>Securities Exchange Act Sections: 3(a)(75); 3C(e); 13A(a)(1); 13(m)(1)(G); 13(n)(1); 13(n)(3)(A); 13(n)(3)(B); 13(n)(5); 13(n)(7); 13(n)(8); 13(n)(9)</p> <p>SEC Proposed Rules: 13n-1(b); 13n-1(c)(3); 13n-4(b); 13n-4(c)(2)-(3); 13n-11(c); 13n-11(d)(1)</p> <p>Proposed Form SDR Exhibits, SEC SDR Proposing Release.</p> <p>SEC Re-Proposed Reg SBSR, Rule 907.</p> <p>Preamble to SEC SDR Proposing Release</p> <p>Preamble to SEC Cross-Border Proposing Release</p>		
<p>3. <i>An FMI should be able to articulate the legal basis for its activities to relevant authorities, participants, and, where relevant, participants' customers, in a clear and understandable way.</i></p>	<p>Securities Exchange Act Sections: 13(n)(6); 13(n)(7)(B)</p> <p>SEC Proposed Rules: 13n-10(b); 13n-11(d)(1)</p> <p>SEC Re-Proposed Reg SBSR, Rule 907(c)</p> <p>Proposed Form SDR Exhibits, SEC SDR Proposing Release.</p>	<p>TRs are required to disclose various aspects of their governance arrangements, but this does not include a requirement to articulate the legal basis for their activities.</p>	
<p>4. <i>An FMI should have rules, procedures, and contracts that are enforceable in all relevant jurisdictions. There should be a high degree of certainty that actions taken by the FMI under such rules and procedures will not be voided, reversed, or subject to stays.</i></p>	<p>Securities Exchange Act Sections: 13n-1(c)(3); 13n-4(c)(1)</p> <p>SEC Proposed Rules: 13n-4(c)(3); 13n-5(b); 13n-6(b); 13n-9(b)</p> <p>Preamble to SEC SDR Proposing Release</p>	<p>The proposed rules would require a TR to have policies and procedures, which must comply with the U.S. federal securities laws. TRs shall also not adopt any policies and procedures or take any action that results in an unreasonable restraint of trade or imposes any material anticompetitive burden on the trading, clearing, or reporting of transactions.</p> <p>In the proposed rule, each TR shall also establish and enforce written policies and procedures reasonably designed to minimize conflicts of interest in the decision-making process of the TR and establish a process for resolving any such conflicts of interest.</p>	

		However, while TRs are required to have rules that are compliant with the applicable provisions of the Exchange Act, they are not required to ensure that such rules (along with their procedures and contracts) are enforceable in all relevant jurisdictions. Furthermore, the rules, procedures and contracts of TRs are not required to ensure that actions taken by the TR will not be voided, reversed, or subject to stays.	
5. <i>An FMI conducting business in multiple jurisdictions should identify and mitigate the risks arising from any potential conflict of laws across jurisdictions.</i>	SEC Proposed Rule 13n-12 SEC Cross-Border Proposing Release	Although in practice TRs operating in multiple jurisdictions would need to address any conflicts of laws issues that arise under their own analysis, the SEC's proposed rules do not explicitly address conflict of laws across jurisdictions.	
Principle 2: Governance An FMI should have governance arrangements that are clear and transparent, promote the safety and efficiency of the FMI, and support the stability of the broader financial system, other relevant public interest considerations, and the objectives of relevant stakeholders.	<ul style="list-style-type: none"> • The Securities Exchange Act available at this link: http://www.sec.gov/about/laws/sea34.pdf; • SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf; • SEC Cross-Border Proposing Release available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf; and • SEC Re-Proposed Reg SBSR available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. 	Partly consistent The proposed implementation measures of the SEC are partly consistent with Principle 2. The overall rating has been influenced by the absence of measures or proposed measures implementing key consideration 6 and gaps or shortcomings in the proposed implementation measures for key considerations 1, 3, 4 and 7.	The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1, 3, 4, 6 and 7.

<p>1. <i>An FMI should have objectives that place a high priority on the safety and efficiency of the FMI and explicitly support financial stability and other relevant public interest considerations.</i></p>	<p>Securities Exchange Act Sections: 13(n)(5); 13(n)(7)(B); 13(n)(7)(D)(iii); 13n-1(c)(3); 13n-4(b); 13n-4(c)(2); 13n-6(b) Preamble to SEC SDR Proposing Release Preamble to SEC Cross-Border Proposing Release</p>	<p>The Exchange Act and the implementation measures of the SEC prescribe requirements with regards to the governance arrangements of a TR and the need for such arrangements to support public interest requirements, but it is not specifically proposed that TRs have objectives that place a high priority on the safety and efficiency of the TR and that explicitly support financial stability.</p>	
<p>2. <i>An FMI should have documented governance arrangements that provide clear and direct lines of responsibility and accountability. These arrangements should be disclosed to owners, relevant authorities, participants, and, at a more general level, the public.</i></p>	<p>Securities Exchange Act Sections: 13(n)(7)(B) SEC Proposed Rules: 13n-4(c)(2); 13n-7(a)(2); 13n-10(b)(9) Proposed Form SDR Exhibits, SEC SDR Proposing Release Preamble to SEC SDR Proposing Release</p>		
<p>3. <i>The roles and responsibilities of an FMI's board of directors (or equivalent) should be clearly specified, and there should be documented procedures for its functioning, including procedures to identify, address, and manage member conflicts of interest. The board should review both its overall performance and the performance of its individual board members regularly.</i></p>	<p>Securities Exchange Act Sections: 13(n)(7)(B)-(C); SEC Proposed Rules: 13n-4(c)(2)-(3); 13n-11(d)(2) Proposed Form SDR Exhibits, SEC SDR Proposing Release Preamble to SEC SDR Proposing Release</p>	<p>It is proposed that TRs be required to have well-defined governance arrangements, including regarding the roles and responsibilities for its board of directors and written policies and procedures, including with respect to conflicts of interest. However, it is not proposed that a TR be required to review its performance and that of its individual members annually.</p>	

<p>4. <i>The board should contain suitable members with the appropriate skills and incentives to fulfil its multiple roles. This typically requires the inclusion of non-executive board member(s).</i></p>	<p>SEC Proposed Rule 13n-4(c)(2) Preamble to SEC SDR Proposing Release</p>	<p>It is proposed that TRs be required to have a board with the requisite skills and expertise. However, it is not proposed that the board is required to have incentives to fulfill their multiple roles or that the board have non-executive board members.</p>	
<p>5. <i>The roles and responsibilities of management should be clearly specified. An FMI's management should have the appropriate experience, a mix of skills, and the integrity necessary to discharge their responsibilities for the operation and risk management of the FMI.</i></p>	<p>SEC Proposed Rule 13n-4(c)(2) Proposed Form SDR Exhibits, SEC SDR Proposing Release</p>		
<p>6. <i>The board should establish a clear, documented risk-management framework that includes the FMI's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decision making in crises and emergencies. Governance arrangements should ensure that the risk-management and internal control functions have sufficient authority, independence, resources, and access to the board.</i></p>	<p>Securities Exchange Act Section 13(n)(7)(B) SEC Proposed Rules: 13n-4(c)(2); 13n-6(b); 13n-4(b)(11); 13n-11(a); 13n-11(b); 13n-11(c); 13n-11(f) Preamble to SEC SDR Proposing Release Preamble to Proposed Reg SCI, available at the following link: http://www.sec.gov/rules/proposed/2013/34-69077.pdf</p>	<p>It is not proposed that TRs be required to establish a clear, documented risk-management framework that includes the TR's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decision making in crises and emergencies.</p> <p>It is not proposed that TRs be required to have governance arrangements which ensure that the risk-management and internal control functions have sufficient authority, independence, resources, and access to the board.</p>	

