Charltons - Hong Kong Law Newsletter - 19 September 2013

[online version](http://www.charltonslaw.com/sfc-issues-guidelines-on-the-application-of-the-cpss-iosco-principles-for-financial-market-infrastructures/)

# SFC Issues Guidelines on the Application of the CPSS-IOSCO Principles for Financial Market Infrastructures

## Introduction

The Securities and Futures Commission (**SFC**) issued the “[Guidelines on the application of the CPSS-IOSCO Principles for Financial Market Infrastructures](http://en-rules.sfc.hk/net_file_store/new_rulebooks/h/k/HKSFC3527_4420_VER10.pdf)” ([see archive](HKSFC3527_4420_VER10.pdf)) (the **Guidelines**) to articulate its expectations with regard to the implementation of the “Principles for Financial Market Infrastructures” (the **Principles**)[[1]](#footnote-26) by recognised clearing houses in discharge of their duties under the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong).

## The Principles

The Principles were issued jointly by the Committee on Payment and Settlement Systems (**CPSS**) of the Bank for International Settlements and the International Organization of Securities Commissions (**IOSCO**) in April 2012. It comprises 24 principles for financial market infrastructures (the **FMIs**) and five responsibilities of regulatory authorities to provide for the effective regulation, supervision and oversight of FMIs. The Principles relate to credit and liquidity risk management, general business and operational risk management, default management, settlement requirements, central securities depositories and exchange-of-value settlement systems, access, efficiency, transparency and the general organisation of FMIs. They replace, harmonise and strengthen various earlier standards on FMIs, and aim at making the FMIs more resilient to financial crisis and fostering their safety and efficiency.

The Principles are the latest international regulatory standards for FMIs and apply to all systematically important FMIs. The SFC regards all recognised clearing houses as systematically important FMIs in Hong Kong and expects all recognised clearing houses to observe the Principles. According to the SFC’s Chief Executive Officer Mr Ashley Alder, “FMIs such as central counterparties play an important role in fostering stability in the financial system. The significance of that role is underscored by the new global regulatory requirement that mandates central clearing of standardised OTC derivatives trades. It is therefore critical that systemically important FMIs in Hong Kong are properly supervised and managed."

## The Application of the Guidelines

In furtherance of this objective, the SFC expects recognised clearing houses to observe the Principles (where applicable) and the related supplemental guidance on observance of the Principles issued by CPSS-IOSCO from time to time, on an on-going basis. From now on, the SFC will take such observance into account in assessing if recognised clearing houses have discharged their duties under the SFO. In the Guideline, the SFC stated that it appreciates that the way the Principles are implemented by recognised clearing houses may vary depending on the nature of their operations, functions, activities and services provided.[[2]](#footnote-29)

The SFC also expects that an applicant to become a recognised clearing house should demonstrate its ability to observe the Principles. In this connection, the applicant will be required to submit a self-assessment report on compliance with the Principles to support its application.[[3]](#footnote-30) The self-assessment report should be based on the [Disclosure Framework and Assessment Methodology](http://www.bis.org/publ/cpss106.pdf) ([see archive](cpss106.pdf)) published by CPSS- IOSCO13 in December 2012 and such assessments may serve to identify matters that require structural improvement and to prioritise resources to address identified areas of improvement.

**This newsletter is for information purposes only.**

Its contents do not constitute legal advice and it should not be regarded as a substitute for detailed advice in individual cases.

Transmission of this information is not intended to create and receipt does not constitute a lawyer-client relationship between Charltons and the user or browser.

Charltons is not responsible for any third party content which can be accessed through the website.

If you do not wish to receive this newsletter please let us know by emailing us at [unsubscribe@charltonslaw.com](mailto:unsubscribe@charltonslaw.com?subject=unsubscribe%20-Hong%20Kong%20Law-)

**Charltons - Hong Kong Law Newsletter - Issue 206 - 19 September 2013**

1. The PFMIs are annexed to the Guidelines. [↑](#footnote-ref-26)
2. Paragraph 3.5 of the Guidelines [↑](#footnote-ref-29)
3. Paragraph 3.6 of the Guidelines [↑](#footnote-ref-30)