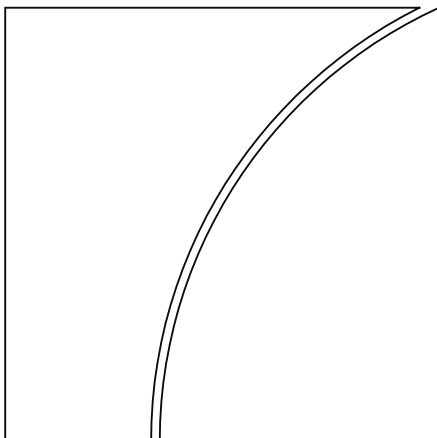


Committee on
Payments and Market
Infrastructures

Board of the International
Organization of Securities
Commissions



Implementation
monitoring of PFMI: Level 2
assessment report for
Brazil

November 2020



BANK FOR INTERNATIONAL SETTLEMENTS



OICU-IOSCO

INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS

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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) issued the *Principles for financial market infrastructures* (PFMI).² The principles within the PFMI (the Principles) set expectations for the design and operation of key financial market infrastructures 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 (PSs), central securities depositories (CSDs), securities settlement systems (SSSs), central counterparties (CCPs) and trade repositories (TRs), collectively referred to as financial market infrastructures (FMIs). These FMIs collectively clear, settle and record transactions in financial markets. In line with the G20's expectations, CPMI and IOSCO members have committed to implementing and applying the PFMI in their jurisdictions.

Following the publication of the PFMI, the CPMI and IOSCO agreed to monitor the implementation of the PFMI in 28 jurisdictions that are members of the Financial Stability Board (FSB), the CPMI or IOSCO.³ To that end, the CPMI-IOSCO Steering Group⁴ established the Implementation Monitoring Standing Group (IMSG)⁵ to design, organise and conduct the implementation monitoring assessments. The implementation monitoring programme has proceeded at three levels: a Level 1 self-assessment on jurisdictions' progress in completing the process of adopting the legislation, regulations and other policies that will enable them to implement the PFMI; a Level 2 peer assessment of the completeness of the implemented framework and its consistency with the PFMI; and a Level 3 peer assessment of the consistency in outcomes of such frameworks.⁶

This report presents the CPMI and IOSCO conclusions of a Level 2 assessment of whether, and to what degree, the content of the legal, regulatory and oversight framework, including rules and regulations, any relevant policy statements or other forms of implementation applied to systemically important PSs, CSDs/SSSs, CCPs and TRs in Brazil, are complete and consistent with the Principles.

The assessment reflects the status of the Brazilian legal, regulatory and oversight framework as of May 2018. Accordingly, assessment ratings, recommendations and key conclusions reflect the implementation measures in place as of 31 May 2018. Measures implemented after this date were not considered for the purposes of the rating. However, a development post-cutoff date in relation to CSDs is noted in Section 3.3; this development was not considered as part of the ratings process. Any future update to this report would analyse it as part of providing an updated assessment.

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. References to reports published before that date use the Committee's old name.

² The CPSS-IOSCO *Principles for financial market infrastructures* (April 2012) can be found on the websites of the BIS at www.bis.org/cpmi/publ/d101.htm and IOSCO at www.iosco.org/library/pubdocs/pdf/IOSCOPD377-PFMI.pdf.

³ The 28 jurisdictions participating in the PFMI implementation monitoring programme are Argentina, Australia, Belgium, Brazil, Canada, Chile, China, the European Union, France, Germany, Hong Kong SAR, India, Indonesia, Italy, Japan, Korea, Mexico, the Netherlands, Russia, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

⁴ The Steering Group comprises a subset of the members of the CPMI and the IOSCO Board, and is responsible for providing operational guidance on behalf of the parent committees on joint CPMI-IOSCO work.

⁵ The IMSG comprises representatives from CPMI and IOSCO members that reflect a balance between the two standard-setting bodies and geographical dispersion.

⁶ See the BIS and IOSCO websites for a list of completed Level 1, Level 2 and Level 3 assessments.

1.1 Legal and regulatory framework

There are three entities involved in the regulation and oversight of FMIs in Brazil:

- The Central Bank of Brazil (Banco Central do Brasil (BCB)) acts as a licensing body and prudential regulator. It has the power to authorise, supervise, oversee and regulate payment systems, clearing and settlement systems, trade repositories and central counterparties that constitute the Brazilian Payment System (SPB).⁷ The BCB issues regulation related to clearing and settlement systems (PSs, SSSs, CSDs, CCPs) and TRs through “Circulars”. It also issues legally binding *Comunicados* (translated as “communiqués” or policy statements) to enforce regulation, effect change, and provide guidance to regulated entities.
- The Comissão de Valores Mobiliários (CVM) acts as a licensing body and business and market conduct regulator and overseer. The CVM has the power to authorise, supervise, oversee, and regulate all infrastructures that operate with *valores mobiliários* (securities).⁸ In practice, this means that the CVM exercises some functions concurrently with the BCB in the supervision of CSDs, SSSs and TRs whenever those FMI types are involved in facilitating securities transactions. The CVM issues regulations through Instructions and Legal Opinions.
- The Conselho Monetário Nacional (CMN) is an umbrella body above the BCB and the CVM, responsible for setting national policy (including coordination between the BCB and the CVM as required) and has the broad objective of ensuring the efficiency of the national financial system, of financial instruments and of the payment system.⁹

The BCB and the CVM have a Memorandum of Understanding that includes provisions ensuring information-sharing between the authorities as needed, joint inspections and cooperation in oversight/supervision activities.

The BCB and the CVM have a number of tools to supervise and oversee FMIs. The BCB can issue Circulars and *Comunicados*, and the CVM can issue Instructions. All of these are public documents, are legally binding for FMIs and are based on the responsibilities granted by laws and CMN resolutions.

In order to implement the PFMI in Brazil, the authorities have put in place the following measures:

- BCB *Comunicado* No. 25,097 of 2014, which outlines the adoption of the PFMI for the oversight activities of participating PSs, CSDs, SSSs, CCPs and TRs in the SPB.¹⁰
- BCB *Comunicado* No. 30,516 of 2017, which lists the names of FMIs operating in the SPB and the set of PFMI Principles applicable to each of them according to FMI type.¹¹
- CVM Instruction No. 461 of 2007 (as modified by CVM Instruction No. 544 of December 2013), which outlines the CVM’s adoption of CPSS/IOSCO principles for the oversight activities of

⁷ Law 4,595 of December 1964 and Law 10,214 of March 2001. The SPB encompasses entities, systems and procedures related to the processing, clearing and settlement of obligations, including funds transfers (retail and large-value, in national or foreign currency), securities, equities and derivatives transactions.

⁸ Law 6,385 of December 1976. Broadly speaking, *valores mobiliários* are securities issued by non-government and non-financial institutions. Examples of *valores mobiliários* are non-financial corporate securities (debentures, commercial paper), equities, derivatives and investment fund quotas.

⁹ Law 4,595 of December 1964. The CMN is a policy committee, composed of the Minister of Finance, the Governor of the BCB and the Minister of Planning Budget and Management.

¹⁰ See www3.bcb.gov.br/normativo/detalharNormativo.do?method=detalharNormativo&N=114001893.

¹¹ See <https://www.bcb.gov.br/estabilidade financeira/exibenormativo?tipo=Comunicado&numero=30516>.

TRs.¹² Under CVM rules, a TR must be established as “an organised market” (which comprises two types of market: exchanges and OTC Organized Markets).¹³

- CVM Instruction No. 541 of 2013, which specifies the CVM’s adoption of CPSS/IOSCO principles for the oversight activities of CSDs.¹⁴

There are also the following laws and regulations that predate the PFMI and are relevant to the regulation, oversight and supervision of FMIs in Brazil, given that these “pre-existing” regulations are not annulled or superseded by the above-mentioned *Comunicados* and Instructions:

- Law No. 4,595 of December 1964
- Law No. 6,385 of December 1976
- Law No. 10,214 of March 2001
- Law No. 13,506 of 2017
- CMN Resolution No. 2,554 of September 1998
- CMN Resolution No. 2,882 of August 2001
- BCB Circular 3,057 of August 2001
- BCB Circular 3,743 of January 2015

1.2 Key findings of the assessment

The Assessment Team (AT) concluded that Brazil has adopted measures applicable to systemically important PSs, CSDs/SSSs, CCPs and TRs that are complete and consistent with the Principles. In reaching that conclusion, the AT relied heavily on the BCB’s policy statements that require FMIs to adhere to the PFMI Principles and Key Considerations.

It should be noted that there are two coexisting regimes applicable to FMIs in Brazil: one predating the PFMI and the other adopted after the publication of the PFMI. The new regime has not superseded the pre-existing one, and thus both regimes are legally binding for FMIs. In addition, there is no clear hierarchy between the two regimes. Consequently, the AT had to review (within the limits of the Level 2 methodology) some supervisory evidence provided by the authorities, to understand how the pre-existing and the new regulations interact with each other, and together address the PFMI standards at both the Principle and the Key Consideration levels. Where gaps in the pre-existing regulations were found, the AT was able to identify how those gaps are addressed mainly through the BCB’s policy statements.

Notwithstanding the consistent ratings for this assessment, the AT is of the view that the Brazilian regulatory regime for FMIs can be further strengthened. At a minimum, this could be done by providing public clarity on the hierarchy between the pre-existing regulations and the new implementation measures. The Brazilian authorities may also wish to consider measures that incorporate explicit references to the PFMI in all relevant regulations or Instructions.

¹² See Article 110, paragraphs 4 and 5, at www.cvm.gov.br/export/sites/cvm/legislacao/instrucoes/anexos/400/inst461consolid.pdf.

¹³ “OTC Organized Markets” is a term defined in CVM Instruction No. 461, Article 92, III.

¹⁴ See Article 8, paragraph 3, at http://www.cvm.gov.br/export/sites/cvm/subportal_inlgles/menu/investors/anexos/CVM_Instruction_541.pdf.

1.3 Summary response from the assessed jurisdiction's authorities

The Brazilian authorities welcome the assessment from the IMSG and appreciate the opportunity to comment on its findings.

We are pleased to acknowledge that the IMSG AT has concluded that the applicable Principles have been implemented in a complete and consistent manner for systemically important PSs, CSDs/SSSs, CCPs and TRs.

The AT has pointed out that there are two co-existing regimes applicable to FMIs in Brazil, one pre- and the other post-publication of the PFMI. That being the case, it is suggested that the Brazilian authorities should provide clarity on the hierarchy between them, making more explicit that the PFMI apply in full. Furthermore, the Brazilian authorities should consider incorporating explicit references to the PFMI in all relevant regulation.

We will carefully consider these observations, as it is our goal to continuously improve our regulatory framework in accordance with internationally recognised best practices.