<p>7. <i>The board should ensure that the FMI's design, rules, overall strategy, and major decisions reflect appropriately the legitimate interests of its direct and indirect participants and other relevant stakeholders. Major decisions should be clearly disclosed to relevant stakeholders and, where there is a broad market impact, the public.</i></p>	<p>Securities Exchange Act Section 13(n)(7)(B) SEC Proposed Rules 13n-4(c)(2); 13n-8; 13n-10 SEC Re-Proposed Reg SBSR, Rule 907 Proposed Form SDR Exhibits, SEC SDR Proposing Release Preamble to SDR SDR Proposing Release</p>	<p>It is proposed that TRs be required to have governance arrangements that are transparent, and support the objectives of the Government, owners and participants.</p> <p>It is not specifically proposed that TRs be required to consider the interests of indirect participants and other stakeholders, but this requirement of the key considerations is broadly addressed in the other categories of interests that a TR's governance arrangements are required to consider.</p> <p>It is not proposed that TRs be required to disclose major decisions to relevant stakeholders and, where there is a broad market impact, the public.</p>	
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<p>Principle 3: Framework for the comprehensive management of risks</p> <p>An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.</p>	<ul style="list-style-type: none"> • The Securities Exchange Act available at this link: http://www.sec.gov/about/laws/sea34.pdf; • SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf; • SEC Cross-Border Proposing Release available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf; and • SEC Re-Proposed Reg SBSR available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. 	<p>Partly consistent</p> <p>The proposed implementation measures of the SEC are partly consistent with Principle 3. The overall rating has been influenced by the absence of measures or proposed measures implementing key considerations 3 and 4, and gaps or shortcomings in the proposed implementation measures for key consideration 1.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1, 3 and 4.</p>
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<p>1. <i>An FMI should have risk-management policies, procedures, and systems that enable it to identify, measure, monitor, and manage the range of risks that arise in or are borne by the FMI. Risk-management frameworks should be subject to periodic review.</i></p>	<p>Securities Exchange Act Sections: 13(n)(5)(E); 13(n)(6); 13n-6(b) SEC Proposed Rules: 13n-6(b)(1)-(2); 13n-8; 13n-11 Preamble to Proposed Reg SCI, available at the following link: http://www.sec.gov/rules/proposed/2013/34-69077.pdf Preamble to SEC SDR Proposing Release</p>	<p>It is proposed that every TR, with respect to those systems that support or are integrally related to the performance of its activities, be required to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems provide adequate levels of capacity, resiliency, and security.</p> <p>While a TR is required to submit its systems and performance to annual review, it is not proposed that the risk management frameworks of a TR specifically be specifically subject to periodic review, which is the PFMI requirement.</p>	
<p>2. <i>An FMI should provide incentives to participants and, where relevant, their customers to manage and contain the risks they pose to the FMI.</i></p>	<p>Securities Exchange Act Sections: 13(m)(1); 13(n)(5) SEC Proposed Rule: 13n-4(b)(2)-(3); 13n-4(c)(1); 13n-5(b) SEC Re-Proposed Reg SBSR, Rules 905(b); 906; 907 Preamble to SEC SDR Proposing Release Preamble to SEC Cross-Border Proposing Release</p>		
<p>3. <i>An FMI should regularly review the material risks it bears from and poses to other entities (such as other FMIs, settlement banks, liquidity providers, and service providers) as a result of interdependencies and develop appropriate risk-management tools to address these risks.</i></p>	<p>Securities Exchange Act Section 13(n)(6) SEC Proposed Rules: 13n-6(b); 13n-11 SEC Re-Proposed Reg SBSR, Rule 907</p>	<p>It is not proposed that a TR be required to regularly review the material risks it bears from and poses to other entities (such as other FMIs, settlement banks, liquidity providers, and service providers) as a result of interdependencies and develop appropriate risk-management tools to address these risks.</p>	

<p>4. <i>An FMI should identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. An FMI should prepare appropriate plans for its recovery or orderly wind-down based on the results of that assessment. Where applicable, an FMI should also provide relevant authorities with the information needed for purposes of resolution planning.</i></p>	<p>SEC Proposed Rules: 13n-6(b); 13n-5(b)(7)-(8); 13n-11(f)(4)</p>	<p>It is not proposed that a TR be required to identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for recovery or orderly wind-down. It is not proposed that a TR prepare appropriate plans for its recovery or orderly wind-down based on the results of that assessment. It is not proposed that a TR provide relevant authorities with the information needed for purposes of resolution planning.</p>	
<p>Principle 15: General business risk An FMI should identify, monitor, and manage its general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that it can continue operations and services as a going concern if those losses materialise. Further, liquid net assets should at all times be sufficient to ensure a recovery or orderly wind-down of critical operations and services.</p>	<ul style="list-style-type: none"> • The Securities Exchange Act available at this link: http://www.sec.gov/about/laws/sea34.pdf; and • The SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf. 	<p>Not consistent</p> <p>The proposed implementation measures of the SEC are not consistent with Principle 15. The overall rating has been influenced by the absence of measures or proposed measures implementing any relevant key consideration.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified for all relevant key considerations.</p>
<p>1. <i>An FMI should have robust management and control systems to identify, monitor, and manage general business risks, including losses from poor execution of business strategy, negative cash flows, or unexpected and excessively large operating expenses.</i></p>	<p>Securities Exchange Act Section 13(n)(5)(E) SEC Proposed Rules: 13n-4(c)(2); 13n-6(b); 13n-11(f).</p>	<p>TRs are not required to have management and control systems to identify, monitor, and manage general business risks.</p>	

