COVER NOTE : FINANCIAL MARKET INFRASTRUCTURES STANDARDS: EXPOSURE DRAFT

September 2022

Contents

1. INTRODUCTION

Financial Market Infrastructures (FMIs) are multilateral systems that provide clearing, settling and recording services in relation to payments, securities, derivatives and other financial transactions. There are several types of FMIs, including payment systems, securities settlement systems, central securities depositories, central counterparties and trade repositories.

FMIs play a key role in promoting financial stability, however, if risks associated with them are not properly managed, they can cause severe disruption by making it impossible to make electronic payments or enter into transactions involving financial products. This can place market participants under solvency or liquidity stress and cause widespread disruption. In addition, FMIs can also transmit the effects of a participant's failure to other parts of the financial system (i.e. they can spread contagion).

The Financial Market Infrastructures Act 2021 (the FMI Act) establishes a comprehensive framework for the oversight and regulation of FMIs. The Reserve Bank of New Zealand (RBNZ) and the Financial Markets Authority (FMA) are collectively the 'regulator' of FMIs, as defined in the FMI Act (except in relation to pure payment systems where the RBNZ is the sole regulator).

Section 31 of the FMI Act empowers the regulator to issue standards for designated FMIs if it is satisfied the standards are necessary or desirable for one or more of the purposes set out in section 3 of the FMI Act. For example, for promoting the maintenance of a sound and efficient financial system, or promoting and facilitating the development of fair, efficient and transparent financial markets.

The standards do not apply to operators of all FMIs. They may only apply to those operators that are designated under the FMI Act. Designated FMIs are those that are either assessed as systemically important by the regulator ('called in'), or those that apply to be designated in order to benefit from the settlement finality provisions contained in the FMI Act ('opt in').

We propose that standards made under section 31 of the FMI Act (collectively called 'the FMI Standards') apply to operators of different types of designated FMIs in different ways.

We also propose that operators of designated FMIs that are overseas and which satisfy an equivalence test should not be subject to the majority of the FMI Standards (as discussed below).

Following consultation on the content of the FMI Standards in the second half of 2021, the RBNZ and FMA (we) have prepared exposure drafts of the FMI Standards that we propose to issue, along with related guidance and a draft equivalence framework for overseas FMIs.

The purpose of this document is to provide some additional context to the exposure draft FMI Standards and guidance, and the proposed equivalence framework for overseas FMIs. In particular, it aims to:

- highlight a number of matters which we particularly wish to seek submitters' views on; and

- help to inform stakeholders' consideration of the exposure drafts and draft equivalence framework.

Submission contact details

All responses should be emailed to fmiconsultation@rbnz.govt.nz or sent to:

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Reserve Bank of New Zealand
PO Box 2498
Wellington 6140

Or alternatively sent to:

FMI Consultation, Market Infrastructure, Capital Markets
Financial Markets Authority
PO Box 1179
Wellington 6140

We welcome submissions on the exposure drafts and equivalence framework until **5pm on 18 November 2022**.

Publication of submissions

All information contained in submissions will be made public unless you indicate you would like all or part of your submission to remain confidential. Respondents who would like part of their submission to remain confidential should provide both a confidential and public version of their submission. Apart from any redactions of any information to be withheld (i.e. blacking out of text) the two versions should be identical. Respondents should ensure that redacted information is not able to be recovered electronically from the document (because the redacted version will be published exactly as it is received).

Respondents who request that all or part of their submission be treated as confidential should provide reasons why this information should be withheld if a request is made for it under the Official Information Act 1982 (OIA). If an OIA request for redacted information is made, we will make our own assessment of what must be released, taking into account the respondent's views.