Furthermore, we would like to mention that, pursuant to Presidential Decree No. 10,139/2019, all regulation issued by Federal Agencies must be consolidated and revised between 31 August 2020 and 31 August 2021. Besides the consolidation of existing norms, the revision process also involves updating the terminology and language, eliminating ambiguities and homogenising the terminology used. In this way, all the regulations mentioned in the assessment must be revoked and substituted by new ones in the aforementioned period. We believe that the revision process provides a window in which to address the opportunities for improvement referred to in the report.

2. Introduction

This report presents the CPMI's and IOSCO's conclusions on the Level 2 assessment of the Principles across all FMI types in Brazil. The assessment reflects the status of the Brazilian legal, regulatory and oversight framework as of 31 May 2018. Accordingly, the assessment ratings, recommendations and key conclusions reflect the implementation measures in place as of that date. The assessment was conducted as a peer review from July 2018 to December 2019.

The relevant Brazilian authorities for the assessment were the BCB and the CVM, as they are responsible for the regulation, supervision and oversight of FMIs in Brazil.

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 FMIs, avoiding regulatory arbitrage, and supporting the resilience of the global financial system.

To that end, the CPMI and IOSCO have been actively monitoring the implementation of the PFMI based on a framework comprising three levels:

- (i) Level 1 assesses whether jurisdictions have completed the process of adopting the legislation, regulations and other policies that will enable them to implement the Principles and Responsibilities;
- (ii) Level 2 assesses completeness and consistency of the content of legislation, regulations and policies (the regulatory framework) with the Principles and the Responsibilities; and
- (iii) Level 3 assesses consistency in the outcomes of implementation of the Principles and Responsibilities.

The Level 1 exercise reflects each jurisdiction's self-assessment of its progress in completing the process of adopting the legislation, regulations and other policies that will enable it to implement the PFMI.¹⁵ The Level 2 and Level 3 assessments, in contrast, are designed to reflect the assessment by the CPMI and IOSCO, via peer reviews.

The Principle assessments are ongoing and are being considered separately at Level 2 and Level 3.¹⁶ Overall, the 28 participating jurisdictions have made further progress in completing the adoption of legislation, regulations and/or policies to support implementation of the PFMI. The Level 1 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

¹⁵ The CPMI and IOSCO have published seven Level 1 assessments since the publication of the PFMI. These reports are available at www.bis.org/cpmi/info_mios.htm and www.iosco.org/about/?subsection=cpmi_iosco. In 2017, the CPMI and IOSCO transitioned to an online reporting system. This reporting system is available at https://www.bis.org/cpmi/level1_status_report.htm and https://www.iosco.org/about/?subsection=cpmi_iosco.

¹⁶ For the Responsibilities, the IMSG combined the Level 2 and Level 3 assessments into a single exercise, whereby the IMSG focused on both the measures taken by the relevant authority to fulfil the Responsibilities, including its powers and the framework and processes in place to meet the requirements under the Responsibilities (Level 2), and how these measures translated into observed outcomes (Level 3). This report is available at www.bis.org/cpmi/publ/d139.htm and <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD514.pdf>.

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 Brazilian authorities can be described as having adopted a mixture of policy-based and rules-based approaches for implementing the Principles for FMIs. In the Level 1 assessments, Brazil reported that the final implementation measures are in force for all FMI types, for both the Principles and the Responsibilities. In the Level 2/Level 3 assessment of the Responsibilities, Brazil was assessed to be observing all the Responsibilities for all FMI types.

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

2.2 Objective and rating

The Level 2 assessment aims 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 measures, is complete and consistent with the Principles. The focus of the Level 2 assessment is on the relevant framework itself, not on the application of this framework by authorities or on the FMIs' observance.

The rating framework used in Level 2 assessments (Table 1) is an adaptation of the approach described in the PFMI Assessment Methodology (AM).¹⁷ The rating levels are: "Consistent", "Broadly consistent", "Partly consistent", "Not consistent" and "Not applicable". The ratings reflect conditions at the time of the assessment and are built on key conclusions that reflect the CPMI's and IOSCO's collective expert judgment regarding the impact of identified gaps and/or shortcomings. Ratings are determined for each Principle after the jurisdiction's legislative and regulatory framework – including policy statements, as relevant – was compared against the corresponding content of the PFMI.

Status rating of the Level 2 assessment		Table 1
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 Principle. 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.	

¹⁷ CPSS-IOSCO, *Principles for financial market infrastructures: Disclosure framework and assessment methodology*, December 2012, available at www.bis.org/cpmi/publ/d106.htm and www.iosco.org/library/pubdocs/pdf/IOSCOPD396.pdf.

2.3 Scope

This report covers the implementation measures in Brazil for all FMI types (PSs, CSDs, SSSs, CCPs and TRs). The measures assessed are:

- Law No. 12,810 of May 2013
- BCB Policy Statement No. 25,097 of January 2014
- BCB Policy Statement No. 30,516 of March 2017
- CVM Instruction No. 461 of October 2007 (amended by CVM Instruction No. 544 of December 2013)
- CVM Instruction No. 541 of December 2013
- and the pre-existing regulations:
 - Law No. 4,595 of December 1964
 - Law No. 6,385 of December 1976
 - Law No. 10,214 of March 2001
 - Law No. 13,506 of 2017
 - CMN Resolution No. 2,554 of September 1998
 - CMN Resolution No. 2,882 of August 2001
 - BCB Circular 3,057 of August 2001
 - BCB Circular 3,743 of January 2015

The assessed legal, regulatory and oversight frameworks are described further in Section 3.

2.4 Process

The L2 assessment follows an established methodology to ensure consistency across jurisdictions and time. The methodology draws heavily on the PFMI AM, published in December 2012. This Level 2 assessment was conducted as a peer review by an AT composed of technical experts from the CPMI and IOSCO (see Annex D). The assessment was performed in several stages and involved:

- (i) gathering and reviewing responses by relevant authorities to Level 2 survey questionnaires;
- (ii) developing an understanding of the jurisdiction's legal, regulatory and oversight framework for FMIs;
- (iii) analysing the level of completeness and consistency of implementation measures against the Principles and identifying issues that warrant follow up with the jurisdiction;
- (iv) assessing materiality of identified gaps and shortcomings, determining ratings, and developing key conclusions and recommendations as appropriate; and
- (v) providing the assessed jurisdiction with an opportunity to review the findings.

The AT was in regular contact with the relevant authorities to ensure that the team had a full and clear understanding of the intent and the content of the local regulatory, supervisory and oversight framework. Exchanges between the AT and relevant authorities also provided relevant authorities an opportunity to provide ongoing feedback on the AT's analysis. In addition, discussions with and review by the IMSG helped to ensure that a consistent approach was applied across all assessed FMI types and with previous Level 2 assessments.

3. Overview of the regulatory, supervisory and oversight framework

Although three entities are involved in the regulation and oversight of FMIs in Brazil (the CMN, the BCB and the CVM), the relevant authorities for the assessment were the BCB and the CVM, as they are primarily responsible for the regulation, supervision and oversight of FMIs in Brazil. The CMN is an umbrella body responsible for setting national policy. This includes the objective of ensuring the efficiency of the national financial system, of financial instruments and of the payment system.¹⁸ In this role, the CMN has issued Resolution No. 2,882, which provides definitions and general principles that govern the systems and entities that perform clearing and settlement services. The Resolution establishes that the SPB be structured according to principles that ensure its efficiency, safety, integrity and reliability, and establishes guidance on how the BCB and the CVM should carry out their responsibilities in regulating, authorising and supervising the SPB.

The BCB is responsible for any matter related to risks, stability and the smooth functioning of all FMIs, and has the primary responsibility for supervision/oversight of the payment system and related clearing operations that are systemically important. The BCB acts as a licensing body and prudential regulator. It has the power to authorise, supervise and regulate payment systems, clearing and settlement systems, trade repositories and central counterparties that constitute the SPB.¹⁹ The BCB issues regulation related to clearing and settlement systems (PSs, CSDs, SSSs, CCPs) and TRs through Circulars. It can also issue *Comunicados* (ie policy statements) in order to provide guidance to regulated entities. Both the Circulars and the *Comunicados* are binding for the FMIs.

The CVM is responsible for market functioning, conduct of market participants, and investor protection. The CVM acts as a licensing body for some FMIs (ie CSDs, SSSs, and TRs) and as business and market conduct regulator. In particular, the CVM has the power to authorise, supervise and regulate infrastructures that operate with securities.²⁰ It issues regulations related to infrastructures that deal with securities through Instructions and Legal Opinions. The CVM shares with the BCB responsibilities for authorisation, regulation, supervision and oversight of CSDs, SSSs and TRs where transactions are related to securities.²¹

Given this concurrence of responsibilities the two authorities have a Memorandum of Understanding (MoU) for coordination and cooperation in overseeing and supervising entities that offer transactions related to securities.²² The MoU also includes provisions ensuring information-sharing between the authorities as needed; joint inspections and cooperation in oversight/supervision activities; and exchange of information related to transactions carried out in capital and financial markets and activities performed.

¹⁸ Law 4,595 of December 1964. The CMN is a policy committee, composed of the Minister of Finance, the Governor of the BCB and the Minister of Planning Budget and Management.

¹⁹ Law 4,595 of December 1964 and Law 10,214 of March 2001. The SPB encompasses entities, systems and procedures related to the processing, clearing and settlement of obligations, including funds transfers (retail and large-value, in national or foreign currency), securities, equities and derivatives transactions.

²⁰ Law 6,385 of December 1976. Broadly speaking, “valores mobiliários” are securities issued by non-government and non-financial institutions. Examples of *valores mobiliários* are non-financial corporate securities (debentures, commercial paper), equities, derivatives and investment fund quotas.

²¹ All FMIs are subject to the BCB’s jurisdiction. Any service provided by an FMI that does not include *valores mobiliários* is outside the CVM’s scope and subject exclusively to BCB oversight. Where entities are subject to oversight by both the BCB and the CVM, there is no explicit hierarchy of authority, but rather the responsibilities of the BCB and the CVM are intended to complement each other.

²² See www.cvm.gov.br/export/sites/cvm/convenios/anexos/BancoCentral.PDF; and www.bcb.gov.br/pre/acordos_e_convenios/Convenio-BCB-CVM-25abril2014.pdf.

Measures that implement the PFMI

Prior to publication of the PFMI, Brazil already had a regulatory and supervisory framework for FMIs (henceforth “the pre-existing regulations”). According to the BCB and the CVM, the pre-existing regulations were consistent with the previous set of international standards, such as the *Core Principles for Systemically Important Payment Systems*,²³ the *Recommendations for securities settlement systems*²⁴ and the *Recommendations for central counterparties*.²⁵

Following the publication of the PFMI in 2012, the BCB and the CVM issued post-PFMI measures (henceforth “the new implementation measures”). The BCB issued two *Comunicados* and the CVM two Instructions.

