



EUROPEAN UNION

DETAILED ASSESSMENT OF IMPLEMENTATION OF THE EUROPEAN CENTRAL BANK OBSERVANCE OF THE CPSS-IOSCO RESPONSIBILITIES OF AUTHORITIES FOR FINANCIAL MARKET INFRASTRUCTURES

February 2014

This report was prepared by a staff team of the International Monetary Fund. It is based on the information available at the time it was completed on February 22, 2013.

The policy of publication of staff reports and other documents allows for the deletion of market-sensitive information.

Copies of this report are available to the public from

International Monetary Fund • Publication Services
700 19th Street, N.W. • Washington, D.C. 20431
Telephone: (202) 623-7430 • Telefax: (202) 623-7201
E-mail: publications@imf.org Internet: <http://www.imf.org>

Price: \$18.00 a copy

International Monetary Fund
Washington, D.C.



INTERNATIONAL MONETARY FUND

EUROPEAN UNION

DETAILED ASSESSMENT OF IMPLEMENTATION

THE EUROPEAN CENTRAL BANK OBSERVANCE OF THE CPSS-IOSCO RESPONSIBILITIES OF AUTHORITIES FOR FINANCIAL MARKET INFRASTRUCTURES

January 2014

Prepared By
**Monetary and Capital
Markets Department**

This Detailed Assessment Report was prepared in the context of an IMF Financial Sector Assessment Program (FSAP) mission in the European Union from November 27–December 13, 2012, led by Charles Enoch, IMF and overseen by the Monetary and Capital Markets Department, IMF. Further information on the FSAP program can be found at <http://www.imf.org/external/np/fsap/fssa.aspx>

CONTENTS

GLOSSARY	3
EXECUTIVE SUMMARY	4
METHODOLOGY USED FOR ASSESSMENT	6
OVERVIEW	6
A. The ECB's Oversight Policy Framework	7
B. Relevant Authorities Involved	10
C. Major Changes and Reforms	11
SUMMARY ASSESSMENT	11
A. Summary Assessment of Observance of the Responsibilities	11
B. Recommendations for the Authorities	12
TABLES	
1. CCP Landscape for Euro-Denominated Instruments	7
2. European Central Bank Oversight Role – Overview	9
3. Rating Summary	11
4. Prioritized List of Recommendations	13
5. Detailed Assessment of Observance of Responsibilities	14

Glossary

BCOE	Business Continuity Oversight Expectations
BCP	Business Continuity Plan
CB	Correspondent Banking
CSD	Central Securities Depository
CSDR	Central Securities Depositories Regulation
CCP	Central Counterparty
CESR	Committee of European Securities Regulators
CLS	Continued Linked Settlement
CPSS	Committee on Payment and Settlement Systems
CSP	Critical service providers
DG-P	Directorate General Payments and Market Infrastructure
DVD	Delivery versus Delivery
DDRL	DTCC Derivatives Repository Limited
DVP	Delivery versus Payment
EA	Euro Area
EBA	European Banking Authority
ECB	European Central Bank
EMIR	European Market Infrastructure Regulation
ESCB	European System of Central Banks
ESMA	European Securities and Markets
ESRB	European Systemic Risk Board
EU	European Union
FMI	Financial Market Infrastructures
IOSCO	International Organization of Securities Commission
ISO	International Organization for Standardization
LVPS	Large-value payment system
MOU	Memorandum of Understanding
NCBs	National Central Banks
OC	Oversight Committee
PFMIs	Principles for Financial Market Infrastructures
PS	Payment System
PSSC	Payment and Settlement System Committee
RPS	Retail Payment System
RTS	Regulatory Technical Standards
SWIFT	Society for Worldwide Interbank Financial Telecommunication
SIPS	Systemically Important Payment Systems
SCSSs	Securities Clearing and Settlement Systems
SSS	Securities Settlement Systems
TARGET	Trans-European Automated Real-time Gross Settlement Express Transfer System
TARGET2	TARGET 2 nd Generation
TR	Trade Repository
T2S	TARGET2-Securities

EXECUTIVE SUMMARY

The oversight framework of the European Central Bank (ECB) is comprehensive. The ECB has developed a wide-ranging oversight policy, including quantitative and qualitative criteria to identify, monitor, and remedy any potential systemic risks related to financial market infrastructures. It has also developed oversight standards covering a broad range of infrastructures, service providers, and payment schemes within the euro area (EA). Furthermore, it has extensive oversight cooperation with a wide range of authorities both at the European level and globally. Within the European Union (EU), the ECB has been a driving force to promoting stability and integrating financial infrastructures. Globally, the ECB is deeply involved in shaping the regulatory framework for financial market infrastructures (FMIs) by assuming the leadership in developing new principles. It is also involved in several global cooperative oversight arrangements covering globally critical payment systems, post-trading FMIs, and the service provider SWIFT.