We may also publish an anonymised summary of the responses received in respect of this Consultation Paper

2. BACKGROUND TO CONSULTATION ON THE FMI REGIME

The FMI Act was passed in May 2021. In July 2021, the RBNZ and the FMA sought views from interested parties on aspects of how the new FMI Act should be implemented, including on the systemic importance framework and the approach to developing standards for FMIs. In January 2022, the RBNZ and the FMA published a response to submissions on the consultation. More information is available at: Implementing the new regime for financial market infrastructures - Reserve Bank of New Zealand - Te Pūtea Matua (rbnz.govt.nz)

3. BASIS OF THE FMI STANDARDS

The exposure draft FMI Standards and related guidance is largely based on the *Principles for Financial Market Infrastructures* (PFMI) issued by the Committee on Payments and Market Infrastructure (CPMI) and the International Organization of Securities Commissions (IOSCO). We refer to these as 'Pillar II Standards'. To incorporate the PFMI principles into the exposure draft FMI Standards, and New Zealand law, the language has been modified both to align it with New Zealand legal norms, and to make it more appropriate for standards (which are secondary legislation). The exposure draft guidance is largely based on the PFMI explanatory notes, adapted to reflect any changes made in adapting PFMI principles into standards.

In some areas we have elaborated on the PFMI to make the FMI Standards more applicable to the New Zealand operating environment. This includes more detailed requirements relating to operational risk, including contingency planning, management of risk associated with third party critical service providers and cyber risk; and also in relation to disclosure and notification requirements. Collectively, we have called these standards the 'Pillar III Standards'. For more information on the rationale behind the additional standards, see pages 10-23 of the July 2021 consultation paper.

4. STATUS OF THE GUIDANCE

The draft guidance does not impose legal obligations on operators of FMIs. Instead, it provides clarification on how the regulator will interpret the legal obligations on operators imposed by the FMI Standards, or one way of complying with the FMI Standards. The guidance also outlines international best practice for managing risks associated with operating FMIs.

5. TRANSITIONAL ARRANGEMENTS

We understand that some operators may need time to adapt to the new FMI Standards, especially the additional Pillar III standards which are not directly translated from the PFMI. However, given that most of the FMI Standards are a translation of the PFMI, and our current view that the operators of FMIs currently designated in New Zealand under the

Banking (Prudential Supervision) Act 1989 are already largely compliant with the PFMI, we consider that a long transition period is unlikely to be required.

At present, the FMI Standards are likely to be issued in early 2023, and we consider that they should come into effect on or around 1 August 2023 (i.e. approximately 4-5 months after they are issued, once the designation of FMIs under the FMI Act is also complete). We would be interested in any views submitters may have on the need for a longer transitional period for the FMI Act or any particular standards. We encourage submitters to specifically note which standards they could comply with within approximately 4-5 months, and which standards they consider might need a longer transitional period.

Q1	What transitional arrangements do you think are necessary for the implementation of the FMI Standards? Are there any particular standards that will be difficult to comply with ahead of the proposed commencement date of 1 August 2023?

6. OVERSEAS EQUIVALENCE FRAMEWORK

We propose that the FMI Standards (except Standard 23B: 'Notification') will not apply to operators of designated FMIs that are overseas and classed as having "overseas equivalence" in their designation notice, provided that they meet the equivalence requirements contained in the draft equivalence framework. These requirements are that:

a) cooperation arrangements are in place between the New Zealand regulator and the FMI's home regulator;
b) the FMI's home jurisdiction has an FMI regulatory framework that is broadly equivalent to that in New Zealand, and which is part of an independent legal system with a well-founded reputation for integrity; and
c) the operator is compliant with the broadly equivalent regulatory framework in the FMI's home jurisdiction.

The rationale for this framework is to recognise that many operators of FMIs who are domiciled overseas but provide services in New Zealand are already regulated to at least an equivalent extent by their home regulator. The aim of the framework is to protect the New Zealand financial system but not impose undue regulatory burden on operators of overseas FMIs. Because the framework requires the operator of an overseas FMI to be regulated to at least an equivalent extent by their home regulator, it also maintains a level playing field and does not provide operators of overseas FMIs with a competitive advantage.

Q2	Is the overseas-equivalence framework appropriate?