The BCB issued two *Comunicados* in order to bind itself and FMIs in pursuing their responsibilities with more detail. The first was *Comunicado* No. 25,097 of 2014, which states that the BCB, in accordance with its mandate, adopts the PFMI for the oversight activities of payment systems, central securities depositories, securities settlement systems, central counterparties and trade repositories participating in the Brazilian Payment System.²⁶ The second was *Comunicado* No. 30,516 of 2017, which lists the names of FMIs and the set of PFMI Principles and Key Considerations (KCs) applicable to each of them by FMI type.²⁷ The non-systemically important payment systems are also subject to all Principles, with the exception of the Principles related to credit risk and liquidity risk.

The *Comunicados* are issued by the BCB’s Head of Department of Banking and Payment Systems. The powers of the BCB Department Head to issue *Comunicados* can be found in the BCB’s internal bylaws.²⁸ Article 23 of the bylaws establishes the duty to issue *Comunicados*, and Article 111 establishes the duties of the Department of Banking Operations and Payment Systems, which include the oversight of the SPB. *Comunicados* are issued under the legal authority of the BCB and do not relate to CVM responsibilities.

For CSDs and TRs that deal with securities, the CVM, in accordance with its mandate, has issued two sets of Instructions related to FMI oversight. The first is CVM Instruction No. 461 of 2007 (as amended by CVM Instruction No. 544 of December 2013), which refers to “the recommendations and principles formulated by the Committee on Payment and Settlement Systems (CPSS) and by the International Organization of Securities Commissions” for the oversight activities of TRs.²⁹ Under CVM rules, a TR must be established as “an organized market” (which comprises two types of market: exchanges and OTC Organized Markets).³⁰ The second is CVM Instruction No. 541 of December 2013, which refers to “the recommendations and principles formulated by the Committee on Payment and Settlement Systems (CPSS) and by the International Organization of Securities Commissions” for the oversight activities of CSDs.³¹ The Instructions are legally binding on the relevant FMIs.

In this vein, both the pre-existing regulations and the new implementation measures coexist, and both are in force for the FMIs. This is because the new implementation measures do not contain provisions

²³ <https://www.bis.org/cpmi/publ/d43.htm>.

²⁴ <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD123.pdf>.

²⁵ <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD176.pdf>.

²⁶ See www3.bcb.gov.br/normativo/detalharNormativo.do?method=detalharNormativo&N=114001893.

²⁷ See <https://www.bcb.gov.br/estabilidadefinanceira/exibenormativo?tipo=Comunicado&numero=30516>.

²⁸ See https://www.bcb.gov.br/content/acessoinformacao/Documents/regimento_interno/RegimentoInterno.pdf.

²⁹ CVM Instruction No. 461 of 2007, Article 110, paragraphs 4 and 5 (as modified by CVM Instruction No. 544 of December 2013), available at www.cvm.gov.br/export/sites/cvm/legislacao/instrucoes/anexos/400/inst461consolid.pdf.

³⁰ “OTC Organized Markets” is a term defined in CVM Instruction No. 461, Article 92, III.

³¹ CVM Instruction No. 541 of December 2013, Article 8, paragraph 3, available at www.cvm.gov.br/export/sites/cvm/subportal_ingles/menu/investors/anexos/CVM_Instruction_541.pdf.

to overrule the pre-existing regulations. The two sets of measures also overlap in some areas. The authorities have not issued any public document (regulation or statement) that clarifies which regulation (pre-existing or new) will apply in cases of overlap.

Despite the overlapping implementation measures, it is clear that FMIs in Brazil are subject to the PFMI. This is achieved through two BCB policy statements. First, Policy Statement No. 25,097 states that all FMIs that are part of the SPB are subject to the PFMI and KCs. Second, Policy Statement No. 30,516 lists the individual FMIs in Brazil that are subject to the PFMI. In addition, the BCB and the CVM conduct their FMI oversight and supervision activities based on the PFMI at Principle and Key Consideration levels.

3.1 Payment systems, central counterparties, central securities depositories/ securities settlement systems and trade repositories³²

The BCB has the power to regulate, supervise and oversee FMIs, and it executes these powers through its ability to authorise, monitor, conduct onsite inspections, institute enforcement actions and impose penalties.

The BCB monitors compliance with the PFMI in FMIs that have already been authorised through assessments of data provided on a regular basis, through monitoring changes in rulebooks or processes requested by FMIs, and through onsite inspections. With regard to disclosures, the BCB has the authority to obtain timely information from the FMIs it supervises and to apply penalties if an FMI refuses to give access to the requested information. Moreover, Article 5 of Resolution 2,882 confers on the BCB the right to access third-party service providers' documents and information if deemed necessary for the assessment of the FMIs' conformity to law and regulation. Quantitative data are provided on a daily and monthly basis. Qualitative data are provided regularly, through self-assessments. In addition to the regulations and responsibilities described previously, on an annual basis, broad policy objectives for the BCB are publicly disclosed in the Oversight Report.

The BCB has an annual planning process for FMI assessments and inspections. The BCB determines its work programme by choosing which FMIs will be inspected as a function of criticality and relevance, the need for follow-up on issues raised in prior inspections, time elapsed since the prior inspection, and other issues. Industry issues on the international agenda also drive the BCB assessment priorities.

FMIs must perform self-assessments related to all Principles and KCs applicable to them. The BCB uses those responses and supporting documents together with its own knowledge of the FMIs to develop its own assessment of the FMIs. The focus of an assessment can be on a given Principle or KC impacted by developments/changes in supervised FMIs, or on Principles/KCs rated lower than "compliant". For any KCs that are not in full compliance ("observed") according to the BCB's assessment, FMIs must present action plans in order to achieve full compliance with that KC. The BCB follows up on all action plans, including reassessing all KCs that did not achieve the status of "observed" in previous inspections.

If the supervised FMI deliberately circumvents regulation, fails to meet determinations from the BCB or fails to implement proposed corrective action plans, the BCB may install an administrative process and apply sanctions or penalties.³³ Additionally, when appropriate, the BCB uses moral suasion to accomplish its objectives.

³² It is important to note that definitions used by the Brazilian authorities in many cases differ from those specified in the PFMI. For example, clearing houses are defined very broadly, and the term is a translation of *câmaras e prestadores de serviços de compensação e de liquidação*. Such entities operate systems that carry out processing, clearing and settlement of obligations, including funds transfers (retail and large-value, in national or foreign currency), securities, equities and derivatives transactions.

³³ Law 13,506 of 2017.

3.2 Central securities depositories/securities settlement systems and trade repositories dealing with securities

The BCB authorises CSDs, SSSs and TRs in Brazil. However, there are some cases where the CVM's authorisation is also required. Whether or not the CVM is involved in the authorisation depends on the type of assets the FMI will provide services for. If the assets deposited are "securities", then authorisation may be needed from both the BCB and the CVM, or only from the CVM. If the assets registered are "securities", only the CVM's authorisation is required.

Law No. 10,214 of March 2001 defines the terms for the operation of, among others, SSSs as well as SSSs providing CSD or TR services. Those entities and systems, being part of the SPB, are subject to the authorisation and supervision of the BCB. After the publication of the PFMI, Brazil's regulatory framework allowed the authorisation of CSDs and TRs that are not part of an SSS. This was done through the publication of Law No. 12,810, of May 2013. Therefore, while Law No. 10,214 deals with the authorisation, regulation and supervision of SSSs (including SSSs providing CSD or TR services), the new Law No. 12,810 does the same for CSDs and TRs.

The BCB and CVM monitor, conduct onsite inspections, take enforcement actions and impose penalties on those FMIs under their oversight or supervision.³⁴ For those SSSs, CSDs and TRs that offer transactions related to securities, the BCB and the CVM have a MoU for coordination and cooperation in overseeing and supervising those FMIs. The BCB and the CVM also have the authority to obtain timely information from FMIs and to apply penalties if an FMI refuses to give access to the requested information. In addition, Article 5 of Resolution 2,882 gives the authorities the ability to access third-party service providers' documents and information, if deemed necessary for the assessment of the FMIs' conformity to law and regulation. Quantitative data are provided by FMIs on a daily and monthly basis. Qualitative data are provided through regular self-assessments. The CVM requires the FMIs it oversees to conduct self-assessments periodically. This requirement is supported by CVM Instruction No. 461 (Article 110, paragraphs 4 and 5), as amended by CVM Instruction No. 544 (20 December 2013).

Like the BCB, the CVM has the legal power to determine the implementation of corrective action plans.³⁵ This provision implies that the CVM has broad authority to investigate as well as to impose penalties. The authorisation for TRs and CSDs may be cancelled if, due to a supervening fact, it becomes evident that the entity is no longer satisfying the authorisation requirements or is failing to comply with any of the CVM's decisions or observe the law and the CVM's regulations.³⁶

As of the cutoff date of the assessment, all the FMIs supervised by the CVM were also subject to the BCB's oversight and regulation. Therefore both the BCB's and the CVM's requirements apply to the FMIs supervised by the CVM.

3.3 Recent and upcoming changes

As of the cutoff date of the assessment, all the FMIs (including all CSDs/SSSs) in Brazil were subject to the PFMI (see above). However, the Brazilian authorities very recently (in [Q2 2020]) received an enquiry regarding a novel FMI authorisation – namely, a Brazilian company would like to operate a CSD that does not perform the functions of an SSS (for the sake of simplicity, the Brazilian authorities have referred to this CSD as a "standard CSD"). Furthermore, this standard CSD would be dedicated exclusively to the deposit of *valores mobiliários*.

³⁴ Law 13,506 of 2017 provides for the application of penalties by the BCB (revoking the related dispositions of Law 4,595) and by the CVM (amending Law 6,385).

³⁵ Law 6,385 of 1976.

³⁶ Instruction No. 461, Article 115, II "b" and "c"; and Instruction No. 541, Article 12, II, "b".

The BCB has confirmed the following with respect to standard CSDs in terms of authorisation, oversight/supervision and the application of the PFMI:

- (i) *Authorisation and oversight/supervision:* The authority(ies) responsible for the authorisation and/or oversight/supervision of a standard CSD would depend on the type of financial assets or securities that are deposited in the standard CSD:
- a standard CSD that is dedicated to the deposit of financial assets (other than securities) would be subject to the authorisation and oversight/supervision of the BCB;
 - a standard CSD that is dedicated to the deposit of both financial assets (other than securities) and *valores mobiliários* would be subject to the authorisation and oversight/supervision of both the BCB and the CVM; and
 - a standard CSD that is dedicated exclusively to the deposit of *valores mobiliários* would only require the authorisation of the CVM, but it would be subject to the oversight/supervision of both the BCB and the CVM.

The BCB's position (above) derives from a number of factors. First, a standard CSD that is dedicated exclusively to the deposit of securities would have to interact with a securities settlement system (SSSs being authorised and supervised by the BCB) for securities settlement functions. Such interaction between the standard CSD and the respective SSS would be assessed by the BCB as part of the SSS's authorisation and supervision procedures. Therefore, the BCB would be competent to authorise the interaction of the respective SSS with the standard CSD. The BCB would thereby also be able to conduct the oversight of the respective SSS and the standard CSD that is dedicated exclusively to the deposit of securities.