The ECB should be entrusted to coordinate the Eurosystem oversight function to ensure that international principles for FMIs are consistently enforced throughout the EA. The regulation and oversight of systemically important FMIs has differed across the EA with potential contagion systemic risk affecting the stability of the EA financial system. The adoption of the PFMI as legally binding is a step in the right direction. However, these principles are not sufficiently detailed to ensure a uniformed and harmonized implementation across the EA, since their enforcement for post trade FMIs will be conducted by national competent authorities on a decentralized basis (except for trade repositories, for which the supervisory responsibility lies with ESMA). Currently, the ECB is the lead overseer for payment systems, including TARGET2, EURO 1, STEP 2 and CLS (as concerns the settlement of euro transactions), but not for systemically important post-trade FMIs with cross-border reach. Therefore, there is merit in entrusting the ECB with responsibility to ensure that these principles are consistently enforced throughout the EA. Assuming such a role would strengthen financial stability across the EA by ensuring EA-wide policy objectives, harmonized regulation, and consistent implementation.

The ECB should rely more on its power to issue legally binding corrective action to effectively enforce its oversight responsibilities. To implement its oversight responsibilities, the ECB currently relies mainly on ‘soft’ tools and measures such as moral suasion, publication of oversight assessments, public statements, and cooperation with other authorities. These tools have worked so far, but with more demanding oversight standards this may not be effective in all circumstances in forcing the system’s operators to promptly address potential deficiencies. The ECB should rely more on legally binding corrective action to effectively enforce its responsibilities, including imposing sanctions, penalty, suspending some operations or services, etc. As it does not have an exclusive mandate over post-trade FMIs, the ECB should coordinate its corrective measures with the relevant securities regulators and banking supervisors. Furthermore, the ECB should be actively involved in any EU legislation addressed to FMIs, as it would affect the effectiveness of its oversight responsibility.

Recognize the role of the ECB/Eurosystem as central bank of issue for the regulation and oversight of all types of post-trade FMIs. The role of the ECB/Eurosystem as central bank of issue of the euro is recognized in relation to CCP regulation and oversight under EMIR. In line with the CPSS-IOSCO Responsibilities, the ECB role should also be recognized as central bank of issue for the regulation and oversight of central securities depositories (CSDs), securities settlement systems (SSSs) and trade repositories (TRs).

The ECB's oversight role is effectively structured and organized, but further clarity on the separation between its roles as service provider and overseer is warranted. The operation and oversight functions are hosted by separate Divisions within the same Directorate General and, while entrusted to two different Working Groups, treated within the same Eurosystem's committee (in clearly separated agenda items, which may meet in different compositions and for which there are separate mailing lists and access to documents for oversight and operation). The two functions report to separate members of the ECB Executive Board. To avoid any potential or appearance of a conflict of interest, consideration could be given to providing further clarity to the public on the separation between the operation function and oversight function, aimed at enhancing transparency and accountability.

The ECB's oversight capacity should be strengthened. The ECB oversight team has the responsibility to define the Eurosystem's strategy and policy, develop rules and guidance, coordinate the Eurosystem works, and contribute to the works of international fora. In addition, the ECB will soon participate in several EU colleges for central counterparties (CCPs). In order to implement the new risk-based approach in a credible way and be able to contribute actively to the works of European and international fora, the ECB needs to strengthen the capacity and the skill of its staff. ECB oversight staff should be significantly increased.