7. MODIFICATIONS TO THE PFMI

As noted above, while developing the FMI Standards we have modified the language of the PFMI in order to translate it into Pillar II standards that are appropriate under New Zealand law. A summary of these modifications is set out below, and a detailed table explaining our modifications can be found in Annex A. A comparison version of the PFMI, showing the modifications, can be found in Annex B.

7.1. Imposing Obligations: 'Must' in Place of 'Should'

The FMI Standards use the language of 'must' when imposing obligations on operators, whereas the PFMI state that FMIs 'should' do something. This difference is because the obligations in the standards impose legally binding requirements on operators of FMIs, and those operators face pecuniary penalties for non-compliance. Similarly, we have removed any language that requires an FMI to 'endeavour to' meet a requirement, as the requirement needs to be clear. However we have left much of the 'should' language in the guidance, to indicate to operators how the regulator expects operators to consider and apply the obligations imposed by the FMI Standards.

7.2. Imposing Obligations on the Operator of an FMI

Under section 31 of the FMI Act, the regulator may impose standards on operators of designated FMIs, or set out requirements applying to designated FMIs with which their operators must ensure compliance (or both), rather than imposing standards on FMIs themselves. This is because an operator is a legal person under New Zealand law, whereas an FMI is a set of arrangements that may or may not encompass physical infrastructure and is not necessarily a legal person.

Some of the material in the guidance for the FMI Standards has been amended to ensure it is directed at operators and not at other parties. For example, some material concerning the legal setting in which an FMI operates has been removed (as the broader New Zealand laws are outside the control of operators of designated FMIs), while some material explaining how the FMI Act provides legal certainty about the enforceability of FMI rules in certain circumstances has been inserted.

7.3. Requirement to Obtain a Legal Opinion that Demonstrates the Enforceability of the FMI's Rules, Procedures and Contracts (Standard 1: 'Legal Basis')

Standard 1 requires an operator to obtain a legal opinion that demonstrates the enforceability of the FMI's rules, procedures and contracts. This additional requirement provides a level of comfort and certainty to the regulator, and to participants, that any transactions occurring in overseas jurisdictions are protected by the FMI's rules and procedures, and that the FMI has a sound legal basis in all jurisdictions in which it operates. Given the importance of transparent and enforceable FMI rules to financial stability (and the need for the FMI to have a sound legal basis in all jurisdictions in which it operates), we consider the requirement to have a legal opinion a key protection for participants and the wider financial system.

7.4. Governance Requirements Directed to the Operator (Standard 2: 'Governance', Standard 17C: 'Cyber Resilience')

Principle 2 of the PFMI imposes some obligations on the board of the FMI. In translating the obligations into New Zealand law, we have imposed obligations on the operator in relation to its board, rather than directly on the board itself. This is also the case in a new Pillar III standard, Standard 17C: 'Cyber resilience'. The FMI Standards are drafted in this manner because the standard-making power in section 31 of the FMI Act does not give the regulator the power to issue standards imposing obligations on the board itself. However, given the importance of boards taking responsibility for good governance and the management of risks such as cyber risk, the FMI Standards require that the operator ensures its board delivers certain requirements.

7.5. Requirement to Cover the Two Largest Participants (Standard 4: Credit Risk, Standard 7: Liquidity Risk)

The PFMI, under multiple principles,[1] have graduated requirements throughout relating to the requirement to hold financial resources to cover the default of the largest participants (and their affiliates) where that would potentially cause the largest aggregate exposures in extreme but plausible market conditions. The PFMI proposes two levels of requirements:

a) that FMIs who are involved in activities which have a more complex risk profile, or who are systemically important in multiple jurisdictions, should have financial resources to cover the failure of the two largest participants; and
b) that all other FMIs cover the largest participant and their affiliates.