Second, the BCB holds the mandate to [jointly] supervise standard CSDs that operate exclusively with securities. This competence arises from the BCB's regulatory rights to extend its supervisory powers to third parties performing settlement services or any other service related to the SSS's core business, as stated in Resolution No. 2,882, Article 5, paragraph 2, and Circular 3,057, Article 25. The "operational aspects" that will be assessed by the BCB include all processes related to the extinction of obligations arising from transactions with securities accepted in the securities settlement systems.

Third, the joint supervision/oversight would be facilitated through the current MoU between the CVM and the BCB, which provides the basis for the necessary cooperation between the two authorities.

- (ii) *Application of the PFMI:* The authorities have confirmed that standard CSDs (including those dedicated exclusively to the deposit of securities) would be subject to the PFMI. In the latter case, according to Article 8, III, of CVM Instruction No. 541, CSDs must comply with the "the recommendations and principles formulated by the Committee on Payment and Settlement Systems (CPSS) and by the International Organization of Securities Commissions (OICV-IOSCO)", which includes the PFMI.

Moreover, as the standard CSD shall be considered as a third party that performs important services related to the SSS core business, the BCB would for instance be able to ask for information in the form of a self-assessment against the PFMI.

In view of the legal and regulatory aspects described above, the AT and the IMSG consider that the ultimate authorisation of a standard CSD should have no impact on the overall conclusions and ratings presented in this report. Nevertheless, the Brazilian authorities are invited to consider the recommendations in this report to the extent that they might apply to a standard CSD.

4. Assessment and recommendations

4.1 Summary assessment of completeness and consistency with the Principles

This section provides a high-level summary of the consistency and completeness of the regimes in Brazil for PSs, CCPs, CSDs/SSSs and TRs with respect to the Principles and Key Considerations. A more detailed assessment, including citations of the relevant legislation, regulation, policy and guidance, and notes explaining the assigned ratings, is provided in the online CPMI-IOSCO PFMI Level 2 implementation database.³⁷ Identified gaps and recommendations are tabulated in Section 4.2.

4.1.1 Overview and general observations

The AT has found that the legal, regulatory and oversight frameworks in Brazil are complete and consistent with all of the Principles that are applicable to PSs, CCPs, CSDs/SSSs and TRs. Nonetheless, the AT faced a number of challenges in assessing and rating the regulatory and oversight regime in Brazil. These related primarily to: (i) understanding the set of relevant implementation measures, their interaction and hierarchy; and (ii) translations of key concepts and terms from Portuguese to English. In reaching its final conclusion, the AT relied on the BCB's policy statements that require FMIs to adhere to the PFMI and Key Considerations. The AT also had to place substantial weight on the body of supervisory evidence provided by the authorities to confirm the enforceability of the Brazilian implementation measures and ability of the Brazilian authorities to induce change (within the limits of the Level 2 assessment methodology).³⁸

Challenges

Both pre-existing and new implementation measures are in force in Brazil for FMIs. As a consequence, there is a lack of clarity as to how these two sets of measures interact with each other. Notably, there is no public statement – or related non-public guideline – on how FMIs should behave in cases where there is an overlap between the two sets of measures and one measure is less stringent than the PFMI. The AT found a number of such instances in the pre-existing regulations. For instance, in the case of CCPs with reference to Principle 2, KC 2, in the pre-existing regulation (Resolution No. 2,881, Article 3, IX) the language is based on the older *Core Principles for Systemically Important Payment Systems*.³⁹ In this case, the language does not mention documented governance arrangements or the role of the board of the FMIs and the procedures, which are now required under the PFMI. Similarly, in the case of SSSs with reference to Principle 3, KC 1, the pre-existing regulations do not capture certain important types of risk and the requirement for periodic review, which are required under the PFMI. As a final example, with regard to TRs under Principle 17, KC 2, it is not clear whether the pre-existing regulations (ie CMN Resolution No. 2,882, Article 8; CMN Resolution No. 2,554, Article 2; and CVM Instruction No. 461, Article 24) require the board to endorse the TR's operational risk management framework, as foreseen in Principle 17, KC 2.

Translation was also a complicating factor in assessing the legal, regulatory and oversight frameworks for FMIs in Brazil. In particular, some domestic terminology was difficult to express in English in a way that fits well with the conventional use of those terms. For example (and as noted above), the designation *câmaras e prestadores de serviços de compensação e de liquidação* – translated as “clearing houses” – covers a wider range of entities than would not necessarily be considered as clearing houses under the PFMI definition of this term. In Brazil, such entities operate systems that carry out processing,

³⁷ Available at www.bis.org/pfmi/index.htm and www.iosco.org/about/?subsection=cpmi_iosco.

³⁸ The AT followed a two-pronged approach with regard to collecting and considering supervisory evidence for this narrow purpose. First, some examples of supervisory evidence were collected for each FMI type. Second, the AT identified a selected set of principles and asked for supervisory evidence for those areas.

³⁹ Available at <https://www.bis.org/cpmi/publ/d43.htm>.

clearing and settlement of obligations, including funds transfers (retail and large-value, in national or foreign currency), securities, equities and derivatives transactions. In order to overcome these challenges, the AT had to rely on multiple interactions with Brazilian authorities to clarify terminology issues.

The AT's approach

The AT concluded that the Brazilian regulatory and oversight framework for FMIs was consistent with the PFMI, and that any gaps (with respect to the pre-existing regulations and the PFMI) are addressed by virtue of the BCB's policy statements. This position was founded on three items: (i) the strength of the BCB's policy statements; (ii) the overlap in the responsibilities of the authorities; and (iii) confirmation through supervisory evidence.

First, the BCB's policy statements (*Comunicados*) were considered to be legally sound, and met the criteria for the high-level statement-based approach to implementing the PFMI. Second, as of the cutoff date of this assessment, all systemically important FMIs in Brazil (including those whose supervision is shared with the CVM) were subject to the BCB's regulation and supervision, and therefore were subject to the PFMI by virtue of the BCB's policy statements alone. This means that even where there may be gaps with regard to pre-existing regulations, a BCB policy statement could "fill them in". Lastly, the supervisory evidence presented by the BCB demonstrated how the authorities use the policy statements and instructions to impose this requirement on the FMIs. The AT took this supervisory evidence into account as a way to assess the enforceability and general ability of the various implementation measures to induce change. The AT found that, in practice, the FMIs understand that they are required to apply the PFMI and that the authorities are able to enforce the application of the PFMI. Therefore, the AT was able to conclude that the new implementation measures do induce change in a way that fills gaps in the pre-existing regulations.

4.1.2 Payment systems, central counterparties, central securities depositories, securities settlement systems and trade repositories

Ratings summary ⁴⁰ for all PSs, CCPs, CSDs/SSSs and TRs		Table 2
Assessment category	Principle	
Consistent	Principles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24	
Broadly consistent	None	
Partly consistent	None	
Not consistent	None	
Not applicable	None	

The AT concluded that the Principles relevant for PSs, CCPs, CSDs/SSSs and TRs have been implemented in a complete and consistent manner primarily through the BCB *Comunicados*. As previously mentioned, the AT took into account the legally binding nature of those instruments, the BCB oversight and CVM supervisory approaches that evaluate consistency with the PFMI, and the presence of BCB and CVM enforcement tools to ensure FMIs' compliance with the PFMI.

However, it should be noted that the scope of the pre-existing regulatory framework on its own is insufficient in some areas, particularly in cases where pre-existing regulation (that predates the PFMI) is still in force and has a similar purpose (but is less detailed and worded differently from the language of the PFMI). The Brazilian authorities have stated, and oversight/supervisory evidence provided by the BCB

⁴⁰ The rating summary lists all principles that are applicable to different FMI types as defined in paragraphs 1.10 to 1.14 and shown in Table 1 of the PFMI. For further detail on ratings, see Section 4.2.

confirms, that regardless of this situation the PFMI apply in all cases. The gaps in the pre-existing regulations are addressed through the BCB's *Comunicados* and resulting oversight of FMIs.

4.2 Assessment of completeness and consistency with the Principles – observations and recommendations

As noted above, the AT has found that the legal, regulatory and oversight frameworks in Brazil are complete and consistent with all of the Principles that are applicable to PSs, CCPs, CSDs, SSSs, and TRs. This was based primarily on the BCB's *Comunicados* and resulting oversight of FMIs.

At the same time, the AT has identified a few areas where the framework can be further strengthened. First, the Brazilian authorities can consider providing clarity to the public on the hierarchy between the pre-existing regulations and the new implementation measures. Second, the Brazilian authorities are invited to consider incorporating explicit references to the PFMI in the relevant regulations or Instructions.

4.2.1 Payment systems

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.	
<i>Principle rating</i>	Consistent
<i>Implementation measure</i>	Resolution CMN 2,882, Articles 1, 3 and 5, Subparagraphs II and III BCB Policy Statement 25,097 BCB Policy Statement 30,516 Law No. 13,506, Article 1, and Article 3
<i>Key conclusions / recommendations</i>	<p>Key conclusions</p> <p>The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.</p> <p>Recommendations</p> <p>In addition to its policy statements 25,097 and 30,516, the BCB may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.</p>
<i>KC 3</i>	<p>Key consideration text</p> <p>An FMI should clearly define the point after which unsettled payments, transfer instructions, or other obligations may not be revoked by a participant.</p> <p>Implementation measure</p> <p>As above</p> <p>Key conclusion</p> <p>There is no requirement for PSs to clearly define the point of irrevocability by a participant. The moment that defines irrevocability of payments is not in the Resolutions.</p> <p>This gap is covered by the BCB's policy statements 25,097 and 30,516 supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>

4.2.2 Central counterparties

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.	
<i>Principle rating</i>	Consistent
<i>Implementation measure</i>	Resolution CMN 2,882, Article 1, 3 and Article 5, Subparagraphs II and III BCB Policy Statement 25,097 BCB Policy Statement 30,516 Law No. 13,506, Article 1, and Article 3
<i>Key conclusions / recommendations</i>	Key conclusions The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle. Recommendations In addition to its policy statements 25,097 and 30,516, the BCB may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.
KC 2	Key consideration text 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. Implementation measure As above Key conclusion There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older <i>Core Principles for Systemically Important Payment Systems</i> , which do not mention that documented governance arrangements be disclosed to relevant parties. This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.
Principle 3: Framework for the comprehensive management of risks	
An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.	
<i>Principle rating</i>	Consistent
<i>Implementation measure</i>	Resolution CMN 2,882, Articles 1, 3 and 5, Subparagraphs II and III BCB Policy Statement 25,097 BCB Policy Statement 30,516 Law No. 13,506, Article 1, and Article 3
<i>Key conclusions / recommendations</i>	Key conclusions The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle. Recommendations In addition to its policy statements 25,097 and 30,516, the BCB may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above</p> <p>Key conclusion</p> <p>There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older <i>Core Principles for Systemically Important Payment Systems</i>, which do not mention certain types of risk (such as operational risk) and the requirement for periodic review.</p> <p>This gap is covered by the BCB’s policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
KC 2	<p>Key consideration text</p> <p>An FMI should provide incentives to participants and, where relevant, their customers to manage and contain the risks they pose to the FMI.</p> <p>Implementation measure</p> <p>As above</p> <p>Key conclusion</p> <p>There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older <i>Core Principles for Systemically Important Payment Systems</i>, which do not cover all aspects of this KC.</p> <p>This gap is covered by the BCB’s policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
KC 3	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above</p> <p>Key conclusion</p> <p>There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older <i>Core Principles for Systemically Important Payment Systems</i>, which do not cover all aspects of this KC.</p> <p>This gap is covered by the BCB’s policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>

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 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.