METHODOLOGY USED FOR ASSESSMENT

1. **The assessment of the ECB's observance of the Principles for Financial Market Infrastructures (PFMI) was undertaken in the context of the IMF's Financial Sector Assessment Program (FSAP) of the EU.** The assessor was Elias Kazarian of the IMF's Monetary and Capital Markets Department (MCM).
2. **This report presents only the outcome of an assessment of the ECB observance of the Responsibilities of Authorities (RA), while the assessment of TARGET2 against the principles are planned to take place at a later stage.** The assessment of the responsibilities was based on a self-assessment prepared by the ECB and drew on a wide range of both public and non-public documentation. It also benefited from discussions with the ECB Directorate General Payments and Market Infrastructure senior management and staff, for which the mission would like to thank them for their full cooperation and hospitality.
3. **This assessment is limited to ECB's oversight activities, while the Eurosystem national central banks' oversight activities are out of scope of this assessment and only covered to the extent necessary.** The assessment was based on information received during the first part of 2013 and it does not take into account the evolution of EU regulation.

OVERVIEW

4. **In the EA, there are two large-value payment systems: TARGET2 and EURO1.** The former is a centralized real time gross settlement (RTGS) system owned and operated by the Eurosystem. The EURO1 system, owned and operated by the European Banking Association (EBA) Clearing, is an EU-wide payment system that settles its end-of-day balances in euro in TARGET2.
5. **Retail clearing and settlement are organized differently in the various EA countries, reflecting their traditions and business preferences.** STEP1 and STEP2 are two EA-wide retail payment systems, which were set up to complement the EURO1 system. Most retail payment systems are multilateral netting systems that settle their balances in TARGET2. At the end of 2012, there were 20 retail payment systems in the EA (the five largest retail systems hold a market share of some 85 percent in terms of number of transactions processed). Moreover, 25 national and six international card schemes operate in the EA.
6. **In 2012, the EA securities and derivatives markets were served by nine officially registered CCPs.** In addition to infrastructures located in the EA, euro-denominated financial instruments are cleared by CCPs located outside the EA. Important systems are LCH.Clearnet Ltd (U.K.), ICE Clear Europe (U.K.), and SIX x-clear (Switzerland).
7. **There are 25 securities settlement systems (SSSs) operating in the EA, of which 23 are eligible for the delivery of securities to the Eurosystem as collateral in central bank credit**

operations. All EA central securities depositories (CSDs) offer settlement in central bank money, whereas the two international CSDs (ICSDs) offer settlement in commercial bank money.

Table 1. European Union: CCP Landscape for Euro-Denominated Instruments

Location	CCP	Equities		Fixed Income		Rates		CDS	FX	Commodity or Energy	
		Cash	Derivatives	Bonds	Repo	IRS	Other				
EA	FR	LCH.Clearnet SA	Yes	Yes	Yes	Yes			Yes		Yes
	DE	Eurex Clearing AG	Yes	Yes	Yes	Yes	Plans		Yes		Yes
	IT	CC&G	Yes	Yes	Yes	Yes					Yes
	AT	CCP.A	Yes	Yes	Yes						
	ES	MEFFCLEAR/MEFF		Yes		Yes					Yes
	GR	ADECH (Helex)		Yes							
	NL	EMCF	Yes								
	PT	Omiclear									Yes
	DE	ECC (European Commodity Clearing)									Yes
EU	SE	Nasdaq OMX Stockholm AB		Yes			Plans				Yes
	U.K.	CME Clearing Europe					Plans		Plans		Yes
	U.K.	ICE Clear Europe							Yes		Yes
	U.K.	LCH.Clearnet Ltd	Yes	Plans	Yes	Yes	Yes	Yes		Plans	Yes
	U.K.	NYSE Liffe Bclear		Yes							Yes
	U.K.	EuroCCP	Yes								
NON EU	CH	SIX x-Clear	Yes								
	US	CME					Yes	Yes		Yes	

8. There is one trade repository (TR) within the EA, REGIS-TR, which has been operational since December 2010. OTC derivatives contracts in euro or with EA counterparts are, as a rule, reported to DTCC Derivatives Repository Limited (DDRL U.K.).

A. The ECB's Oversight Policy Framework

9. The ECB has a leading role in developing, in close cooperation with national central banks (NCBs), the Eurosystem oversight policies, which are defined by the Governing Council of the ECB, the highest decision making body of the Eurosystem. The Eurosystem's oversight covers (i) large-value payment systems; (ii) retail payment systems; (iii) central securities depositories (CSDs); (iv) securities settlement systems (SSSs); (v) central counterparties (CCPs); (vi) payments instruments/schemes; (vii) correspondent banking; (viii) critical service providers; and (ix) trade repositories (TR).