We do not believe there should be two levels of requirements in New Zealand. We also consider that having graduated requirements would make the New Zealand regulatory regime confusing and unnecessarily complex for both regulated entities and for participants of FMIs

Given the majority of FMIs that will be designated under the FMI Act are likely to be systemically important, we have translated the principles into the FMI Standards (including Standard 4: 'Credit risk', and Standard 7: 'Liquidity risk') with the requirement that all operators of designated FMIs hold financial resources to cover defaults by the two largest participants, although we are interested in submitters feedback on whether this is appropriate.

Q3	Do you agree with our proposal in section 7.5 of this paper for certain requirements to cover the failure of the FMI's two largest participants?

1 For example, Principles 4(5)(6), Principle 7,

7.6. Tailoring of the Standards for Central-Bank Operated FMIs

In general, the FMI Standards apply in the same way to central bank-operated FMIs as they apply to other FMIs, which we consider appropriate given the importance of RBNZ-operated FMIs to New Zealand's financial system.

However, there are scenarios where the FMI Standards need to be modified given the RBNZ's other public policy objectives, such as maintaining financial stability and implementing monetary policy.

There are also requirements in the PFMI that do not make sense when applying them to a central bank, such as financial resource requirements. This is because, as a central bank with monetary sovereignty, the RBNZ does not in practice bear a risk of becoming insolvent, therefore it does not make sense to impose financial resource requirements on the RBNZ.

This tailored approach is consistent with CPMI-IOSCO's guidance on the issue: Application of the "Principles for financial market infrastructures" to central bank FMIs.

There are also specific governance arrangements that have recently been passed by the Parliament under the Reserve Bank of New Zealand Act 2021 (the RBNZ 2021 Act), which take precedence over the FMI Standards in the event of any conflict between the RBNZ 2021 Act and the FMI Standard 2: 'Governance'. There are no known conflicts at present. The RBNZ 2021 Act sets out the role of the RBNZ Board, its membership, and the role of the Minister of Finance in recommending members of the Board to the Governor-General for appointment. This approach is consistent with CPMI-IOSCO's approach to the PFMI, which notes: *where an FMI is operated as an internal function of the central bank, Principle 2, Key Considerations 3 and 4 on governance are not intended to constrain the composition of the central bank's governing body or that body's roles and responsibilities.*

The guidance on the FMI Standards has also been drafted to confirm why and when a central bank-operated FMI is exempt from a particular requirement.

7.7. Management of Potential Conflicts of Interests: Where the RBNZ is a Regulator and a Regulated Entity

Following on from 7.6, to further support this approach (and manage any potential conflict between the RBNZ's dual roles as an operator and regulator of some FMIs) we also propose to include in the existing memorandum of understanding between the RBNZ and FMA a provision that commits the RBNZ to:

a) have a policy for managing potential conflicts of interest between its role as regulator of the FMI and as an operator of the FMI;
b) ensure that policy is comprehensive, adequate and credible, taking into account the type of FMI concerned and activities carried out under it; and
c) notify the FMA whenever changes to the policy are proposed, unless those changes relate solely to managing the potential conflict of interest between the RBNZ's roles as a regulator and an operator of a pure payment system.

This may also be reflected in the Statement of Prudential Policy the RBNZ is required to prepare and keep updated under section 254 of the RBNZ 2021 Act.

7.8. Regular/Periodic Obligations

To provide certainty to affected operators, we have amended the text from the PFMI to include specific time periods in cases where the PFMI has required obligations to be complied with 'regularly'. That is, we have replaced 'regularly' with 'monthly' or 'annually' or 'every two years' and so on, as appropriate. For example, Standard 6: 'Margin' requires the operator to review the central counterparty's margin system annually, which differs from the PFMI obligation to review the margin system regularly.

7.9. Simplifying the Language

In the FMI Standards we have also modified, in places, the PFMI language to align it with modern New Zealand legislative language, in line with the Parliamentary Counsel Office's Principles of Clear Drafting.[2] This means we have restructured sentences to write them in active voice, removed tautologies and made the bearer of requirements more explicit.