<p>2. <i>An FMI should hold liquid net assets funded by equity (such as common stock, disclosed reserves, or other retained earnings) so that it can continue operations and services as a going concern if it incurs general business losses. The amount of liquid net assets funded by equity an FMI should hold should be determined by its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken.</i></p>	<p>SEC Proposed Rule 13n-11(f) Proposed Form SDR Exhibits, SEC SDR Proposing Release</p>	<p>It is not proposed that TRs be required to hold liquid net assets funded by equity specifically so that they can continue operations and services as a going concern if they incur general business losses.</p>	
<p>3. <i>An FMI should maintain a viable recovery or orderly wind-down plan and should hold sufficient liquid net assets funded by equity to implement this plan. At a minimum, an FMI should hold liquid net assets funded by equity equal to at least six months of current operating expenses. These assets are in addition to resources held to cover participant defaults or other risks covered under the financial resources principles. However, equity held under international risk-based capital standards can be included where relevant and appropriate to avoid duplicate capital requirements.</i></p>	<p>SEC Proposed Rule 13n-5(b)(7)-(8)</p>	<p>It is not proposed that a TR be required to maintain a viable recovery or orderly wind-down plan or hold sufficient liquid net assets funded by equity to implement this plan. It is not proposed to be required that at a minimum a TR hold liquid net assets funded by equity equal to at least six months of current operating expenses.</p>	
<p>4. <i>Assets held to cover general business risk should be of high quality and sufficiently liquid in order to allow the FMI to meet its current and projected operating expenses under a range of scenarios, including in adverse market conditions.</i></p>	<p>SEC Proposed Rule 13n-11(f)</p>	<p>It is not proposed that the assets held by a TR to cover general business risk are of high quality and sufficiently liquid in order to allow the TR to meet its current and projected operating expenses under a range of scenarios, including in adverse market conditions.</p>	
<p>5. <i>An FMI should maintain a viable plan for raising additional equity should its equity fall close to or below the amount needed. This plan should be approved by the board of directors and updated regularly.</i></p>	<p>Securities Exchange Act Section 13(n)(7)(B) SEC Proposed Rule 13n-4(c)(2)</p>	<p>It is not proposed that a TR be required to maintain a viable plan for raising additional equity should its equity fall close to or below the amount needed.</p>	

<p>Principle 17: Operational risk An FMI should identify the plausible sources of operational risk, both internal and external, and mitigate their impact through the use of appropriate systems, policies, procedures, and controls. Systems should be designed to ensure a high degree of security and operational reliability and should have adequate, scalable capacity. Business continuity management should aim for timely recovery of operations and fulfilment of the FMI’s obligations, including in the event of a wide-scale or major disruption.</p>	<ul style="list-style-type: none"> • The Securities Exchange Act available at this link: http://www.sec.gov/about/laws/sea34.pdf; • SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf; and • SEC Re-Proposed Reg SBSR available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. 	<p>Partly consistent</p> <p>The proposed implementation measures of the SEC are partly consistent with Principle 17. The overall rating has been influenced by the absence of measures or proposed measures implementing key considerations 2 and 6, and gaps or shortcomings in the proposed implementation measures for key considerations 1, 3 and 7.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 1, 2, 3, 6 and 7.</p>
<p>1. <i>An FMI should establish a robust operational risk-management framework with appropriate systems, policies, procedures, and controls to identify, monitor, and manage operational risks.</i></p>	<p>Securities Exchange Act Sections: 13(n)(5)(E); 13(n)(6) SEC Proposed Rules: 13n-4(b); 13n-5(b)(1)(i); 13n-5(b)(1)(iii); 13n-5(b)(2); 13n-5(b)(3); 13n-5(b)(5); 13n-6(b) SEC Re-Proposed Reg SBSR, Rules 905(b); 907(e) SEC SDR Proposing Release Preamble to Proposed Reg SCI, available at the following link: http://www.sec.gov/rules/proposed/2013/34-69077.pdf Preamble to SEC SDR Proposing Release</p>	<p>It is proposed that a TR be required to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems provide adequate levels of capacity, resiliency, and security. Although the operational risk-management framework is not explicitly mentioned, it is proposed that a TR be required to establish a robust framework with appropriate systems, policies, procedures, and controls to identify, monitor, and manage operational risks.</p>	
<p>2. <i>An FMI’s board of directors should clearly define the roles and responsibilities for addressing operational risk and should endorse the FMI’s operational risk-management framework. Systems, operational policies, procedures, and controls should be reviewed, audited, and tested periodically and after significant changes.</i></p>	<p>SEC Proposed Rule 13n-4(c)(2)(iv)</p>	<p>It is not proposed that a TR’s board be required to clearly define the roles and responsibilities for addressing operational risk and endorse the TR’s operational risk-management framework. It is also not proposed that a TR’s</p>	

		systems, operational policies, procedures, and controls should be reviewed, audited, and tested periodically and after significant changes.	
3. <i>An FMI should have clearly defined operational reliability objectives and should have policies in place that are designed to achieve those objectives.</i>	Securities Exchange Act Section 13(n)(5)(E) SEC Proposed Rule 13n-6(b) SEC Re-Proposed Reg SBSR, Rule 904; 907(e) Proposed Form SDR Exhibits, SEC SDR Proposing Release Preamble to Proposed Reg SCI, available at the following link: http://www.sec.gov/rules/proposed/2013/34-69077.pdf Preamble to SEC SDR Proposing Release	It is proposed that a TR have systems in place to continuously receive and disseminate information regarding security-based swaps. However, it is not specifically proposed that a TR be required to have clearly defined operational reliability objectives and should have policies in place that are designed to achieve those objectives.	
4. <i>An FMI should ensure that it has scalable capacity adequate to handle increasing stress volumes and to achieve its service-level objectives.</i>	SEC Proposed Rule 13n-6(b) Proposed Form SDR Exhibits, SEC SDR Proposing Release		
5. <i>An FMI should have comprehensive physical and information security policies that address all potential vulnerabilities and threats.</i>	Securities Exchange Act Section 13(n)(2) SEC Proposed Rules: 13n-4(b); 13n-6(a)(1); 13n-6(b); 13n-7(c); 13n-9 Proposed Form SDR Exhibits, SEC SDR Proposing Release Preamble to SEC SDR Proposing Release		
6. <i>An FMI should have a business continuity plan that addresses events posing a significant risk of disrupting operations, including events that could cause a wide-scale or major disruption. The plan should incorporate the use of a secondary site and should be designed to ensure that critical information technology (IT) systems can resume operations within two hours following disruptive events. The plan should be</i>	SEC Proposed Rule 13n-6(b) Proposed Form SDR Exhibits, SEC SDR Proposing Release	It is proposed that a TR be required to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems provide adequate levels of capacity, resiliency, and security. However, it is not proposed that a TR be required to have a	

<p><i>designed to enable the FMI to complete settlement by the end of the day of the disruption, even in case of extreme circumstances. The FMI should regularly test these arrangements.</i></p>		<p>business continuity plan that addresses events posing a significant risk of disrupting operations, including events that could cause a wide-scale or major disruption.</p> <p>It is not proposed that a TR incorporate the use of a secondary site or be designed to ensure that critical information technology systems can resume operations within two hours following disruptive events.</p> <p>It is not proposed that a TR be designed to complete recording by the end of the day of the disruption, even in case of extreme circumstances, or that the TR regularly test these arrangements.</p>	
<p>7. <i>An FMI should identify, monitor, and manage the risks that key participants, other FMIs, and service and utility providers might pose to its operations. In addition, an FMI should identify, monitor, and manage the risks its operations might pose to other FMIs.</i></p>	<p>Securities Exchange Act Section 13(n)(5) SEC Proposed Rules: 13n-6(b); 13n-9(b) SEC Re-Proposed Reg SBSR, Rules 902; 906 Preamble to SEC SDR Proposing Release</p>	<p>It is not proposed that a TR be required to identify, monitor, and manage the risks that key participants, other FMIs, and service and utility providers might pose to its operations. In addition, it is not proposed that a TR identify, monitor, and manage the risks its operations might pose to other FMIs.</p>	