Principle rating Consistent

<i>Implementation measure</i>	<p>Resolution CMN 2,882, Articles 1, 3 and 5, Subparagraphs II and III</p> <p>BCB Policy Statement 25,097</p> <p>BCB Policy Statement 30,516</p> <p>Law No. 13,506, Article 1, and Article 3</p>
<i>Key conclusions / recommendations</i>	<p>Key conclusions</p> <p>The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.</p> <p>Recommendations</p> <p>In addition to its policy statements 25,097 and 30,516, the BCB may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.</p>
KC 2	<p>Key consideration text</p> <p>An FMI should identify sources of credit risk, routinely measure and monitor credit exposures, and use appropriate risk-management tools to control these risks.</p> <p>Implementation measure</p> <p>As above</p> <p>Key conclusion</p> <p>There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older <i>Core Principles for Systemically Important Payment Systems</i>, which do not cover all aspects of this KC.</p> <p>This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
KC 4	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above</p> <p>Key conclusion</p> <p>There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older <i>Core Principles for Systemically Important Payment Systems</i>, which do not cover all aspects of this KC.</p> <p>This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
KC 5	<p>Key consideration text</p> <p>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</p>

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.

Implementation measure

As above

Key conclusion

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do not cover all aspects of this KC.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

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.

Principle rating Consistent

Implementation measure Resolution CMN 2,882, Articles 1, 3 and 5, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
Law No. 13,506, Article 1, and Article 3

Key conclusions / recommendations **Key conclusions**

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

In addition to its policy statements 25,097 and 30,516, the BCB may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 4 **Key consideration text**

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.

Implementation measure

As above

Key conclusion

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do not cover all aspects of this KC.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

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.

Principle rating Consistent

Implementation measure Resolution CMN 2,882, Articles 1, 3 and 5, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
BCB's Circular 3,057, Art. 11, III
Law No. 13,506, Article 1, and Article 3

Key conclusions / recommendations

Key conclusions

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

In addition to its policy statements 25,097 and 30,516, the BCB may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 2

Key consideration text

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.

Implementation measure

As above

Key conclusion

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do have explicit requirements for intraday or real-time settlement.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

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.

Principle rating Consistent

Implementation measure Resolution CMN 2,882, Articles 1, 3 and 5, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
Law No. 13,506, Article 1, and Article 3

Key conclusions / recommendations

Key conclusions

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing regulations and the new implementation measures.

Notably, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which state that "delivery and payment must be mutually conditioned." The BCB has clarified that in effect, "mutually conditioned" is understood as DvP, PvP or DvD, thereby eliminating principal risk.

Recommendations

In addition to its policy statements 25,097 and 30,516, the BCB may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

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.

Principle rating

Consistent

Implementation measure

Resolution CMN 2,882, Articles 1, 3 and 5, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
Law No. 13,506, Article 1, and Article 3

Key conclusions / recommendations

Key conclusions

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle. Notably, the pre-existing regulations are less precise on the definition of operational risk, and have different requirements as to the objectives, scalability and contents of business continuity plans.

Recommendations

In addition to its policy statements 25,097 and 30,516, the BCB may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

Principle 21: Efficiency and effectiveness

An FMI should be efficient and effective in meeting the requirements of its participants and the markets it serves.

Principle rating

Consistent

Implementation measure

Resolution CMN 2,882, Articles 1, 3 and 5, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
Law No. 13,506, Article 1, and Article 3

Key conclusions / recommendations

Key conclusions

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

In addition to its policy statements 25,097 and 30,516, the BCB may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above</p> <p>Key conclusion</p> <p>There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older <i>Core Principles for Systemically Important Payment Systems</i>, which do not cover all aspects of this KC.</p> <p>This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
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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.

<i>Principle rating</i>	Consistent
<i>Implementation measure</i>	<p>Resolution CMN 2,882, Articles 1, 3 and 5, Subparagraphs II and III</p> <p>BCB Policy Statement 25,097</p> <p>BCB Policy Statement 30,516</p> <p>Law No. 13,506, Article 1, and Article 3</p> <p>BCB Circular 3,057, Article 2</p>
<i>Key conclusions / recommendations</i>	<p>Key conclusions</p> <p>The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.</p> <p>Recommendations</p> <p>In addition to its policy statements 25,097 and 30,516, the BCB may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.</p>

KC 1	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above</p> <p>Key conclusion</p> <p>There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older <i>Core Principles for Systemically Important Payment Systems</i>, which do specify that the responsibility for disclosure rests with the FMI. In addition, there is no explicit mention of disclosing the system design.</p> <p>This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
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4.2.3 Securities settlement systems/Central securities depositories

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.

Principle rating Consistent

Implementation measure Resolution CMN 2,882, Articles 1, 3, 5, and 6, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
CVM Instruction No. 541, Article 8, III and Paragraph 3
Law No. 13,506, Article 1, and Article 33

Key conclusions / recommendations

Key conclusions

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 2

Key consideration text

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.

Implementation measure

As above

Key conclusion

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do not mention that documented governance arrangements be disclosed to relevant parties and do not have details about the role of the FMI board and procedures.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

Principle 3: Framework for the comprehensive management of risks

An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.

Principle rating Consistent

Implementation measure Resolution CMN 2,882, Articles 1, 3, 5, and 6, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
CVM Instruction No. 541, Article 8, III and Paragraph 3
Law No. 13,506, Article 1, and Article 33

Key conclusions / recommendations

Key conclusions

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1

Key consideration text

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.

Implementation measure

As above

Key conclusion

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do not mention certain types of risk (such as operational risk) and the requirement for periodic review.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 2

Key consideration text

An FMI should provide incentives to participants and, where relevant, their customers to manage and contain the risks they pose to the FMI.

Implementation measure

As above

Key conclusion

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do not cover all aspects of this KC.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 3

Key consideration text

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.

Implementation measure

As above

Key conclusion

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do not cover all aspects of this KC.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

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 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.

<i>Principle rating</i>	Consistent
<i>Implementation measure</i>	Resolution CMN 2,882, Articles 1, 3, 5, and 6, Subparagraphs II and III BCB Policy Statement 25,097 BCB Policy Statement 30,516 CVM Instruction No. 541, Article 8, III and Paragraph 3 Law No. 13,506, Article 1, and Article 33
<i>Key conclusions / recommendations</i>	<p>Key conclusions</p> <p>The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.</p> <p>Recommendations</p> <p>The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.</p>

KC 3	<p>Key consideration text</p> <p>A payment system or SSS should cover its current and, where they exist, potential future exposures to each participant fully with a high degree of confidence using collateral and other equivalent financial resources (see Principle 5 on collateral). In the case of a DNS payment system or DNS SSS in which there is no settlement guarantee but where its participants face credit exposures arising from its payment, clearing, and settlement processes, such an FMI should maintain, at a minimum, sufficient resources to cover the exposures of the two participants and their affiliates that would create the largest aggregate credit exposure in the system.</p> <p>Implementation measure</p> <p>As above</p> <p>Key conclusion</p> <p>There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older <i>Core Principles for Systemically Important Payment Systems</i>, which do not cover all aspects of this KC.</p> <p>This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
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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.

<i>Principle rating</i>	Consistent
<i>Implementation measure</i>	Resolution CMN 2,882, Articles 1, 3, 5, and 6, Subparagraphs II and III BCB Policy Statement 25,097 BCB Policy Statement 30,516 CVM Instruction No. 541, Article 8, III and Paragraph 3 Law No. 13,506, Article 1, and Article 33
<i>Key conclusions / recommendations</i>	<p>Key conclusions</p> <p>The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.</p>

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 3

Key consideration text

A payment system or SSS, including one employing a DNS mechanism, should maintain sufficient liquid resources in all relevant currencies to effect same-day settlement, and where appropriate intraday or 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 payment obligation in extreme but plausible market conditions.

Implementation measure

As above

Key conclusion

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do not cover all aspects of this KC.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

Principle 8: Settlement

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.

Principle rating

Consistent

Implementation measure

Resolution CMN 2,882, Articles 1, 3, 5, and 6, Subparagraphs II and III

BCB Policy Statement 25,097

BCB Policy Statement 30,516

CVM Instruction No. 541, Article 8, III and Paragraph 3

Law No. 13,506, Article 1, and Article 3

Key conclusions / recommendations

Key conclusions

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 2

Key consideration text

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.

Implementation measure

As above

Key conclusion

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do have explicit requirements for intraday or real-time settlement.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

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.

Principle rating Consistent

Implementation measure Resolution CMN 2,882, Articles 1, 3, 5, and 6, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
CVM Instruction No. 541, Article 8, III and Paragraph 3
Law No. 13,506, Article 1, and Article 3

Key conclusions / recommendations

Key conclusions

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which state that “delivery and payment must be mutually conditioned.” The BCB has clarified that in effect, “mutually conditioned” is understood as DvP, PVP or DvD, thereby eliminating principal risk.

The consistent rating for this Principle is driven by the BCB’s policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

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.

Principle rating Consistent

Implementation measure Resolution CMN 2,882, Articles 1, 3, 5, and 6, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
CVM Instruction No. 541, Article 8, III and Paragraph 3
Law No. 13,506, Article 1, and Article 33

Key conclusions / recommendations

Key conclusions

The pre-existing regulations are less precise on the definition of operational risk, and have different requirements as to the objectives, scalability and contents of business continuity plans.

The consistent rating for this Principle is driven by the BCB’s policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

Principle 21: Efficiency and effectiveness

An FMI should be efficient and effective in meeting the requirements of its participants and the markets it serves.

Principle rating Consistent

Implementation measure Resolution CMN 2,882, Articles 1, 3, 5, and 6, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
CVM Instruction No. 541, Article 8, III and Paragraph 3
Law No. 13,506, Article 1, and Article 33

Key conclusions / recommendations **Key conclusions**
The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.
Recommendations
The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1 **Key consideration text**
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.
Implementation measure
As above
Key conclusion
There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do not cover all aspects of this KC.
This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

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.