7.10. Ordering and Numbering of Standards

We have kept the numbering of the FMI Standards in line with the Principles in the PFMI, as some operators will need to assess compliance with both the FMI Standards and the PFMI. This also provides the benefit of demonstrating how the FMI Standards and the PFMI align. However, in order to link the Pillar III requirements, which extend on from related principles in the PFMI, we have inserted lettering. For example, Standard 17A: 'Contingency plans', Standard 17B: 'Critical service providers' and Standard 17C: 'Cyber resilience' all build on Standard 17: 'Operational risk'. Similarly, Standard 23A: 'Disclosure Framework' and Standard 23B: 'Notification' build on Standard 23: 'Disclosure of rules, key procedures and market data'.

7.11. Application of the Standards to Rule Setting Bodies – Pure Payment Systems

In our previous consultation, we raised the issue that tailoring of the standards may be needed where the operator controls the rules of the FMI but not the underlying infrastructure. For the exposure draft FMI Standards, we have adjusted the language to make it clear that an operator only needs to comply with a standard if it is relevant to them. For example, if an entity does not bear credit risk, many of the requirements in Standard 4: 'Credit risk' will not apply to that entity. We have also inserted additional material into the guidance to provide clarity for rule-setting bodies.

7.12. Trade Repositories

The exposure draft FMI Standards do not apply to trade repositories because there no trade repositories that are systemically important in New Zealand at present. Therefore, the standards and explanatory text directed at trade repositories in the PFMI have been removed in developing the exposure draft FMI Standards and accompanying guidance. Should a trade repository enter the New Zealand market and become systemically important

2 See Principles of clear drafting | Parliamentary Counsel Office (pco.govt.nz)

in future (or 'opt-in' to be designated under the FMI Act), the FMI Standards will be amended as necessary.

7.13. Assurance Engagement – Operational Risk Management

In Standard 17: 'Operational risk', we have suggested that an external assurance engagement replaces the current PFMI suggestion on internal audit, in relation to an FMI's risk management procedures, to provide more comfort and certainty to the regulator. Instead of an internal requirement, the proposal in the consultation, and current drafting, is to "*ensure the operational risk-management framework, as well as compliance with such framework, is assessed by way of an external assurance engagement, undertaken in accordance with applicable auditing and assurance standards, by a qualified auditor at least every two years or otherwise whenever a material incident or material outage has occurred. The report from the assurance engagement must be provided to the regulator on request*".

8. MODIFICATIONS TO PILLAR III STANDARDS

Within our previous consultation we indicated that for the cyber resilience standard (now called Standard 17C: 'Cyber resilience') we would largely follow the RBNZ current cyber risk management guidance. In applying the RBNZ guidance material, we have modified it to make the language more appropriate to a document that is legally binding and to ensure it is in line with the other FMI Standards, in order to a) make the FMI regulatory framework cohesive and b) ensure the standards are appropriate for operators of FMIs in particular. We are also proposing that an FMI's cyber resilience strategy and framework, and compliance with such, are assessed by way of an external assurance engagement at least every two years, or otherwise whenever a cyber incident occurs that impacts, or could impact, the FMI's continuing operations.

We also modified the language for Standard 17B: 'Critical service providers' from Annex F of the PFMI, because in the FMI Standards the operators are the regulated entity, rather than the providers themselves. We note that Annex F is targeted at critical service providers, while under the FMI Act the regulator only has powers to issue standards relating to operators and their FMIs.

For Standard 23A: 'Disclosure framework', we have modified the PFMI Disclosure Framework so that operators are required to disclose against the FMI Standards (rather than the PFMI). This gives the market transparency over how an operator is complying with all the FMI Standards, including the additional Pillar III Standards.

Q4	Do you agree with the approach outlined above in sections 7 and 8? If you do not agree, what alternative approaches would be reasonable?

9. STATUTORY PRE-REQUISITES AND THE FINANCIAL POLICY REMIT

9.1. FMI Act Statutory Requirements

Under section 31 of the FMI Act, the regulator may issue standards if the regulator is satisfied that the standards are necessary or desirable for one or more purposes of the FMI Act, including:

a) promoting the maintenance of a sound and efficient financial system;
b) avoiding damage to the financial system that could result from problems with an FMI, its operator or its participants;
c) promoting the confident and informed participation of businesses, investors, and consumers in the financial markets;
d) promoting fair, efficient, and transparent financial markets.