<p>Principle 18: Access and participation requirements</p> <p>An FMI should have objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access.</p>	<ul style="list-style-type: none"> • The Securities Exchange Act available at this link: http://www.sec.gov/about/laws/sea34.pdf; • SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf; • SEC Cross-Border Proposing Release available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf; and • SEC Re-Proposed Reg SBSR available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. 	<p>Partly consistent</p> <p>The proposed implementation measures of the SEC are partly consistent with Principle 18. The overall rating has been influenced by the absence of measures or proposed measures implementing key consideration 3 and gaps or shortcomings in the proposed implementation measures for key consideration 2.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key considerations 2 and 3.</p>
<p>1. <i>An FMI should allow for fair and open access to its services, including by direct and, where relevant, indirect participants and other FMIs, based on reasonable risk-related participation requirements.</i></p>	<p>Securities Exchange Act Section 13(n)(7)(A) SEC Proposed Rule 13n-4(c)</p>		
<p>2. <i>An FMI's participation requirements should be justified in terms of the safety and efficiency of the FMI and the markets it serves, be tailored to and commensurate with the FMI's specific risks, and be publicly disclosed. Subject to maintaining acceptable risk control standards, an FMI should endeavour to set requirements that have the least-restrictive impact on access that circumstances permit.</i></p>	<p>SEC Proposed Rule: 13n-4(c); 13n-10(b) SEC Re-Proposed Reg SBSR, Rule 907 Proposed Form SDR Exhibits, SEC SDR Proposing Release Preamble to SEC SDR Proposing Release Preamble to SEC Cross-Border Proposing Release</p>	<p>It is proposed that a TR be prevented from having participation requirements that are an unreasonable restraint on trade or anticompetitive.</p> <p>However, it is not proposed that the participation requirements of a TR be required to be justified in terms of the safety and efficiency of the FMI and the markets it serves, or be tailored to and commensurate with the TR's specific risks.</p> <p>It is also not proposed that a TR be specifically required to have membership requirements that have the least-restrictive impact on access that circumstances permit.</p>	

<p>3. <i>An FMI should monitor compliance with its participation requirements on an ongoing basis and have clearly defined and publicly disclosed procedures for facilitating the suspension and orderly exit of a participant that breaches, or no longer meets, the participation requirements.</i></p>	<p>Securities Exchange Act Section 13(n)(6) SEC Proposed Rule 13n-4(c)(iii); 13n-10(b); 13n-11 SEC Re-Proposed Reg SBSR, Rules 906; 907(c); 907(e)</p>	<p>It is not proposed that a TR be required to monitor compliance with its participation requirements on an ongoing basis or have clearly defined and publicly disclosed procedures for facilitating the suspension and orderly exit of a participant that breaches, or no longer meets, the participation requirements.</p>	
<p>Principle 19: Tiered participation arrangements An FMI should identify, monitor, and manage the material risks to the FMI arising from tiered participation arrangements.</p>	<ul style="list-style-type: none"> • SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf; • SEC Cross-Border Proposing Release available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf; and • SEC Re-Proposed Reg SBSR available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. 	<p>Not consistent The proposed implementation measures of the SEC are not consistent with Principle 19. The overall rating has been influenced by the absence of measures or proposed measures implementing any relevant key consideration.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified for all relevant key considerations.</p>
<p>1. <i>An FMI should ensure that its rules, procedures, and agreements allow it to gather basic information about indirect participation in order to identify, monitor, and manage any material risks to the FMI arising from such tiered participation arrangements.</i></p>	<p>SEC Re-Proposed Reg SBSR, Rules 906; 907</p>	<p>It is proposed that TRs receive basic information about direct participants and information about the parent and affiliate entities of direct participants. However, it is not proposed that a TR be specifically required to have rules, procedures, and agreements that allow it to gather basic information about indirect participation in order to identify, monitor, and manage any material risks to the TR arising from such tiered participation arrangements.</p>	

<p>2. <i>An FMI should identify material dependencies between direct and indirect participants that might affect the FMI.</i></p>	<p>SEC Re-Proposed Reg SBSR, Rules 906; 907</p>	<p>It is proposed that TRs receive basic information about direct participants and information about the parent and affiliate entities of direct participants. However, it is not proposed that a TR be required to identify material dependencies between direct and indirect participants that might affect the TR.</p>	
<p>3. <i>An FMI should identify indirect participants responsible for a significant proportion of transactions processed by the FMI and indirect participants whose transaction volumes or values are large relative to the capacity of the direct participants through which they access the FMI in order to manage the risks arising from these transactions.</i></p>	<p>SEC Re-Proposed Reg SBSR, Rules 901(e); 906; 907 Preamble to SEC SDR Proposing Release Preamble to SEC Cross-Border Proposing Release</p>	<p>It is proposed that TRs receive basic information about direct participants and information about the parent and affiliate entities of direct participants. However, it is not proposed that a TR be required to identify indirect participants responsible for a significant proportion of transactions processed by the TR or to identify indirect participants whose transaction volumes or values are large relative to the capacity of the direct participants through which they access the TR in order to manage the risks arising from these transactions.</p>	
<p>4. <i>An FMI should regularly review risks arising from tiered participation arrangements and should take mitigating action when appropriate.</i></p>	<p>SEC Proposed Rule 13n-6(b) SEC Re-Proposed Reg SBSR, Rules 906; 907</p>	<p>It is proposed that TRs receive basic information about direct participants and information about the parent and affiliate entities of direct participants. However, it is not proposed that a TR be required to consider risks arising from tiered participation arrangements and take mitigating action when appropriate.</p>	

<p>Principle 20: FMI links An FMI that establishes a link with one or more FMIs should identify, monitor, and manage link-related risks.</p>	<ul style="list-style-type: none"> • The Securities Exchange Act available at this link: http://www.sec.gov/about/laws/sea34.pdf; and • SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf. 	<p>Not consistent</p> <p>The proposed implementation measures of the SEC are not consistent with Principle 20. The overall rating has been influenced by the absence of measures or proposed measures implementing any relevant key consideration.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified for all relevant key considerations.</p>
<p>1. <i>Before entering into a link arrangement and on an ongoing basis once the link is established, an FMI should identify, monitor, and manage all potential sources of risk arising from the link arrangement. Link arrangements should be designed such that each FMI is able to observe the other principles in this report.</i></p>	<p>Securities Exchange Act Sections: 13(n)(5); 13(n)(6) SEC Proposed Rules: 13n-6(b); 13n-9(b); 13n-11 Preamble to Proposed Reg SCI, available at the following link: http://www.sec.gov/rules/proposed/2013/34-69077.pdf</p>	<p>It is proposed that a TR establish automated systems for monitoring, screening and analyzing data reported to it and that TRs establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems provide adequate levels of capacity, resiliency, and security. However, it is not proposed that before entering into a link arrangement, and on an ongoing basis once the link is established, a TR be required to identify, monitor, and manage all potential sources of risk arising from the link arrangement. It is not proposed that link arrangements be required to be designed such that a TR is able to observe the other PFMIs.</p>	