10. The ECB has responsibility as lead overseer for select payment systems, including: the large-value payment systems TARGET2 and EURO 1; retail payment system, including STEP2, and CLS euro settlement; select payment card schemes in Europe, including VISA Europe, Amex and Diners; and payment instruments, including SEPA Credit Transfer and SEPA Direct Debit.

11. The ECB does not have a clear oversight responsibility for post-trade infrastructures like CSDs, SSSs, and CCPs. It is the responsibility of the Eurosystem NCBs, which is based on mandates provided by national legislation, which differs across EA jurisdictions. However, the new European Market Infrastructure Regulation (EMIR) and the prospective CSD Regulation will harmonize (at the EU level) the regulatory requirements and many implementation aspects for the FMIs to which they apply, including licensing and cooperation among authorities.

12. At an early stage of the single currency, the Governing Council of the ECB expressed keen interest in the well functioning of post-trade infrastructures. It was considered crucial for the smooth implementation of monetary policy. The fact that the Eurosystem had no explicit legal competence in the field of post-trade infrastructures was not seen as an obstacle to establishing standards, common principles, or best practices ensuring the safety and soundness of such systems within the euro area. To this end, the ECB adopted standards for the use of EU SSS involved in European System of Central Banks (ESCB) credit operations. The systems were assessed against these standards to be qualified as settlement systems for monetary policy operations. Nevertheless, the ECB is lead overseer for the future critical service provider TARGET2-Securities (T2S), which is a Eurosystem owned and operated service offering securities settlement services to central securities depositories (CSDs).

Table 2. European Union: European Central Bank Oversight Role – Overview

	Payments ¹					Post-Trade					Critical Service Providers	
	LVP	CLS	RPS	RPS links	Payment instruments	SSS	SSS links	CCP	CCP links	TRs	T2S	SWIFT
Oversight standard setting												
- EA	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y	
- EU					Y ²	Y ³	Y ³	Y ³	Y ³			
- Global	Y	Y				Y	Y	Y	Y	Y	Y	Y
Oversight assessment methodology												
- EA	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y	
- EU						Y ³	Y ³	Y ³	Y ³		Y	
- Global	Y	Y				Y	Y	Y	Y	Y		Y
Lead oversight and oversight assessment (enforcement)	Y ⁴	Y ⁵	Y ⁶	Y ⁷	Y						Y	
User standards and assessment methodology						Y	Y	Y ⁸				
User assessment						Y	Y	Y ⁸				
Cooperative oversight												
- bilateral	Y ⁹					Y ¹⁰						
- EA												
- EU						Y*	Y*	Y*	Y*	Y*	Y	
- Global		Y						Y	Y	Y		Y
Crisis communication	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y*	Y

Explanatory notes: (Y) Yes; (Y*) Yes, in the future; (?*) Future involvement of ECB not yet decided.

- 1/ The ECB/Eurosystem also conducts semi-annual surveys on correspondent banking in euro and has published a first report on payment cards fraud.
- 2/ In the context of the European Forum for Security in Retail Payments (involving EU/EEA overseers and supervisors of payment service providers).
- 3/ ESCB-CESR recommendations for SSSs and CCPs in the EU as well as joint work with ESMA on EMIR regulatory technical standards.
- 4/ TARGET2 and EURO 1.
- 5/ ECB has lead oversight responsibility for euro settlement by CLS, FRBNY lead overseer and supervisor of CLS Bank.
- 6/ STEP2.
- 7/ Links with STEP2.
- 8/ For ECB/Eurosystem operations in foreign exchange denominated derivatives.
- 9/ EuroCHATS (Hong Kong).
- 10/ Euroclear Bank (Belgium).

13. The ECB plays a leading role in coordinating crisis management. For this purpose, a crisis-communication framework was set up, aimed at enhancing information sharing between overseers in the European System of Central Banks (ESCB). The framework goes beyond those developed for the cooperative oversight of individual systems, as system-specific frameworks might not be sufficient for certain types of crisis.

14. The ECB plays an important advisory role within the EU. Based on its statute, the ECB should be consulted in relation to proposed EU community acts and draft national legislation, as well as to submit (on its own initiative) opinions to the appropriate EU institutions and national authorities. ECB opinions and other less formal communications constitute important tools in influencing legal and regulatory developments.

B. Relevant Authorities Involved

15. The Council of the EU and the European Parliament are empowered by the Treaty of EU to adopt legal acts. These may include rules relating to credit and other financial institutions, the provision of financial services, payments, financial instruments, and market infrastructures.