Under the FMI Act, we must also ensure the statutory prerequisites outlined below are met before issuing any standards:

a) Under section 13 of the Act, we are required to have regard to certain principles in deciding whether to exercise our powers under the FMI Act. These include avoiding unnecessary compliance costs and recognising the diversity of FMIs.
b) Under section 32 of the FMI Act, before issuing a standard we must consult the person or persons we consider will be substantially affected by the proposed standard and have regard to relevant overseas standards.
c) Under section 34(4)(b) of the FMI Act, we are required when issuing a standard that may deal with or otherwise relate to the matter contained in section 34(1)(k) of the Act, and that will apply to an FMI or operator as referred to in section 34(4)(a) of the FMI Act, to be satisfied that the standard is necessary or desirable for one or more of the following reasons:

    i. applying the requirement will help ensure that a proposed standard will not apply in an unreasonable way; or

    ii. applying the requirement will help maintain and enhance New Zealand's international reputation by adopting international standards; or

    iii. applying the requirement will help ensure that New Zealand's law and regulatory requirements for FMIs can be recognised in other jurisdictions.

9.2. Consideration of the Financial Policy Remit (RBNZ)

The Financial Policy Remit (FPR) issued by the Minister of Finance to the RBNZ on 1 July 2022 emphasises the desirability of a strong, efficient and inclusive financial system, with a low incidence of failure of regulated entities. The FPR also signals that the RBNZ should encourage a competitive financial system. Under the RBNZ Act 2021, the RBNZ has a duty to have regard to the FPR when issuing standards (when the standards are finalised).

The FPR also requires the RBNZ to consider climate change, financial inclusion, cyber resilience and supporting sustainable house prices, as outlined below:

Climate Change

The draft standards relating to operational risk, including standards 17: 'Operational risk', Standard 17A: 'Contingency plans' and Standard 17B: 'Critical service providers', will promote resilience in the face of events relating to climate change (e.g. natural disasters).

Financial Inclusion

Standard 18: 'Access and participation requirements' requires operators to provide for fair and open participant access to FMIs, subject to reasonable risk adjustments. We consider that this standard supports a competitive and inclusive financial system.

Cyber Resilience

Standard 17C: 'Cyber resilience' is aimed at providing for cyber resilience for FMIs.

Sustainable House Prices

Sustainable house prices are not relevant to the FMI Standards.

Q5	Do you have any feedback on the proposed approach as against the statutory prerequisites and, for the RBNZ, the Financial Policy Remit?

10. CONSULTATION QUESTIONS

Q1	What transitional arrangements do you think are necessary for the implementation of the FMI Standards? Are there any particular standards that will be difficult to comply with ahead of the proposed commencement date of 1 August 2023?
Q2	Is the overseas-equivalence framework appropriate?
Q3	Do you agree with our proposal in section 7.5 of this paper for certain requirements to cover the failure of the FMI's two largest participants?
Q4	Do you agree with the approach outlined above in sections 7 and 8? If you do not agree, what alternative approaches would be reasonable?
Q5	Do you have any feedback on the proposed approach as against the statutory prerequisites and, for the RBNZ, the Financial Policy Remit?
Q6	Do you have any other comments or feedback on the documents?

11. NEXT STEPS

Submissions on the exposure draft are due by **5pm on 18 November 2022**. We are happy to meet with affected stakeholders to discuss the documents, including the draft FMI Standards, ahead of finalisation of submissions. Once submissions have been received and considered, the FMI Standards will then be finalised and issued by the regulator, with an appropriate transition period in early 2023 (the end of this transition period is currently expected to align with the intended date on which designations under the FMI Act come into force, being 1 August 2023).

