

# Responsibilities of public authorities for FMIs

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## Contents

- 1. Potential concerns (to be) addressed**
- 2. What is new?**
- 3. Cooperation with other authorities: Responsibility E**
- 4. Oversight, recovery and resolution**



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# 1. Potential concerns (to be) addressed

## Potential concerns (to be) addressed

- In general, what role does the public sector have for FMIs? More specifically, who should do what and how?
- What is the purpose of the “Responsibilities”? What is their status and relevance for authorities?
- How do the Responsibilities relate to (domestic) statutory and legal obligations that authorities may have? How do they relate to other guiding documents that exist for CPSS and IOSCO?
- How to identify relevant authorities that are responsible for a particular FMI, especially in case of globally acting FMIs (e.g. on the basis of FMI’s location, participants, currency)?

## Potential concerns (to be) addressed

- How to ensure that infrastructure with the same regular risk profile are subject to consistent requirements and are consequently addressing their risks consistently? And how to ensure that different risk models lead to the same level of resilience? More specifically, who should do what and how?
- How to address issues coming from interdependencies?
- What exactly is the role of each authority? What specifically of central banks?
- What form should cooperation take: information sharing, notification, consultation, discussions, joint assessment etc.?



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## 2. What is new?

## Responsibilities

- A.  
Regulation, supervision and oversight
- B.  
Regulation, supervisory and oversight powers and resources
- C.  
Disclosure of policies with respect to FMI
- D.  
Application of the principles for FMI
- E.  
Co-operation with other authorities

## What is new?

- For the first time, all aspects relevant for all types of authorities and all types of FMIs are comprehensively covered in a single document
- *Formal* commitment by authorities to adopt and apply the PFMI
- Commitment to *consistent* application of PFMI (need for implementation monitoring)
- Commitment towards equal treatment of central-bank FMIs and private-sector FMIs
- Guidance on choice of framework for regulation, supervision, and oversight (legislation, statutory framework, less formal arrangements)

## What is new? (continue)

- Greater emphasis on the need for public disclosure of policies and the importance of consultations to this end;
- Authorities are explicitly expected to promote both safety and efficiency of FMIs
- Much greater emphasis and detail on cooperation, while recognising the need for some flexibility;
- Specific reference to the role of the central bank of issue (for CSDs and CCPs)



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# **3. Cooperation with other authorities: Responsibility E**

## Cooperation with other authorities: Responsibility E (I)

- Need for effective co-operation, under any circumstances: (i) in normal times, (ii) in crisis situation, (iii) for recovery and resolution
- Obligation to notify other authorities of cross-border or multicurrency FMIs
- Variety of different forms of co-operation: form, degree, formalisation, and intensity to be tailored to the specific case and circumstances (not easy)
- Cooperation must not dilute responsibilities: at least one authority should accept ultimate responsibility (typically, but not necessarily, the authority with primary responsibility in the FMI's home jurisdiction)
- Need for co-operation in assessing FMIs against the Principles by means of information sharing, consultations, and discussions

## Cooperation with other authorities: Responsibility E (II)

- For assessing payment, settlement, and liquidity arrangements, the authority with primary responsibility needs to consider the views of the central bank of issue (and vice versa)
- Advance notification to be given to any relevant authorities regarding regulatory changes or adverse events
- Need for coordination to ensure timely access to data in TRs
- Ultimately, authorities may decide to discourage the use of an FMI
- Co-operative arrangements in no way prejudice an authority's legal or statutory powers



Responsibility E offers *general* guidance on how to design frameworks for co-operation; *specific* features of each framework need to be tailored to the individual FMI and specific purpose of co-operation!



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## **4. Oversight, recovery and resolution**

## Need to ensure continuity of services: observance of PFMI, recovery, and resolution

Level of activity	Tool	Responsibility	Relevant rules
Observance of PFMI	Risk management	FMI (overseen by authorities) and overseers	All PFMI
Recovery	Recapitalisation, loss sharing rules	FMI and overseers	Mainly Principles 1, 4, 7, and 15
Resolution	Resolution tools (including loss allocation; transfer of services )	Resolution authorities (in co-operation with overseers)	Key Attributes (Insolvency Legislation)

## Cooperation with the resolution authority

- Resolution authority may or may not be the same as FMI's overseer/regulator
- Their powers and responsibilities come from different sources: While the responsibilities of the FMI's overseer/regulator are indicated by the PFMI, the powers of resolution authorities are specified by the FSB's *Key Attributes of Effective Resolution Regimes for Financial Institutions*
- Both sets of rules define obligations for cooperation: e.g. PFMIs specify a requirement to inform/notify the resolution authority of regulatory actions; the *Key Attributes* require resolution authorities to involve and cooperate with other relevant authorities
- As proposed in the CPSS-IOSCO consultative report on recovery and resolution of FMIs, the basis of cooperation should be Responsibility E

## Responsibility E as the basis for cooperation

- The FSB's *Key Attributes* specify cooperation and coordination requirements for legal framework conditions (KA 7), Crisis Management Groups (KA 8), and institution-specific cooperation agreements (KA 9)
- Responsibility E is compatible with all of these requirements: cooperative oversight arrangement under Responsibility E enable effective cooperation in normal times, in times of crisis, and for recovery and resolution.
- Leveraging the arrangements under Responsibility E will (i) ensure consistency across recovery and resolution plans, (ii) facilitate cross-border communication, (iii) facilitate mutual recognition of resolution actions in different jurisdictions

**Responsibility E, as supplemented to meet Key Attributes, helps to avoid any duplicative and inconsistent arrangements, thus lowering regulatory burden and avoiding gaps recovery and resolution plans!**