16. The European Commission acts as the guardian of the EU's treaties and it has the power to propose legislation to parliament and to the council. The Commission works in the interests of the EU as a whole. One of the principal aims is to create a single market with a level playing field and equal opportunities throughout the EU.

17. The Eurosystem, comprising the ECB and the NCBs of the euro area, is assigned oversight responsibilities by the treaty. The Governing Council of the ECB defines the Eurosystem oversight policies, standards, and rules for euro payment systems, payment instruments and post-trade FMIs. The Eurosystem jurisdiction is the EA.

18. The ECB has enforcement responsibility in relation to payment systems and instruments, and will obtain responsibilities in relation to EU CCP Colleges. In relation to trade repositories (TRs), the nature of the ECB involvement will be shaped by the Regulatory Technical Standards (RTS) for the regulation and oversight of trade repositories that are prepared by European Securities and Markets (ESMA). The Central Securities Depositories Regulation (CSDR) and the related RTS will determine the nature of possible ECB involvement in CSD/SSS regulation and oversight.

19. The NCBs have responsibility for the enforcement of Eurosystem oversight policies and standards in relation to payment systems and instruments, and will obtain responsibilities in relation to EU CCP Colleges. The central bank oversight of clearing and settlement systems in the euro area is conducted by NCBs under national law competencies (i.e., not under Eurosystem competence), alongside regulation by securities regulators and banking supervisors.

20. ESMA contributes to the supervision of financial services firms with a pan-European reach, either through direct supervision or through the active coordination of national

supervisory activity. ESMA is entrusted with the definition of secondary legislation (regulatory technical standards, implementation standards, and regulatory guidelines) as set out in the council and parliament regulations concerning post-trade FMIs, as well as the enforcement of such rules in relation to post-trade FMIs.

21. The European Systemic Risk Board (ESRB) is an independent body responsible for the macro-prudential oversight of the EU financial system. It contributes to the prevention or mitigation of systemic risks to financial stability arising from developments within the financial system (e.g., in relation to CCP activities), so as to avoid periods of widespread financial distress.

C. Major Changes and Reforms

22. In the context of EU legislative reform, EMIR and the forthcoming CSDR are the two most important initiatives. Other initiatives are the revisions of the Markets in Financial Instruments Directive and of the Capital Requirements Directive.

23. In terms of changing FMI landscape, the T2S service is the most important development under way. The main aim of T2S is to bring all securities and cash accounts together on one technical platform with a view to settling nearly all securities transactions in Europe on that platform. However, T2S will not constitute a CSD or an SSS in the legal sense, as, for example, defined in the Settlement Finality Directive. It is purely an IT platform to be used by CSDs to settle their securities transactions with immediate legal validity in T2S. CSDs will maintain their legal relationships with their customers and will continue to perform their custody and notary functions.

SUMMARY ASSESSMENT

A. Summary Assessment of Observance of the Responsibilities

24. The assessment finds the ECB observing all the responsibilities of authorities for FMIs.

Table 3. European Union: Rating Summary	
Assessment Category	Responsibility
Observed	Responsibilities A, B, C, D and E
Broadly observed	-
Partly observed	-
Not observed	-
Not applicable	-

B. Recommendations for the Authorities

25. The Governing Council should adopt the CPSS-IOSCO Principles for FMIs as Eurosystem oversight standards. It is not entirely clear when and whether the Principles for FMIs would be adopted by EA national authorities. The early adoption of the principles by the Eurosystem will allow for harmonized provisions and rules throughout the EA and timely strengthening of its oversight standards¹.

26. The ECB should rely more on its power to issue legally binding corrective action to effectively enforce its oversight responsibilities. The current tools have worked so far, but with more demanding oversight standards, they may not be effective in all circumstances to address potential deficiencies or inducing prompt crucial changes to enhance a system's soundness. In order to have an effective oversight function, the ECB should rely more on legally binding corrective action to effectively enforce its responsibilities, including imposing sanctions, penalty, suspending some operations or services, etc. As it does not have an exclusive mandate over post trade FMIs, the ECB should coordinate its corrective measures with the relevant securities regulators and banking supervisors. Furthermore, the ECB should be actively involved in any EU legislation addressed to FMIs, as it would affect its oversight responsibility.