Principle rating Consistent

Implementation measure Resolution CMN 2,882, Articles 1, 3, 5, and 6, Subparagraphs II and III
BCB Policy Statement 25,097
BCB Policy Statement 30,516
CVM Instruction No. 541, Article 8, III and Paragraph 3
Law No. 13,506, Article 1, and Article 3

Key conclusions / recommendations **Key conclusions**
The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.
Recommendations
The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1 **Key consideration text**
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.
Implementation measure
As above

Key conclusion

There is overlap between the pre-existing regulations and the new implementation measures. In particular, pre-existing regulations have language based on the older *Core Principles for Systemically Important Payment Systems*, which do specify that the responsibility for disclosure rests with the FMI. In addition, there is no explicit mention of disclosing the system design.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

4.2.4 Trade repositories

<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>	
<i>Principle rating</i>	Consistent
<i>Implementation measure</i>	<p>BCB Policy Statement 25,097</p> <p>BCB Policy Statement 30,516</p> <p>CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013); Article 110, Paragraphs 4 and 5</p> <p>Law No. 12,810, Article 28.</p> <p>Law No. 13,506, Article 1; Article 3</p> <p>Resolution CMN 2,882, Article 1; Article 5, Subparagraphs II and III; Article 6, Subparagraphs II and III</p>
<i>Key conclusions / recommendations</i>	<p>Key conclusions</p> <p>The consistent rating for this Principle is driven by the BCB’s policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.</p> <p>Recommendations</p> <p>The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.</p>
<i>KC 1</i>	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above, and in addition:</p> <p>Circular BCB 3.743, Annex, Article 2; Article 11.</p> <p>Circular BCB 3057, Article 2</p> <p>CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 14;</p> <p>Resolution CMN 2,554, Article 1; Article 4</p> <p>Resolution CMN 2,882, Article 3; Article 8</p> <p>Key conclusion</p> <p>In the pre-existing regulation there is no requirement for Trade Repositories to explicitly support financial stability, although under the pre-existing regulations TRs are required to observe the principles of efficiency, safety, integrity and reliability.</p> <p>This gap is covered by the BCB’s policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
<i>KC 2</i>	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above, and in addition:</p> <p>Circular BCB 3.743, Annex, Article 2, Article 11.</p> <p>Circular BCB 3057, Article 2; Annex Article 20; Annex Article 21</p> <p>CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 19; Article 22;</p>

	<p>Resolution CMN 2,554, Article 1; Article 2; Article 4</p> <p>Resolution CMN 2,882, Article 3; Article 8</p> <p>Key conclusion</p> <p>The pre-existing regulations do not require TRs to disclose their documented governance arrangements to owners, participants, and, at a more general level, the public.</p> <p>This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
KC 3	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above, and in addition:</p> <p>Circular BCB 3.743, Annex, Article 2; Article 11.</p> <p>Circular BCB 3057, Article 2; Annex Article 20; Annex Article 21</p> <p>CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013), Article 24;</p> <p>Resolution CMN 2,554, Article 1; Article 4</p> <p>Resolution CMN 2,882, Article 3; Article 8</p> <p>Key conclusion</p> <p>The pre-existing regulations are not specific on the requirement to review both the overall performance of the board and the performance of the individual board members.</p> <p>This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
KC 6	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above, and in addition:</p> <p>Circular BCB 3.743, Article 11.</p> <p>CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 27; Article 31; Article 63; Article 75;</p> <p>Resolution CMN 2,554, Article 1; Article 2; Article 3; Article 4</p> <p>Resolution CMN 2,882, Article 3; Article 8</p> <p>Key conclusion</p> <p>The pre-existing regulations specifically refer to internal controls and in some cases to operational risk, but it is not clear that such requirements cover the broader risk-management framework; there is no explicit reference to decision-making in crises and emergencies (but only a general reference to "measures provided for contingency or emergency situations"); and there are no clear requirements or provisions for the risk-management and internal control functions to have sufficient authority, independence, resources, and access to the board.</p> <p>This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
KC 7	<p>Key consideration text</p> <p>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</p>

stakeholders. Major decisions should be clearly disclosed to relevant stakeholders and, where there is a broad market impact, the public.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex, Article 2; Article 11.

Circular BCB 3057, Article 2

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 14;

Resolution CMN 2,554, Article 1; Article 2; Article 4

Resolution CMN 2,882, Article 3; Article 8

Key conclusion

The pre-existing regulations are not clear on the requirements for the board to ensure that the Trade Repository's design, rules, overall strategy, and major decisions reflect appropriately the legitimate interests of its direct and indirect participants and other relevant stakeholders; also, the pre-existing regulations are not clear on the provisions for requiring the disclosure of major decisions to relevant stakeholders and the public.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

Principle 3: Framework for the comprehensive management of risks

An FMI should have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, and other risks.

Principle rating Consistent

Implementation measure BCB Policy Statement 25,097
BCB Policy Statement 30,516
CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 110
Paragraphs 4 and 5
Law No. 12,810, Article 28.
Law No. 13,506, Article 1; Article 3
Resolution CMN 2,882, Article 1; Article 5, Subparagraphs II and III; Article 6, Subparagraphs II and III

Key conclusions / recommendations **Key conclusions**
The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1

Key consideration text

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.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex, Article 3.

Circular BCB 3057, Article 2; Article 15

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 27; Article 31; Article 63; Article 75;

Resolution CMN 2,554, Article 2; Article 3

Resolution CMN 2,882, Article 8,

Resolution 3,198, Annex, Article 21

Key conclusion

The pre-existing regulations require TRs' internal controls to "identify and evaluate internal and external factors that may adversely affect the attainment of the institution's objectives". The pre-existing regulations also require TRs to maintain risk control systems adequate to the risks inherent to their activities. However, only the internal controls are required to be periodically revised and updated (there is no corresponding requirement for the risk control systems).

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 2

Key consideration text

An FMI should provide incentives to participants and, where relevant, their customers to manage and contain the risks they pose to the FMI.

Implementation measure

As above, and in addition:

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 51; Article 52;

Resolution CMN 2,882, Article 3;

Key conclusion

The pre-existing regulations refer to credit and liquidity risk, which do not necessarily cover all the risks to which a Trade Repository is exposed.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 3

Key consideration text

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.

Implementation measure

As above, and in addition:

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 27; Article 31; Article 63; Article 75

Resolution CMN 2,554, Article 2; Article 3

Resolution CMN 2,882, Article 8

Key conclusion

The pre-existing regulations require TRs' internal controls to "identify and evaluate internal and external factors that may adversely affect the attainment of the institution's objectives", but they do not make a clear distinction between material risks a TR bears from and poses to other entities as a result of interdependencies. The pre-existing regulations require periodical reviews and updates to TRs' internal control systems and also require TRs to maintain risk control systems adequate to the risks inherent to their activities, but it is not clear that this involves a specific requirement for the development of appropriate risk management tools to address interdependency risks.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 4

Key consideration text

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.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex, Article 2.

Circular BCB 3057, Article 2

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 27; Article 31; Article 63; Article 75;

Resolution CMN 2,554, Article 2

Resolution CMN 2,882, Article 8

Key conclusion

The pre-existing regulations require TRs' internal controls to "identify and evaluate internal and external factors that may adversely affect the attainment of the institution's objectives", and also require TRs to "maintain risk control systems adequate to the risks inherent to their activities". However, it is not clear that these requirements involve an obligation for TRs to identify scenarios that may potentially prevent the TRs from being able to provide their critical operations and services as a going concern. Moreover, the pre-existing regulations do not include a requirement for TRs to assess the effectiveness of the range of options for recovery or orderly wind-down or the preparations of such plans based on the above mentioned assessment (although the pre-existing regulations made reference to ensuring continuity of operations based on the business continuity plan). The pre-existing regulations make no explicit reference to critical operations and services.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

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.

Principle rating

Consistent

Implementation measure

BCB Policy Statement 25,097

BCB Policy Statement 30,516

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013); Article 110, Paragraphs 4 and 5

Law No. 12,810, Article 28.

Law No. 13,506, Article 1; Article 3

Resolution CMN 2,882, Article 1; Article 5, Subparagraphs II and III; Article 6, Subparagraphs II and III

*Key conclusions / recommendations***Key conclusions**

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

*KC 1***Key consideration text**

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.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex, Article 2.

Circular BCB 3057, Article 2; Annex Article 11-A

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 27; Article 31; Article 63; Article 75;

Resolution CMN 2,554, Article 2; Article 3

Key conclusion

The pre-existing regulations require TRs' internal controls to "identify and evaluate internal and external factors that may adversely affect the attainment of the institution's objectives", and also require TRs to "maintain risk control systems adequate to the risks inherent to their activities". However, it is not clear that these provisions cover the requirements for the identification, monitoring and managing of losses resulting from poor execution of business strategy, negative cash flows, or unexpected and excessively large operating expenses.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 3

Key consideration text

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.

Implementation measure

As above

Key conclusion

The pre-existing regulations do not require TRs to hold sufficient liquid net assets funded by equity to implement their recovery or orderly wind-down plan; neither do they require those liquid net assets to be funded by equity equal to at least six months of current operating expenses.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 4

Key consideration text

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.

Implementation measure

As above

Key conclusion

The pre-existing regulations do not specify requirements to address this Key Consideration.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 5

Key consideration text

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.

Implementation measure

As above

Key conclusion

The pre-existing regulations do not specify requirements to address this Key Consideration.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

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.

Principle rating Consistent

Implementation BCB Policy Statement 25,097

measure BCB Policy Statement 30,516

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013); Article 110, Paragraphs 4 and 5

Law No. 12,810, Article 28.

Law No. 13,506, Article 1; Article 3

Resolution CMN 2,882, Article 1; Article 5, Subparagraphs II and III; Article 6, Subparagraphs II and III

Key conclusions / **Key conclusions**

recommendations

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1

Key consideration text

An FMI should establish a robust operational risk-management framework with appropriate systems, policies, procedures, and controls to identify, monitor, and manage operational risks.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Article 3; Article 11; Annex Article 2; Annex Article 3.

Circular BCB 3057, Article 2; Annex Article 2; Annex Article 15

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 27; Article 31; Article 63; Article 75

Law 10,214, Article 4

Resolution CMN 2,554, Article 2

Resolution CMN 2,882, Article 3; Article 8

Key conclusion

Although the pre-existing regulations establish a general requirement for internal controls to identify and evaluate internal and external factors that may adversely affect the attainment of a TR's objectives, as well as a requirement for TRs to "maintain risk control systems adequate to the risks inherent to their activities", the definition of operational risk in the pre-existing regulations refers only to "losses resulting from human error or failure in an equipment, software or communication, necessary for the functioning of a system".

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 2

Key consideration text

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.