ANNEX A

Below we set out major changes from the PFMI to the exposure draft of Pillar II standards. The changes below are also reflected in the guidance, and a full document showing all tracked changes from PFMI to Pillar II standards and guidance has been supplied within this consultation.

Major Changes from PFMI to FMI Standards

Standard	Original text in PFMI	Change in FMI Standards	Justification
All	"An FMI"	"The operator"	Under section 31 of the FMI Act, the regulator may impose standards on operators of designated FMIs or set out requirements that apply to designated FMIs with which operators must ensure compliance (or both). This is because an operator is a legal person under New Zealand law, whereas an FMI may not be a separate legal entity. Therefore, the FMI Standards impose obligations on operators of designated FMIs rather than on the FMIs themselves.
All	"Should"	"Must"	The standards use the language of 'must' when imposing obligations on operators. This is because the obligations in the standards impose legally binding requirements on operators of FMIs, with pecuniary penalties attached, and therefore the requirement should be expressed clearly.
Standard 1(2)(c), 2(2)(b)	"Relevant authorities"	"The regulator"	Under section 8 of the FMI Act, the relevant authorities in New Zealand are called the 'regulator'. This is the RBNZ and the FMA acting jointly, except in the case of a pure payment system, where the regulator is the RBNZ only.
Standard 20, 22	"Trade repositories"	Deleted	The exposure draft FMI Standards do not apply to trade repositories as there are

Standard	Original text in PFMI	Change in FMI Standards	Justification
			currently no trade repositories that are systemically important or designated in New Zealand.
Standard 1(2)(a)	N/A	"In operating the FMI it... is supported by a legal opinion that demonstrates the enforceability of the FMI's rules, procedures, and contracts, across all relevant jurisdictions; and "this legal opinion should be reviewed at least every two years or whenever there are material changes that may have an impact on the opinion, and updated where it is reasonable to do so"	This requirement ensures that FMI's rules and other procedures are enforcement in other jurisdictions it operates in. It gives confidence to participants of the legal framework underpinning the FMI's operations.
Standard 2(2)(b)	"These arrangements should be disclosed to owners, relevant authorities, participants, and, at a more general level, the public."	"The operator must ensure these arrangements are disclosed in an appropriate manner to owners, the regulator, participants and the public."	This addition provides a tag, which is then further explained in the accompanying guidance. This allows as to provide greater clarity on how the level of disclosure should vary across stakeholders.
Standard 2(2)(g)	"The board should ensure that the FMI's…"	"An operator must ensure that its board of directors takes responsibility for ensuring…"	Section 31 of the FMI Act allows the regulator to make standards that apply to the operators of designated FMIs, not directly to its board. However, given the importance of a board's role in governance, the standard requires the operator to ensure the board fulfils the requirements in Standard 2.
Standard 2(e)	"Typically requires the inclusion of non- executive board members."	"Must have non-executive directors"	This change has been made to reflect best corporate governance practice.
Standard 3	"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-	Moved to Standard 17A.	Wind down plans have been incorporated into contingency plans, the requirements for which are set out in Standard 17A.

Standard	Original text in PFMI	Change in FMI Standards	Justification
	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."		
Standard 4(6)(b)	"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."	"An operator of a central counterparty must ensure that... it maintains additional financial resources to cover a wide range of potential stress scenarios that must include, but are not limited to, the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure in extreme but plausible market conditions"	The PFMI provides two levels of requirements, but we have only applied the highest tier of requirement here. As the standards only apply to operators of FMIs that are assessed as systemically important or those who opt into the regulatory regime, we consider having two different levels of obligations relating to financial resources may cause confusion for participants when they are assessing the risk associated with a particular FMI. This is consistent with our approach outlined in previous consultation, where we did not propose to distinguish between FMIs that are designated because they are systemically important or because they opt voluntarily into the regulatory regime.
Standard 6(7)	"Regularly"	"Annually"	We have made requirements for regular reviewing more specific and enforceable by