<p>2. <i>A link should have a well-founded legal basis, in all relevant jurisdictions, that supports its design and provides adequate protection to the FMIs involved in the link.</i></p>	<p>Securities Exchange Act Section 13(n)(7)(A) SEC Proposed Rules: 13n-4(c)(1)(iii); 13n-6; 13n-9(b); 13n-11</p>	<p>It is proposed that a TR establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems provide adequate levels of capacity, resiliency, and security. However, it is not proposed that link arrangements be required to have a well-founded legal basis, in all relevant jurisdictions, that supports its design and provides adequate protection to the TRs involved in the link.</p>	
<p>9. <i>A TR should carefully assess the additional operational risks related to its links to ensure the scalability and reliability of IT and related resources.</i></p>	<p>SEC Proposed Rule 13n-6 Proposed Form SDR Exhibits, SEC SDR Proposing Release</p>	<p>It is proposed that a TR establish automated systems for monitoring, screening and analyzing data reported to it and that TRs establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems provide adequate levels of capacity, resiliency, and security. However, it is not proposed that a TR be required to carefully assess the additional operational risks related to its links to ensure the scalability and reliability of IT and related resources.</p>	

<p>Principle 21: Efficiency and effectiveness An FMI should be efficient and effective in meeting the requirements of its participants and the markets it serves.</p>	<ul style="list-style-type: none"> • The Securities Exchange Act available at this link: http://www.sec.gov/about/laws/sea34.pdf; • SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf; and • SEC Re-Proposed Reg SBSR available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. 	<p>Partly consistent</p> <p>The proposed implementation measures of the SEC are partly consistent with Principle 21. The overall rating has been influenced by gaps or shortcomings in the proposed implementation measures for key considerations 1, 2 and 3.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified for all relevant key considerations.</p>
<p>1. <i>An FMI should be designed to meet the needs of its participants and the markets it serves, in particular, with regard to choice of a clearing and settlement arrangement; operating structure; scope of products cleared, settled, or recorded; and use of technology and procedures.</i></p>	<p>Securities Exchange Act Sections: 13(m)(1)(E); 13(n)(7)(A)-(B); 13n-1(c)(3); 13n-4(c)</p> <p>SEC Re-Proposed Reg SBSR, Rules 903; 904; 905(b); 907</p> <p>SEC Proposed Rules 13n-4(b); 13n-5; 13n-6</p>	<p>It is proposed that a TR be required to support the objectives of participants, which could be interpreted to mean the markets that it serves. However, a TR is not specifically required to have regard to offering a choice with regard to its operating structure, scope of products recorded, and use of technology and procedures.</p>	
<p>2. <i>An FMI should have clearly defined goals and objectives that are measurable and achievable, such as in the areas of minimum service levels, risk-management expectations, and business priorities.</i></p>	<p>SEC Proposed Rules: 13n-4(c)(1); 13n-4(c)(3); 13n-5(b)(6); 13n-6(b); 13n-9(b)</p> <p>SEC Re-Proposed Reg SBSR, Rules: 902; 904; 905; 907</p> <p>Preamble to SEC SDR Proposing Release</p>	<p>A TR is required to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems provide adequate levels of capacity, resiliency, and security. However, it is not proposed that a TR be required to have clearly defined goals and objectives that are measurable and achievable, such as in the areas of minimum service levels, risk-management expectations, and business priorities.</p>	

<p>3. <i>An FMI should have established mechanisms for the regular review of its efficiency and effectiveness.</i></p>	<p>Securities Exchange Act Section 13(n)(6) SEC Proposed Rules: 13n-5(b)(1)(iii)-(iv); 13n-5(b)(3); 13n-6(b)(1); 13n-11 SEC Re-Proposed Reg SBSR, Rules: 906; 907(d)</p>	<p>The SEC has not implemented, or proposed to implement, measures which explicitly require that a TR regularly review its efficiency and effectiveness.</p>	
<p>Principle 22: Communication procedures and standards An FMI should use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, settlement, and recording.</p>	<ul style="list-style-type: none"> SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf; and Re-Proposed Reg SBSR available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. 	<p>Not consistent The proposed implementation measures of the SEC are not consistent with Principle 22. The overall rating has been influenced by the absence of measures or proposed measures implementing key consideration 1.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 1.</p>
<p>1. <i>An FMI should use, or at a minimum accommodate, internationally accepted communication procedures and standards.</i></p>	<p>SEC Re-Proposed Reg SBSR, Rules: 900(nn); 903; 907(a) Preamble to SEC SDR Proposing Release</p>	<p>It is not proposed that a TR be required to use, or at a minimum accommodate, internationally accepted communication procedures and standards.</p>	
<p>Principle 23: Disclosure of rules, key procedures, and market data An FMI should have clear and comprehensive rules and procedures and should provide sufficient information to enable participants to have an accurate understanding of the risks, fees, and other material costs they incur by participating in the FMI. All relevant rules and key procedures should be publicly disclosed.</p>	<ul style="list-style-type: none"> SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf; SEC Cross-Border Proposing Release available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf; and SEC Re-Proposed Reg SBSR available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. 	<p>Broadly consistent The proposed implementation measures of the SEC are broadly consistent with Principle 23. The overall rating has been influenced by gaps or shortcomings in the proposed implementation measures for key consideration 5.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 5.</p>
<p>1. <i>An FMI should adopt clear and comprehensive rules and procedures that are fully disclosed to participants. Relevant rules and key procedures should also be publicly disclosed.</i></p>	<p>SEC Proposed Rule 13n-10(b)</p>		

	SEC Re-Proposed Reg SBSR, Rule 907		
2. <i>An FMI should disclose clear descriptions of the system's design and operations, as well as the FMI's and participants' rights and obligations, so that participants can assess the risks they would incur by participating in the FMI.</i>	SEC Proposed Rule 13n-10(b)		
3. <i>An FMI should provide all necessary and appropriate documentation and training to facilitate participants' understanding of the FMI's rules and procedures and the risks they face from participating in the FMI.</i>	SEC Proposed Rules: 13n-5(b)(6); 13n-6; 13n-9(b)(1); 13n-10(b) SEC Re-Proposed Reg SBSR, Rule 907 SEC Cross-Border Proposing Release Preamble to SEC SDR Proposing Release		
4. <i>An FMI should publicly disclose its fees at the level of individual services it offers as well as its policies on any available discounts. The FMI should provide clear descriptions of priced services for comparability purposes.</i>	SEC Proposed Rule 13n-10(b)		
5. <i>An FMI should complete regularly and disclose publicly responses to the CPSS-IOSCO Disclosure framework for financial market infrastructures. An FMI also should, at a minimum, disclose basic data on transaction volumes and values.</i>	SEC Proposed Rules: 13n-8; 13n-10(b) SEC Re-Proposed Reg SBSR, Rule 902 Exhibits to Proposed Form SDR; SEC SDR Proposing Release.	Although some descriptions in the current and proposed regulations meet the requirements of the CPSS-IOSCO Disclosure framework for financial market infrastructures, the SEC has not implemented, or proposed to implement, measures which require disclosure based on the CPSS-IOSCO Disclosure framework.	