Implementation measure

As above, and in addition:

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013), Article 24; Article 63

Resolution CMN 2,554, Article 2

Resolution CMN 2,882, Article 8

Key conclusion

The pre-existing regulations do not clearly require the Board to endorse the TR's operational risk management framework (the Board is required to approve the annual report related to internal control of operating risks, but there is no clear requirement for the Board to approve the TR's operational risk management framework); and there are no clear requirements for systems, operational policies, procedures, and controls to be tested periodically and after significant changes (although the pre-existing regulations indicate that internal controls shall be periodically revised and updated).

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 4

Key consideration text

An FMI should ensure that it has scalable capacity adequate to handle increasing stress volumes and to achieve its service-level objectives.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 2

Circular BCB 3057, Annex Article 2

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013), Article 110, Paragraph 3

Key conclusion

The pre-existing regulations do not require TRs to ensure they have scalable capacity, as foreseen under this Key Consideration (although the pre-existing regulations include a general requirement for TRs to provide evidence, during the authorisation process, on its "capability to reach the operational, organizational, managerial and financial objectives", including "a detailed description of the management tools and risk mitigation measures").

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 5

Key consideration text

An FMI should have comprehensive physical and information security policies that address all potential vulnerabilities and threats.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 11

Law 10,214, Article 4

Resolution CMN 2,554, Article 2

Resolution CMN 2,882, Article 3; Article 8

Key conclusion

The language in the pre-existing regulations is broad, requiring TRs to have an operational infrastructure with adequate reliability and security levels, with contingent plans and data recovery procedures. However, it is not clear whether this requirement specifically covers physical and information security.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 6

Key consideration text

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.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 3; Annex Article 11; Annex Article 14

Circular BCB 3057, Annex Article 15; Annex Article 29

CVM Instruction 461, Article 63

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 63

Resolution CMN 2,882, Article 3;

Key conclusion

The language in the pre-existing regulations does not include clear requirements regarding the regular testing of those arrangements (instead, the pre-existing regulations require internal controls to be regularly revised and updated); and the language in the pre-existing regulations does not specifically refer to "critical" IT systems (instead, they make a general reference to equipment or software or information in the computer systems).

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 7

Key consideration text

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.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 2; Annex Article 3; Annex Article 11

Circular BCB 3057, Article 2; Annex Article 15

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 52;

Resolution CMN 2,554, Article 2

Resolution CMN 2,882, Article 8

Key conclusion

The pre-existing regulations require TRs' internal controls to "identify and evaluate internal and external factors that may adversely affect the attainment of the institution's objectives", but this requirement does not cover the risks that a TR's operations might pose to other FMIs; in other cases, the provisions focus on operational processes provided by a third party, but it is not clear that this covers other participants or other FMIs and the risk they might pose to the TR's operations.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

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.

Principle rating

Consistent

<i>Implementation measure</i>	<p>BCB Policy Statement 25,097</p> <p>BCB Policy Statement 30,516</p> <p>CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013); Article 110, Paragraphs 4 and 5</p> <p>Law No. 12,810, Article 28.</p> <p>Law No. 13,506, Article 1; Article 3</p> <p>Resolution CMN 2,882, Article 1; Article 5, Subparagraphs II and III; Article 6, Subparagraphs II and III</p>
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<i>Key conclusions / recommendations</i>	<p>Key conclusions</p> <p>The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.</p> <p>Recommendations</p> <p>The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.</p>
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<i>KC 1</i>	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above, and in addition:</p> <p>Circular BCB 3.743, Annex Article 2; Annex Article 3; Annex Article 11; Annex Article 14; Annex Article 18</p> <p>Circular BCB 3,057, Article 2; Annex Article 15; Annex Article 22; Annex Article 26; Annex Article 30</p> <p>CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 51; Resolution CMN 2,882, Article 3;</p> <p>Key conclusion</p> <p>The language in the pre-existing regulations refers to "broad participation" and "participants access" but it is not clear whether these cover both direct participants and indirect participants; also, the pre-existing regulations require that the access criteria must be "public, objective and clear", but no reference is made to fair access.</p> <p>This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.</p>
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<i>KC 2</i>	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above, and in addition:</p> <p>Circular BCB 3.743, Annex Article 2; Annex Article 3; Annex Article 11; Annex Article 14; Annex Article 18</p> <p>Circular BCB 3,057, Article 2; Annex Article 15; Annex Article 22; Annex Article 26; Annex Article 30</p> <p>CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 51; Resolution CMN 2,882, Article 3;</p>
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Key conclusion

The language in the pre-existing regulations does not cover the efficiency requirement nor the requirement to have the least-restrictive impact on access that circumstances permit (although the language in the pre-existing regulations makes reference to broad participation and that restriction for participation should be based on risk mitigation).

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 3

Key consideration text

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.

Implementation measure

As above, and in addition:

Circular BCB 3,743, Annex Article 3; Annex Article 18

Circular BCB 3,057 Annex Article 15; Annex Article 30

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 42; Article 43

Resolution CMN 2,554, Article 2

Resolution CMN 2,882, Article 8

Key conclusion

The pre-existing regulations make a broad reference to "criteria for accepting, suspending or excluding a participant", but they do not explicitly require that the procedures for facilitating the suspension and orderly exit of a participant that breaches, or no longer meets the participation requirements, should be publicly disclosed; also, the pre-existing regulations do not refer to the "orderly exit" of such participant.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

Principle 19: Tiered participation arrangements

An FMI should identify, monitor, and manage the material risks to the FMI arising from tiered participation arrangements.

Principle rating

Consistent

Implementation measure

BCB Policy Statement 25,097

BCB Policy Statement 30,516

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013); Article 110, Paragraphs 4 and 5

Law No. 12,810, Article 28.

Law No. 13,506, Article 1; Article 3

Resolution CMN 2,882, Article 1; Article 5, Subparagraphs II and III; Article 6, Subparagraphs II and III

Key conclusions / recommendations

Key conclusions

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1

Key consideration text

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.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 2; Annex Article 3; Annex Article 11

Circular BCB 3,057, Article 2; Annex Article 11-A; Annex Article 15

Resolution CMN 2,554, Article 2

Resolution CMN 2,882, Article 3

Key conclusion

The pre-existing regulations do not make reference to indirect participation and tiered participation arrangements. Rather, they focus on “internal controls” (with a general requirement for internal controls to identify and evaluate internal and external factors that may adversely affect the attainment of the TR’s objectives). The pre-existing regulations also make a general reference to the “criteria for accepting, suspending or excluding a participant”, but it is not clear that this covers indirect participation and tiered participation arrangements.

This gap is covered by the BCB’s policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 2

Key consideration text

An FMI should identify material dependencies between direct and indirect participants that might affect the FMI.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 2; Annex Article 3; Annex Article 11

Circular BCB 3,057, Article 2; Annex Article 11-A; Annex Article 15

Resolution CMN 2,554, Article 2

Resolution CMN 2,882, Article 3

Key conclusion

The pre-existing regulations make a general requirement for TRs to have internal controls to identify “internal and external factors that may adversely affect the attainment of the institution’s objectives”, but it not clear that this covers the “material dependencies between direct and indirect participants that might affect the FMI”, as foreseen under this Key Consideration.

This gap is covered by the BCB’s policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 4

Key consideration text

An FMI should regularly review risks arising from tiered participation arrangements and should take mitigating action when appropriate.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 2; Annex Article 3; Annex Article 11

Circular BCB 3,057, Article 2; Annex Article 11-A; Annex Article 15

Resolution CMN 2,554, Article 2

Resolution CMN 2,882, Article 3;

Key conclusion

The language in the pre-existing regulations is very broad, focusing on the requirement for TRs to have internal controls that identify “internal and external factors that may adversely affect the attainment of the institution’s objectives”. The pre-existing regulations also include requirements

on access criteria. However, it is not clear that these provisions cover the review of risks arising from tiered participation arrangements.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

Principle 20: FMI links**An FMI that establishes a link with one or more FMIs should identify, monitor, and manage link-related risks.**

Principle rating Consistent

Implementation measure BCB Policy Statement 25,097
BCB Policy Statement 30,516
CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013); Article 110, Paragraphs 4 and 5
Law No. 12,810, Article 28.
Law No. 13,506, Article 1; Article 3
Resolution CMN 2,882, Article 1; Article 5, Subparagraphs II and III; Article 6, Subparagraphs II and III

Key conclusions / recommendations

Key conclusions

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1

Key consideration text

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.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 2; Annex Article 3; Annex Article 11

Circular BCB 3057, Article 2; Annex Article 11-A; Annex Article 15; Annex Article 22

Resolution CMN 2,554, Article 1; Article 2

Resolution CMN 2,882, Article 3; Article 8

Key conclusion

Although the pre-existing regulations require that the TR's internal controls identify "internal and external factors that may adversely affect the attainment of the institution's objectives", and also require that "Internal controls shall be periodically revised and updated, in a way to incorporate measures related to new or previously untreated risks", it is not clear that these provisions address the need for TRs to identify all potential sources of risk arising from link arrangements before entering into such arrangements, as foreseen in this Key Consideration.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 9

Key consideration text

A TR should carefully assess the additional operational risks related to its links to ensure the scalability and reliability of IT and related resources.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 2; Annex Article 3; Annex Article 11
 Circular BCB 3057, Article 2; Annex Article 11-A; Annex Article 15; Annex Article 22
 Resolution CMN 2,554, Article 1; Article 2
 Resolution CMN 2,882, Article 3; Article 8

Key conclusion

The pre-existing regulations require that the TR’s internal controls identify “internal and external factors that may adversely affect the attainment of the institution’s objectives”; they also require that “Internal controls shall be periodically revised and updated, in a way to incorporate measures related to new or previously untreated risks”; and they require that TRs provide the authorities with a detailed description of the third parties the TR employs to carry out part of its processes. However, it is not clear that these requirements address the need for a TR to carefully assess the additional operational risks related to its links to ensure the scalability and reliability of IT and related resources, as foreseen in this Key Consideration.

This gap is covered by the BCB’s policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

Principle 21: Efficiency and effectiveness
An FMI should be efficient and effective in meeting the requirements of its participants and the markets it serves.

<i>Principle rating</i>	Consistent
<i>Implementation measure</i>	BCB Policy Statement 25,097 BCB Policy Statement 30,516 CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013); Article 110, Paragraphs 4 and 5 Law No. 12,810, Article 28. Law No. 13,506, Article 1; Article 3 Resolution CMN 2,882, Article 1; Article 5, Subparagraphs II and III; Article 6, Subparagraphs II and III
<i>Key conclusions / recommendations</i>	<p>Key conclusions</p> <p>The consistent rating for this Principle is driven by the BCB’s policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.</p> <p>Recommendations</p> <p>The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.</p>

<i>KC 1</i>	<p>Key consideration text</p> <p>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.</p> <p>Implementation measure</p> <p>As above, and in addition: CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 14 Resolution CMN 2,882, Article 3</p> <p>Key conclusion</p> <p>The pre-existing regulations have a general requirement for TRs to satisfy the “user needs”, but it is not clear that this requirement covers the scope of the products to be recorded or the use of technology and procedures, as foreseen in this Key Consideration.</p>
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This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

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.