Standard	Original text in PFMI	Change in FMI Standards	Justification
			introducing a set time period (an annual one).
Standard 8	"where necessary or preferable settle intraday or in real time"	"The operator of an FMI that is a high-value payment system or central securities depository FMI must adopt real time gross settlement or multiple-batch processing during the settlement day"	This is to strengthen the settlement arrangements and reduce risk.
Standard 11(3)	"Where appropriate, a CSD should provide incentives to immobilise or dematerialise securities."	Deleted	There is no need to incentivise the immobilisation or dematerialisation of securities as material securities no longer exist in New Zealand. Additionally, there is already a requirement to maintain securities in a dematerialised form.
Standard 13(2)(b)	"… default rules and procedures that enable the FMI to continue to meet its obligations in the event of a participant default and that address the replenishment of resources following a default."	"An operator must have default rules and procedures for the FMI that... address the replenishment of resources following a default where the FMI is exposed to credit or liquidity risk"	This change provides tailoring for central banks and rule-setting bodies.
Standard 15(3)	"Further, the operator must ensure liquid net assets are at all times sufficient to ensure a recovery or orderly wind-down of the FMI's essential operations and services"	"Further, the operator (except where it is the Central Bank) must ensure liquid net assets are at all times sufficient to ensure a recovery or orderly wind-down of the FMI's essential operations and services"	The exception for the central bank is because central banks do not in practice, bear liquidity risk.
Standard 15(7)	"This plan should be approved by the board of directors and updated regularly."	"An operator must... review the plan annually; and ensure the outcome of the review is approved by the board of directors."	The change provides specificity on what 'regularly' means.
Standard 15(6)(b)	"An FMI should maintain a viable plan for raising additional equity should its	"it maintains a viable plan for raising additional equity should the operator's equity fall close to or below the amount needed, except	Central banks, in practice, would not be allowed to wind down due to a financial loss

Standard	Original text in PFMI	Change in FMI Standards	Justification
	equity fall close to or below the amount needed"	where the operator is a central bank."	
Standard 17(1)	"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."	"An operator must... identify the plausible sources of operational risk for the FMI, both internal and external; and mitigate their impact through the use of appropriate systems, policies, procedures, and controls on an ongoing basis."	To make it clear that the obligation is continuous.
Standard 17(3)(a)	N/A	"An operator must... ensure the operational risk-management framework, as well as compliance with such framework, is assessed by way of an external assurance engagement, undertaken in accordance with applicable auditing and assurance standards, by a qualified auditor at least every two years or otherwise whenever a material incident or material outage has occurred. The report from the assurance engagement must be provided to the regulator on request"	To provide specificity on the obligation around having an operational risk-management framework.
Standard 17	"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	Moved to 17A.	See Standard 17A for contingency plan requirements.

Standard	Original text in PFMI	Change in FMI Standards	Justification
	end of the day of the disruption, even in case of extreme circumstances. The FMI should regularly test these arrangements."		
Standard 18(2)(c)	"to maintaining acceptable risk control standards, an FMI should endeavour to set requirements that have the least-restrictive impact on access that circumstances permit."	"subject to maintaining acceptable risk control standards, set requirements that have the least-restrictive impact on access that circumstances permit"	Removed 'endeavour to' as this makes the legal obligation less clear.
Standard 20(3)(b)	"… provides adequate protection to the FMIs involved in the link."	"… manages operational, legal and financial risk to the FMIs involved in the link."	To provide specificity.
Standard 20(5)	"Provisional transfers of securities between linked CSDs should be prohibited or, at a minimum, the retransfer of provisionally transferred securities should be prohibited prior to the transfer becoming final"	"an operator of a central securities depository must prohibit provisional transfers of securities between central securities depository and any linked central securities depository."	To provide for legal clarity.
Standard 23	"An FMI should complete regularly and disclose responses to the CPSS-IOSCO Disclosure framework for financial market infrastructures."	Deleted	Instead, operators will be required to disclose compliance against the FMI Standards, as this allows participants to understand compliance against Pillar III requirements.