27. The ECB is in the course of moving toward a risk-based and forward-looking oversight approach by developing new and more quantitative and dynamic analytical oversight tools. It is increasingly involved in various cooperative oversight arrangements and obtain new legal responsibilities, e.g., as central bank of issue in EMIR colleges. To ensure a consistent, proactive, and credible fulfillment of its responsibilities, a timely and significant resource increase should be granted to the oversight function in the DG-P.

28. The smooth functioning of CCPs and CSDs/SSSs is of vital importance to the central bank on account of its responsibility in the fields of monetary policy, payment systems, and financial stability. EU legislation recognizes the role of central banks in relation to CCP regulation and oversight. It is, therefore, recommended that the oversight role and interest of the ECB, as a central bank of issue, be also recognized in upcoming EU legislation on CSDs and SSSs oversight and regulation. In this context, consistency should be ensured between the Eurosystem/ESCB role in CSD/SSS oversight standard setting at EU and global level. Furthermore, the ECB should be entrusted the role of oversight coordinator to ensure consistent implementation of regulation and rules throughout the EA.

29. The ECB's oversight role is effectively structured and organized, but further clarity on the separation between its service provider and oversight roles is warranted. In particular, in

¹ It is noted that subsequent to the IMF assessment, the Governing Council of the ECB adopted in early June 2013 the PFMI as Eurosystem oversight standards for all types of FMIs and published for public consultation a draft ECB Regulation on oversight requirements for systemically important payment systems.

order to further reduce any potential conflict of interests and to ensure the clear division of responsibility and accountability, the separation between the oversight function and the operational function at all levels of the decision making, including the senior manager level of the Directorate General Payments and Market Infrastructure (DP), Payment and Settlement System Committee (PSSC), and ECB Board, respectively, should be more clearly articulated and made transparent to external parties.

Table 4. European Union: Prioritized List of Recommendations				
Responsibility	Issue of Concern/Gap/Shortcoming	Recommended Action and Comments	Relevant Parties	Timeframe for Addressing Recommended Action
Responsibility B	Lack of explicit legally binding oversight rules and requirements for SIPS	Strengthen the ECB's legal basis for its oversight responsibility for systemically important FMIs for payments	ECB/Eurosystem	Medium-term
Responsibility B	Potential discrepancy in applying regulations and rules throughout the EA.	Entrust the ECB to coordinate the oversight of systemically important Post trade FMIs with cross-border dimension in the EA	ECB	Short-term
Responsibility B	Non-binding oversight enforcement	ECB to rely more on legally binding corrective action for FMIs, including CSDs, SSSs and and TRs	ECB/ Eurosystem	Short-term
Responsibility B		Ensure the ECB's role in legislation on CSDs/SSSs regulation and oversight	EC, ESMA	Short-term
Responsibility B	Potential ineffective coordination of crisis management	ECB should have access to real-time information on TARGET2 participants' account balance, liquidity	Eurosystem	Short-term
Responsibility B	To cope with increased and diversified tasks	Timely and material staff increase for the ECB oversight function	ECB	Short-term
Responsibility D	To enhance transparency and accountability	Further enhance clarity on the separation between the oversight and the operation functions throughout the ECB and its committees	ECB/Eurosystem	Medium-term
Responsibility D	To comply with international standards	Adopt the PFMIs as Eurosystem oversight standards	Eurosystem	Short-term

Table 5. European Union: Detailed Assessment of Observance of Responsibilities

Responsibility A: Regulation, supervision, and oversight of FMIs

FMIs should be subject to appropriate and effective regulation, supervision, and oversight by a central bank, market regulator, or other relevant authority.

Q.A.1.1: What criteria do authorities use to identify FMIs that should be regulated, supervised, and overseen?

Large-value payment system (LVPS): The ECB considers every LVPS settling euro-denominated transaction to be systemically important owing to the size of individual transactions and the crucial role of the system for financial stability and implementation of the monetary policy. In this context, the ECB applies a specific oversight framework based on the CPSS Core Principles for SIPS (CPSIPS), which was adopted by the ECB Governing Council in 2001. The CPSIPS have been complemented by the Business Continuity Oversight Expectations (BCOE) and were adopted by the ECB Governing Council in 2006. These standards will soon be replaced by the new PFMI. It is envisaged that the ECB will issue regulations to make the PFMI legally binding for SIPS in the EA.

The ECB is the lead overseer of TARGET2, EURO 1, and CLS (for the settlement of euro-denominated transactions).