<p>Principle 24: Disclosure of market data by trade repositories</p> <p>A TR should provide timely and accurate data to relevant authorities and the public in line with their respective needs.</p>	<ul style="list-style-type: none"> • The Securities Exchange Act available at this link: http://www.sec.gov/about/laws/sea34.pdf; • SEC SDR Proposing Release available at this link: http://www.sec.gov/rules/proposed/2010/34-63347.pdf; and • SEC Re-Proposed Reg SBSR available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. • SEC Cross-Border Proposing Release available at this link: http://www.sec.gov/rules/proposed/2013/34-69490.pdf. 	<p>Consistent</p> <p>The proposed implementation measures of the SEC are consistent with the headline standard in Principle 24; some elements of key consideration 3, however, were not included explicitly in the proposed rulemaking.</p>	<p>The SEC is recommended to implement measures which address the gaps or inconsistencies identified, specifically those related to key consideration 3.</p>
<p>1. <i>A TR should provide data in line with regulatory and industry expectations to relevant authorities and the public, respectively, that is comprehensive and at a level of detail sufficient to enhance market transparency and support other public policy objectives.</i></p>	<p>Securities Exchange Act Sections: 13(m)(1)(D)-(E); 13(n)(5) SEC Proposed Rules: 13n-4(a)(5); 13n-4(b) Preamble to SEC Cross-Border Proposing Release</p>		
<p>2. <i>A TR should have effective processes and procedures to provide data to relevant authorities in a timely and appropriate manner to enable them to meet their respective regulatory mandates and legal responsibilities.</i></p>	<p>Securities Exchange Act Sections: 13(n)(5)(G)-(H) SEC Proposed Rules: 13n-4(b)(9)-(10);13n-8 SEC Re-Proposed Reg SBSR, Rule 907. Preamble to SEC Cross-Border Proposing Release</p>		

<p>3. <i>A TR should have robust information systems that provide accurate current and historical data. Data should be provided in a timely manner and in a format that permits it to be easily analysed.</i></p>	<p>Securities Exchange Act Sections: 13(n)(5) SEC Proposed Rules: 13n-4(b)(3); 13n-4(b)(7)-(8); 13n-5(b)(3)-(5); 13n-6; 13n-8 SEC Re-Proposed Reg SBSR, Rules 905(b); 906; 909</p>	<p>TRs are required to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that the transaction data and positions that it maintains are accurate and that data are maintained in a format that is robust. It is proposed that TRs be required to have automated systems for monitoring, screening, and analysing security-based swap data. TRs are required to be capable of accepting data provided in accordance with mandatory trade reporting timeframes.</p> <p>However, a TR is not specifically required to provide data to all relevant authorities in a timely manner and in a format that permits it to be easily analysed.</p>	
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Annex A: List of abbreviations

AM	Assessment methodology
AT	Assessment Team
CA	Clearing Agency
CCA	Covered Clearing Agency
CCP	Central counterparty
CFTC	Commodity Futures Trading Commission
CEA	Commodity Exchange Act
CPMI	Committee on Payments and Market Infrastructures
CPSS	Committee on Payment and Settlement Systems
DCO	Derivatives Clearing Organization
Exchange Act	Securities Exchange Act of 1934
FMI	Financial Market Infrastructure
FMU	Financial Market Utility
FSOC	Financial Stability Oversight Council
IMTF	Implementation Monitoring Task Force
IOSCO	International Organization of Securities Commissions
L1	Level 1
L2	Level 2
L3	Level 3
OTC	Over the counter
PFMIs	<i>Principles for Financial Market Infrastructures</i>
PSR	Payment System Risk
SBSDR	Security based Swap Data Repository
SDR	Swap Data Repository
SEC	Securities and Exchange Commission
SIDCO	Systemically Important Derivatives Clearing Organization
TR	Trade repository
US	United States

Annex B: Reference documents

CPSS-IOSCO, *Principles for financial market infrastructures*, April 2012
<http://www.bis.org/publ/cpss101a.pdf>

CPSS-IOSCO, *Principles for financial market infrastructures: disclosure framework and assessment methodology*, December 2012
<http://www.bis.org/publ/cpss106.pdf>

CPSS-IOSCO, *Implementation monitoring of PFMI: First update to Level 1 assessment report*, May 2014
<http://www.bis.org/publ/cpss117.pdf>

CPSS-IOSCO, *Implementation monitoring of PFMI – Level 1 assessment report*, August 2013
<http://www.bis.org/publ/cpss111.pdf>

Bloomberg, *Bloomberg Swap Data Repository Rulebook*, January 2014
<http://www.cftc.gov/stellent/groups/public/@otherif/documents/ifdocs/bsdrrulebook011414.pdf>

Board of Governors of the Federal Reserve, *Regulation HH*, January 2014
<http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-00682.pdf>

Board of Governors of the Federal Reserve, *Federal Reserve Policy on Payment System Risk*, January 2014
<http://www.gpo.gov/fdsys/pkg/FR-2014-01-16/pdf/2014-00681.pdf>

CFTC, *Code of Federal Regulations (CFR), Title 17 Chapter 1* (CFTC regulations), July 2014
http://www.ecfr.gov/cgi-bin/text-idx?SID=2ed6cb4f87f8320c844139f05049281d&tpl=/ecfrbrowse/Title17/17tab_02.tpl

CFTC, *Commodity Exchange Act (CEA)*, April 2012
http://www.house.gov/legcoun/Comps/COMEX_NEW.pdf

CFTC, *Swap Data Repositories: Registration Standards, Duties and Core Principles*, September 2011
<http://www.cftc.gov/ucm/groups/public/@lfederalregister/documents/file/2011-20817a.pdf>

CFTC, *Derivatives Clearing Organizations and International Standards* (Part 39, subpart C), December 2013
<http://www.gpo.gov/fdsys/pkg/FR-2013-12-02/pdf/2013-27849.pdf>

CME, *SDR Rulebook*, July 2014
<http://www.cmegroup.com/market-data/files/cme-sdr-rulebook-c.pdf>

DTCC, *DTCC Data Repository Rulebook*, June 2014
http://www.dtcc.com/~media/Files/Downloads/legal/rules/DDR_Rulebook.ashx

ICE, *ICE Trade Vault Swap Data Repository Rulebook*, May 2013
https://www.theice.com/publicdocs/Trade_Vault_Rulebook.pdf

SEC, *Securities Exchange Act of 1934* (Exchange Act), August 2012
<http://www.sec.gov/about/laws/sea34.pdf>

SEC, *Code of Federal Regulations (CFR), Title 17, Chapter 2, Part 240* (SEC regulations under the Exchange Act), July 2014

<http://www.ecfr.gov/cgi-bin/text-idx?SID=cbf5129c1f29d4b70ed85047dbfa1b49&node=pt17.4.240&rgn=div5>

SEC, *List of Proposed Rules*, July 2014

<http://www.sec.gov/rules/proposed.shtml>

SEC, *Standards for Covered Clearing Agencies* (SEC proposed CCA regime), March 2014