Principle rating Consistent

Implementation measure BCB Policy Statement 25,097
BCB Policy Statement 30,516
CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013); Article 110, Paragraphs 4 and 5
Law No. 12,810, Article 28.
Law No. 13,506, Article 1; Article 3
Resolution CMN 2,882, Article 1; Article 5, Subparagraphs II and III; Article 6, Subparagraphs II and III

Key conclusions / recommendations **Key conclusions**

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1

Key consideration text

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.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 3; Annex Article 11

Circular BCB 3057, Annex Article 15; Annex Article 16

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 24; Article 117

Resolution CMN 2,882, Article 3;

Key conclusion

The pre-existing regulations refer to the requirements for TRs to have criteria for accepting, suspending or excluding a participant. They also include a general requirement for TRs to provide participants with "access to clear and objective information which allows them to identify the risks incurred". TRs are also required to have regulations on participants' responsibilities. However, it is not clear that these requirements comprehensively cover the "rules and procedures" that are required under this Key Consideration; moreover, it is not clear whether such rules and procedures are required to be publicly disclosed.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 3

Key consideration text

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.

Implementation measure

As above, and in addition:

Circular BCB 3057, Annex Article 15; Annex Article 16

Resolution CMN 2,882, Article 3;

Key conclusion

The pre-existing regulations require TRs to provide participants with “access to clear and objective information which allows them to identify the risks incurred”, but they do not explicitly require TRs to provide all necessary and appropriate training to facilitate participants’ understanding of the FMI’s rules and procedures and the risks they face from participating in the FMI.

This gap is covered by the BCB’s policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 4

Key consideration text

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.

Implementation measure

As above, and in addition:

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 28; Article 55;

Key conclusion

The pre-existing regulations require the CEO of TRs to establish the fees, commissions and any other costs to be charged for the TR’s services, but this requirement does not include the disclosure of its policies on available discounts.

This gap is covered by the BCB’s policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

KC 5

Key consideration text

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.

Implementation measure

As above, and in addition:

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 28; Article 55

Key conclusion

The pre-existing regulations do not clearly require TRs to complete regularly and disclose publicly responses to the CPSS-IOSCO *Disclosure framework for financial market infrastructures*.

This gap is covered by the BCB’s policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

Principle 24: Disclosure of market data by trade repositories
A TR should provide timely and accurate data to relevant authorities and the public in line with their respective needs.

<i>Principle rating</i>	Consistent
<i>Implementation measure</i>	BCB Policy Statement 25,097 BCB Policy Statement 30,516 CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013); Article 110, Paragraphs 4 and 5 Law No. 12,810, Article 28. Law No. 13,506, Article 1; Article 3 Resolution CMN 2,882, Article 1; Article 5, Subparagraphs II and III; Article 6, Subparagraphs II and III

*Key conclusions /
recommendations*

Key conclusions

The consistent rating for this Principle is driven by the BCB's policy statements 25,097 and 30,516, supported by an analysis of how FMIs are required to observe the PFMI Principle and KCs. These measures cover the gap created by the overlap between the pre-existing and new implementation measures for some parts of this Principle.

Recommendations

The relevant authorities may want to consider making it formally and publicly explicit that, in the absence of adequate or sufficiently detailed rules or of overlapping rules, the PFMI will apply in full.

KC 1

Key consideration text

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.

Implementation measure

As above, and in addition:

Circular BCB 3.743, Annex Article 11; Annex Article 16; Annex Article 17

CVM Instruction No. 461 (amended by CVM Instruction No. 544 of December 2013) Article 28; Article 105

Key conclusion

The pre-existing regulations focus on the information a TR should provide to the relevant authorities. They also include a requirement for TRs to provide a summary of the OTC transactions on their webpage. However, it is not clear that such data should be provided in line with industry expectations to the public, and that such information is comprehensive and at a level of detail sufficient to enhance market transparency and support other public policy objectives.

This gap is covered by the BCB's policy statements 25,097 and 30,516, supported through the relevant supervisory evidence that provided context on how FMIs are required to observe the PFMI Principle and KCs.

Annex A: List of abbreviations

AM	Assessment Methodology
AT	Assessment Team
BCB	Banco Central do Brasil (Central Bank of Brazil)
CCP	central counterparty
CMN	Conselho Monetário Nacional
CPMI	Committee on Payments and Market Infrastructures
CPSS	Committee on Payment and Settlement Systems
CSD	central securities depository
CVM	Comissão de Valores Mobiliários
FMI	financial market infrastructure
FSB	Financial Stability Board
IMSG	Implementation Monitoring Standing Group
IOSCO	International Organization of Securities Commissions
MoU	Memorandum of Understanding
PFMI	<i>Principles for financial market infrastructures</i>
PS	payment system
SPB	Brazilian Payment System
SSS	securities settlement system
TR	trade repository

Annex B: Reference documents

BCB Circular No. 3,057, The Brazilian Payments System, August 2001,
www.bcb.gov.br/Pom/Spb/Ing/InstitucionalAspects/Circular3057amended.pdf

BCB Circular No. 3,743, January 2015,
www.bcb.gov.br/pre/normativos/circ/2015/pdf/circ_3743_v1_O.pdf

BCB, Comunicado No. 25,097, January 2014,
www3.bcb.gov.br/normativo/detalharNormativo.do?method=detalharNormativo&N=114001893

BCB, Comunicado No. 30,516, March 2017,
www.bcb.gov.br/estabilidadefinanceira/exibenormativo?tipo=Comunicado&numero=30516

BCB internal bylaws,
www.bcb.gov.br/content/acessoinformacao/Documents/regimento_interno/RegimentoInterno.pdf

BCB and CVM Memorandum of Understanding, April 2014,
www.cvm.gov.br/export/sites/cvm/convenios/anexos/BancoCentral.PDF or
www.bcb.gov.br/pre/acordos_e_convenios/Convenio-BCB-CVM-25abril2014.pdf

CMN Resolution No. 2,882, The Brazilian Payments System, August 2001,
www.bcb.gov.br/Pom/Spb/Ing/InstitucionalAspects/Resolution2882amended.pdf

CPSS-IOSCO, *Principles for financial market infrastructures*, April 2012,
www.bis.org/cpmi/publ/d101a.pdf and <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD377-PFMI.pdf>

CPSS-IOSCO, *Principles for financial market infrastructures: disclosure framework and assessment methodology*, December 2012,
www.bis.org/cpmi/publ/d106.htm and www.iosco.org/library/pubdocs/pdf/IOSCOPD396.pdf

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www.bis.org/cpmi/publ/d130.htm and <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD501.pdf>

CPMI-IOSCO, *Assessment and review of application of Responsibilities for authorities*, November 2015,
www.bis.org/cpmi/publ/d139.htm and www.iosco.org/library/pubdocs/pdf/IOSCOPD514.pdf

CVM Instruction No. 461, October 2007 (as modified by CVM Instruction No. 544 of December 2013),
www.cvm.gov.br/export/sites/cvm/legislacao/instrucoes/anexos/400/inst461consolid.pdf

CVM Instruction No. 541, December 2013,
www.cvm.gov.br/export/sites/cvm/subportal_ingles/menu/investors/anexos/CVM_Instruction_541.pdf

Law 4,595, National Financial System, December 1964,
www.bcb.gov.br/ingles/norms/LAW4595EN.asp

Law 6,385 December 1976,
www.cvm.gov.br/export/sites/cvm/subportal_ingles/menu/investors/anexos/Law-6.385-ing.pdf

Law 10,214, The Brazilian Payments System, March 2001,
www.bcb.gov.br/Pom/Spb/Ing/InstitucionalAspects/Law10214.pdf

Law No. 12,810, May 2013
www.planalto.gov.br/ccivil_03/ Ato2011-2014/2013/Lei/L12810.htm

Law No. 13,506 of 2017
www.planalto.gov.br/ccivil_03/ ato2015-2018/2017/lei/L13506.htm

Annex C: FMIs subject to the Principles in Brazil

Systemically important PSs

- Sistema de Transferência de Reservas (STR), operated by the BCB

CCPs/PSs

- Câmara de Registro, Compensação e Liquidação de Operações de Câmbio, operated by B3 S.A. – Brasil, Bolsa, Balcão (B3)

CSDs/SSSs

- Sistema Especial de Liquidação e de Custódia (Selic), operated by the BCB
- Central Depositária da BM&FBovespa, operated by B3

TRs

- Sistema de Registro da BM&FBovespa, operated by B3
- Sistema de Registro da Serasa, operated by Serasa S.A.
- Sistema de Registro de Ativos Financeiros – Unidade de Financiamentos – Sistema UFIN, operated by B3
- Sistema CERC, operated by CERC Central de Recebíveis S.A.

SSSs, CCPs and TRs

- Câmara BM&FBovespa, operated by B3

SSSs and TRs

- C3 Registradora, operated by Câmara Interbancária de Pagamentos (CIP)
- Segmento CETIP UTVM, operated by B3

Annex D: Members of the IMSG

IMSG Co-Chairs

Bank of France	Valérie Fasquelle
Securities and Exchange Commission, US	Christian Sabella

IMSG members

Reserve Bank of Australia	Matthew Gibson
Bank of Canada	Wade McMahon
Bank of France	Thomas Carré
Bundesanstalt für Finanzdienstleistungsaufsicht, Germany	Edip Acat (until May 2020)
European Central Bank	Tom Kokkola
European Securities and Markets Authority	Maud Timon
Hong Kong Monetary Authority	Stephen Pang (until January 2020) / Osbert Lam
Securities and Exchange Board of India	Sanjay Puroo (until Dec 2019) / Amit Tandon
Bank of Italy	Veronica Fucile
Bank of Japan	Takashi Hamano
Financial Services Agency, Japan	Fumikazu Nishio
Bank of Korea	Hyung Koo Lee (until March 2020) / Myeong Jin Han
Monetary Authority of Singapore	Tze Hon Lau Joey Ho
Bank of Russia	Ekaterina Seredkina
Sveriges Riksbank	Loredana Sinko
Capital Markets Board of Turkey	Nalan Sahin Urkan
Bank of England	Harpal Singh Hungin (until September 2020) / James Pople Hoskins
Board of Governors of the Federal Reserve System	Jessica Dwyer
Federal Reserve Bank of New York	John Rutigliano
Commodity Futures Trading Commission, US	Andrée Goldsmith (until March 2020) / Alicia L. Lewis
Securities and Exchange Commission, US	Stephanie Kim Park
IOSCO Assessment Committee	Raluca Tircoci-Craciun
IOSCO Secretariat	Josafat De Luna Martínez Tajinder Singh
CPMI Secretariat	Umar Faruqui

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