Retail payment systems (RPS): The Eurosystem adopted an oversight framework for RPS settling euro-denominated transactions in June 2003, which contains criteria classifying RPS into three categories: “systemically important retail payment systems” (SIRPS); “prominently important retail payment systems” (PIRPS); and “other retail payment systems.”

With regard to the criteria governing the SIRPS classification, the Eurosystem took account of the degree of market penetration within the relevant retail payment market, the financial risks pertinent to the system, and the risk of domino effects. The following three quantitative indicators were used:

- a market share of more than 75 percent of the relevant retail payment market—i.e., the payments processed via interbank retail payment systems and other payment arrangements (“market penetration”);
- the processing of payments with a total value of more than 10 percent of the national RTGS system, or the processing of payments with an average daily value of more than €10 billion (“aggregate financial risk”); and

	<ul style="list-style-type: none"> • a concentration ratio (i.e., the market share of the five largest participants) of 80 percent or more, a netting ratio of 10 percent or less, or a net debit position for participants that exceeds €1 billion (“risk of domino effects”).
<p>Key consideration 1:</p> <p>Authorities should clearly define and publicly disclose the criteria used to identify FMIs that should be subject to regulation, supervision, and oversight</p>	<p>PIRPS are characterized by the fact that they play a prominent role in processing and settling retail payments and their failure could have major consequences for the economy and undermine the public’s confidence in payment systems and the currency in general. In classifying PIRPS, there was therefore a focus on the concentration of the retail payment market and, in particular, the degree of market penetration of the relevant system.</p> <p>SIRPS have to comply with all Core Principles, while PIRPS have to observe CPs I, II, and VII to X. RPS not classified as SIRPS or PIRPS do not need to comply with the Core Principles. Such systems have to comply with the relevant oversight standards as defined for them (e.g., the common oversight standards for payment instruments).</p> <p>Retail systems that are classified as SIRPS are CORE in France, CSS in Netherlands, POPS in Finland, and STEP 2 of EBA Clearing.</p> <p>The ECB is the lead overseer for STEP2.</p> <p>The Eurosystem has also developed oversight requirements for links established by retail payment systems operating in the EA. These requirements focus on ensuring the safety and efficiency of the links. Moreover, the Eurosystem has established oversight policies for retail payments instruments such as credit transfers, direct debits and card payments in the EA. In view of the migration to a Single Euro Payments Area (SEPA) and to ensure a uniform oversight across the EA, the Eurosystem issued in February 2009 “Harmonized oversight approach and oversight standards for payment instruments.” In October 2010, it issued the final versions of the oversight frameworks for credit transfer and direct debit schemes. Finally, end–2012, the ECB published “Recommendations for the security of internet payments,” prepared in the context of the European Forum on the Security of Retail Payments.</p> <p>CSD, CCP, and SSS: The ECB’s oversight competence for post-trade infrastructure is not clearly defined in its statute, and for this reason the ECB relies on non-oversight tools and instruments to influence the design and operation of SSS and CCP. In 1998, the Eurosystem adopted standards for the use of SSSs in Eurosystem credit operations. These user standards, which are not oversight standards, ensure that the Eurosystem credit operations are conducted according to procedures that prevent central</p>

	<p>banks from assuming inappropriate risks and ensure the same level of safety for credit operations throughout the EA. Nevertheless, these standards have been a driving force in enhancing the overall safety and efficiency of SSSs for both monetary policy and market operations.</p> <p>In 2001, the ECB Governing Council took a step further toward oversight role and stated its keen interest in the smooth functioning of SSSs and CCPs, based on its responsibility in the fields of monetary policy, payment systems and financial stability. In this context, the ECB Governing Council agreed that consistency between the standards defined by the Eurosystem as user and the standards used by markets be pursued and that the ECB should begin cooperation with other relevant authorities. In June 2009, the ECB took the lead to promote EU-wide oversight principles, and the European System of Central Banks (ESCB) and the Committee of European Securities Regulators (CESR) jointly developed and adopted new recommendations for SSSs and CCPs.</p> <p>The ECB does not assume any oversight responsibility for individual SSSs and CCPs operating in the EA.</p> <p>TRs: The ECB and a number of Eurosystem central banks participate in the establishment of cooperative oversight arrangements of TRs having a global reach and are actively involved in the ongoing oversight of TRs. Again, the ECB does not have primary oversight responsibility for any individual TR in the EA.</p> <p>CSP: For the Eurosystem, a key principle is that the individual systems retain full responsibility that the service provider complies with the applicable oversight policies. Nevertheless, the Eurosystem oversees service providers that provide critical services to several key systems. As an example, the National Bank of Belgium is the primary overseer of SWIFT, and the ECB participates as a member of the cooperative oversight arrangement comprising 10 central banks. Another example is the oversight of TARGET2-Securities (T2S), an EU-wide cross-border settlement services to CSDs and central banks, for which the ECB acts as the primary overseer.</p> <p>New EU-wide regulation: EU Regulation (No. 648/2012 of July 4, 2012) on OTC derivatives, CCPs, and TRs, which entered into force in August 2012 (known as EMIR) sets out, inter alia, the rules for authorization and supervision of CCP as well as the registration and supervision of TRs.</p> <p>In late September 2012, the European Securities and Markets Authority (ESMA) submitted the final regulatory technical standards (RTS), that it was</p>
--	--