<http://www.gpo.gov/fdsys/pkg/FR-2014-05-22/pdf/R1-2014-05806.pdf>

SEC, *Cross-Border Security-Based Swap Activities; Re-Proposal of Regulation SBSR and Certain Rules and Forms Relating to the Registration of Security-Based Swap Dealers and Major Security-Based Swap Participants* (SEC Re-Proposed Reg SBSR), May 2013

<http://www.gpo.gov/fdsys/pkg/FR-2013-05-23/pdf/2013-10835.pdf>

SEC, *Regulation Systems Compliance and Integrity* (SEC Proposed Regulation SCI), March 2013

<http://www.gpo.gov/fdsys/pkg/FR-2013-03-25/pdf/2013-05888.pdf>

SEC, *Security-Based Swap Data Repository Registration, Duties, and Core Principles* (SEC SDR Proposing Release), November 2010

<http://www.gpo.gov/fdsys/pkg/FR-2010-12-10/pdf/2010-29719.pdf>

SEC, *Ownership Limitations and Governance Requirements for Security-Based Swap Clearing Agencies, Security-Based Swap Execution Facilities, and National Securities Exchanges With Respect to Security-Based Swaps Under Regulation MC; Proposed Rule* (SEC Proposed Regulation MC), October 2010

<http://www.gpo.gov/fdsys/pkg/FR-2010-10-26/pdf/2010-26315.pdf>

US, *Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)*, July 2010

<http://www.gpo.gov/fdsys/pkg/PLAW-111publ203/html/PLAW-111publ203.htm>

Annex C: Detailed response from the US authorities

Commodity Futures Trading Commission (CFTC)

In order to protect market participants and the public from systemic risk related to derivatives and to foster transparent, open, competitive and financially sound markets, the CFTC, inter alia, has implemented comprehensive regulatory frameworks for the oversight and supervision of central counterparties (known as derivatives clearing organizations ["DCOs"]) and trade repositories (known as swap data repositories ["SDRs"]) that are registered with the agency.

The CFTC endeavored to align CFTC regulations pertaining to these FMI-types with international standards to help create sound and efficient global markets for central counterparties and trade repositories.

The DCO and SDR regulatory frameworks are supported by risk-based supervisory programs which include on-site inspections and examinations, reviews of rules and rule changes, and the monitoring of all types of risks to which DCOs and SDRs are exposed to, including where relevant, financial, market, operational, and legal risks. In addition, the CFTC has a broad range of tools available to induce action and enforce change, as necessary, by a DCO or SDR.

The CFTC's regime for systemically important DCOs ("SIDCOs") and other DCOs that have opted into that regime came into force in December of 2013. The Level 2 Assessment of the SIDCO regime illustrates that the regulations contained in this CCP framework are consistent with the Principles of the PFMI in most respects. This reflects the CFTC's efforts to establish standards that are consistent with the PFMI (an intention that is codified in CFTC regulation 39.40), and to reduce risk, increase transparency, and promote market integrity by enhancing the financial strength, operational security and reliability of these critical financial infrastructures.

While the Level 2 Assessment did identify some areas where the CFTC could improve the SIDCO regulatory regime with regard to the Principles, CFTC staff believe that the SIDCO regulatory regime and supervisory framework does, in practice, achieve outcomes consistent with the PFMI, and that the gaps identified by the AT reflect a few ambiguities in the SIDCO regulatory regime and do not have a major impact on consistency. CFTC staff will work to address the AT's recommendations.

The Level 2 Assessment has found the CFTC's final and in-force SDR regime to be at least partly consistent with the majority of the Principles of the PFMI that are applicable to trade repositories. As noted in the Assessment, timing of implementation has had a bearing on the regime's consistency with the PFMI. Following the passage of the Dodd-Frank Act in 2010, the CFTC worked expeditiously to implement rules to address SDR registration and regulation. The CFTC's SDR rules were finalised in September of 2011, prior to the publication of the PFMI in April of 2012. In finalizing its rules, the CFTC therefore could not take into consideration the finalised PFMI. The CFTC did, however, take into consideration then-existing CPMI-IOSCO consultative materials on trade repositories, with whose goals the final SDR rules were intended to be consistent.

Notably, these consultative materials highlighted the importance of effective regulatory access to, and public availability of, data reported to trade repositories. In addition to the final SDR rules, the CFTC has, since the passage of the Dodd-Frank Act, implemented detailed rules addressing both the reporting of swap data to an SDR, and the real-time dissemination of certain swap transaction and pricing information to the public. As a result, extensive data regarding swap transactions currently is being reported to SDRs and made available for regulatory analysis, and key swap transaction and pricing information is also being made available to the public.

The CFTC's SDR rules, along with its swap reporting and real-time public reporting rules, implement a comprehensive regulatory regime that is intended to facilitate the collection of swap data

by safe and secure FMIs, and access to swap data by regulators and the public. While timing of implementation has had a bearing on the SDR regime's consistency with the PFMI, and the AT has identified instances in which it believes that additional or more detailed requirements should be adopted in order for the PFMI to be completely and consistently implemented, CFTC staff believe that the SDR regime supports the objectives of the PFMI, and fosters transparency, market integrity and the reduction of systemic risk. The AT's recommendations will be reviewed by CFTC staff as part of the CFTC's ongoing mission to mitigate systemic risk and promote stability in the financial system.

Securities and Exchange Commission (SEC)

The SEC appreciates the comments provided by the AT as part of the L2 assessment. The SEC continues to implement rules and regulations consistent with its statutory obligations under the Securities Exchange Act of 1934 (Exchange Act) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and will, as appropriate, be informed by the comments provided by the AT, among other things. As noted in the US's jurisdiction-wide response, however, certain inherent limitations in the assessment process have constrained the AT's ability to fully appreciate and consider all of the relevant circumstances in an individual jurisdiction.

In the view of SEC staff, the original principles-based approach taken in the PFMI has not been fairly reflected in this assessment. Rather, a more granular approach was pursued, narrowly focused on whether SEC rules contain the same words and phrases as the FMI Principles and, in many cases, the Key Considerations thereunder. In particular, paragraph 1.19 of the PFMI Report states:

The principles in this report provide guidance for addressing risk and efficiency in FMIs. With a few exceptions, the principles do not prescribe a specific tool or arrangement to achieve their requirements and allow for different means to satisfy a particular principle.

Indeed, in proposing Rule 17Ad-22(e), the SEC gave careful consideration to the PFMI and the related materials in the PFMI Report. The SEC also considered the risks that the size, operation, and importance of clearing agencies (CAs) pose to the U.S. securities markets, the particular characteristics of those markets and the U.S. financial system, and the objectives of the Exchange Act and the Dodd-Frank Act. SEC staff believe that this approach, and the proposed rules which it produced, are fully consistent with the approach to implementation contemplated by the PFMI Report.

Accordingly, the Level 2 assessment is not a reflection of the competency of SEC supervision of FMIs and is neither a statement of whether the broader US supervisory framework is complete nor a statement that judges the overall strength and health of the US financial system.

An available tool for reducing the potential effects of such constraints – namely, recognising and allowing that different regulatory approaches can satisfy the standards embodied in the Principles – was not used adequately with respect to the assessment of the SEC's regimes for CCPs and TRs. Specifically, the assessment did not account for the SEC supervisory framework for FMIs. The L2 assessment reflects a review primarily of proposed amendments to Rule 17Ad-22 with regard to CAs and proposed rules relating to security-based swap data repositories (SBSDRs) and not all aspects of the SEC's CA and SBSDR supervisory framework in the United States.

For instance, a number of recommendations made by the AT suggest that the SEC should duplicate in its proposed rules legally binding requirements that exist in the rules of CAs. SEC staff consider that such recommendations mistakenly imply that the proposed rules are deficient in these respects and have negatively impacted the SEC's assessment ratings, but in fact the final ratings are simply the consequence of choices made to simplify the assessment process. A more complete assessment would have limited such duplicative recommendations and avoided the impression that the

assessment comments upon the well-established characteristics of the SEC's regulatory framework for self-regulatory organizations (SROs) in the United States.

Board of Governors of the Federal Reserve System³⁴

The Board is implementing a comprehensive framework for the regulation and supervision of designated FMUs for which it is the Supervisory Agency under Title VIII of the Dodd-Frank Act. This framework is based, in part, on the principles, key considerations, and explanatory notes in the PFMI. In October 2014, the Board finalised amendments to Regulation HH and revisions to Part I of the PSR policy incorporating comments from the public consultation process. The final rule and policy are largely consistent with the proposals published in January 2014. The risk management standards in Regulation HH 12 CFR § 234.3(a), as adopted, are consistent with the headline standards in Principles 1 through 23; 22 of these Principles would apply to a CCP if one were to be designated by the FSOC and organised in such a way that the Board was the Supervisory Agency. The headline standards reflect a principles-based approach to risk management, consistent with the framework set out in the PFMI.

Regulation HH is an enforceable rule, however, and the text required providing greater clarity on the Board's risk-management requirements for designated FMUs subject to the rule. Accordingly, additional detail was included in the regulatory text based on minimum requirements, specific frequencies, and other substantive elements in the key considerations and explanatory notes of the PFMI. In the preamble to the Regulation HH final rule, the Board provided further guidance on how it would expect designated FMUs to comply with the requirements; this guidance was informed by the details provided in the explanatory notes to the Principles as well as the Board's views on risk management and experience in supervising FMUs, including CCPs formerly organised as state-member banks.

The regulatory framework is supported by a comprehensive supervision program which employs risk-based planning tools, on-site examinations, and supervisory assessments. The Board has a range of tools to induce and enforce change by a designated FMU. The Board anticipates using the PFMI as a reference as it establishes its supervisory planning and analysis tools for each designated FMU for which it is the Supervisory Agency. This use of the PFMI is consistent with the Board's long-standing approach to supervision and oversight, which has been based on previous sets of standards developed by CPMI and CPMI-IOSCO.

The L2 assessment of the Board's proposed regulatory regime for systemically-important CCPs, such as those organised as state member banks, reflected the Board's efforts to implement the Principles in a consistent and complete manner at the time that the survey was conducted in April 2014. The gaps identified by the AT are minor and do not have a major impact on consistency. Staff addresses two particular observations below.

With respect to the gap identified in Principle 14 on segregation and portability, the Board adopted the rule as proposed. Board staff appreciates the AT's observations with respect to Principle 14. Given the complexity of the US legal framework and lack of clarity on how a future CCP subject to Regulation HH would be organised, it is not clear that further specification of the most appropriate segregation and portability regime would be the most helpful approach at this time.³⁵ The Board, by order, may apply heightened risk-management standards to a particular designated FMU in accordance with the risks presented by that designated FMU. The Board also could utilize other tools (e.g., a supervisory letter) to provide further guidance to ensure that a designated FMU that operates a CCP has

³⁴ The statements made in this annex reflect the views of Board staff and do not necessarily reflect the views of the Board of Governors or individual Board members.

³⁵ There are currently no CCPs for which the Board is the Supervisory Agency where this principle is relevant.

rules and procedures that enable the segregation and portability of customer positions and collateral in a manner that achieves outcomes consistent with Principle 14 of the PFMI.

Board staff acknowledges the technical gap identified by the AT regarding the implementation of Principle 20 (FMI links). The final amendments to Regulation HH included revisions to the definition of "links" in § 234.2(4) and the standard on links in § 234.3(a)(20) to include links with trade repositories.

Annex D: List of recognised CCPs and TRs in the US

Table 7 summarises the status of currently registered CCPs in the US and whether those CCPs have been designated by the FSOC as systemically important (and therefore whether they are held to the SIDCO or CCA regime, as appropriate).

List of CCPs Registered in the US			Table 7
	DCO	CA	Designated as systemically important ³⁶
<i>Cantor Clearinghouse</i>	X		
<i>Chicago Mercantile Exchange</i>	X ¹	X	X
<i>Clearing Corporation</i>	X		
<i>Fixed Income Clearing Corporation</i>		X	X
<i>ICE Clear Credit</i>	X ¹	X	X
<i>ICE Clear Europe</i>	X	X	
<i>ICE Clear US</i>	X		<i>Not designated; Sub-part C election</i> ²
<i>LCH.Clearnet LLC</i>	X		<i>Not designated; Sub-part C election</i> ²
<i>LCH.Clearnet Limited</i>	X		
<i>LCH.Clearnet SA</i>	X		
<i>Minneapolis Grain Exchange</i>	X		<i>Not designated; Sub-part C election</i> ²
<i>National Securities Clearing Corporation</i>		X	X
<i>Natural Gas Exchange</i>	X		
<i>North American Derivatives Exchange</i>	X		
<i>Options Clearing Corporation</i>	X	X ¹	X
<i>Singapore Exchange Derivatives Clearing</i>	X		

Bold indicates that the CCP is held to SIDCO regime or would be held to the proposed CCA regime, as appropriate.

¹ Where a CCP is designated as systemically important and is also registered as both a DCO and CA, the authorities agree on which will act as Supervisory Agency and therefore which of the CCA or SIDCO regimes will apply. The CFTC is the Supervisory Agency for CME and ICE Clear Credit and the SEC is the Supervisory Agency for OCC. ² These CCPs have elected to be held to the subpart C standards, equivalent to SIDCOs, but have not been designated as systemically important by the FSOC.

Source: CFTC, SEC, U.S. Treasury.

³⁶ The scope of the US L2 assessment is the regimes that apply to certain CCPs, specifically those that have been designated systemically important by the FSOC and CCPs that have opted into the subpart C regime.

Table 8 summarises the status of currently registered TRs in the US.

List of TRs Provisionally Registered in the US	Table 8
SDR	
<i>BSDR</i>	<i>X</i> ¹
<i>Chicago Mercantile Exchange</i>	<i>X</i>
<i>DTCC Data Repository</i>	<i>X</i>
<i>ICE Trade Vault</i>	<i>X</i>

¹ BSDR LLC was not operational as at the date of the assessment.