required to produce under EMIR, to the European Commission. The regulatory technical standards contain key information relating to how EMIR will apply in practice. The RTS are still to enter into force. With EMIR, cooperation among EU authorities will be significantly strengthened for CCPs, notably through the involvement of central banks of issue and central bank overseers in CCP colleges.

The proposed Regulation on Improving Securities Settlement in the EU and on Central Securities Depositories (CSDR) will complement EMIR in terms of FMI coverage, and make all EU CSDs and SSSs subject to uniform regulation, supervision and oversight. The CSDR will establish an EU common framework for the authorization, supervision, cross-border service provision, outsourcing to a public entity, and prudential/organizational requirements for CSDs. CSDR is expected to be finalized by mid-2013.

Q.A.1.2: How are the criteria publicly disclosed?

The ECB publishes its oversight framework, including policies, objectives, and instruments through a variety of channels such as ECB website, publications, seminars, and conferences. In particular, the ECB publishes on a regular basis a report providing information on its oversight activities.

Relevant published oversight documents include:

- Role of the Eurosystem in the field of payment systems oversight, June 21, 2000.
- Oversight standards for euro retail payment systems, June 26, 2003.
- Business continuity oversight expectations for systemically important payment systems (SIPS), June 9, 2006.
- Recommendations for securities settlement systems and recommendations for central counterparties in the EU – ECB and the Committee of European Securities Regulators (CESR), June 23, 2009.
- Eurosystem oversight policy framework, July 5, 2011.
- Eurosystem Oversight Report 2011, April 19, 2012.

Some other references are:

- Terms of reference for the oversight assessment of EA systemically and prominently important payment systems (SIPS) against the Core Principles,” November 2007.
- Oversight expectations for links between retail payment systems, November 29, 2012.

	<p>The Regulation No. 648/2012 of July 4, 2012 on OTC derivatives, central counterparties and trade repositories has been published on the Official Journal (OJ:L:2012:201).</p>
<p>Key consideration 2:</p> <p>FMIs that have been identified using these criteria should be regulated, supervised, and overseen by a central bank, market regulator, or other relevant authority</p>	<p>Q.A.2.1: <i>Which FMI</i>s have been identified for regulation, supervision, and oversight? Did the authorities use the criteria set forth in key consideration 1?</p> <p>Using the criteria referred to under KC1 above, the ECB oversees the following payment systems: TARGET2, EURO 1, STEP 2, and CLS. Post-trade FMIs such as SSSs, CSDs, CCPs, and TRs are subject to oversight conducted by individual Eurosystem's NCBs.</p> <p>Q.A.2.2: <i>Which authority or authorities regulate, supervise, or oversee the identified FMI</i>s? What is the scope of the responsibilities for each authority?</p> <p>The ECB has the lead oversight responsibility for TARGET2, EURO 1, STEP 2, CLS (as far as settlement of euro transactions is concerned), and T2S when operational. The ECB is also a member of the cooperative arrangement for SWIFT.</p> <p>Q.A.2.3: <i>How have relevant authorities avoided (or addressed) any gaps in regulation, supervision, or oversight of FMI</i>s?</p> <p>For all payment systems, the Eurosystem has the exclusive oversight mandate, although some consumer protection related issues are regulated by other governmental bodies. To avoid gaps and ensure a level playing field, the Eurosystem's oversight is based on a common oversight policy framework. Moreover, terms of reference for the oversight assessment contribute to minimizing the risk of having gaps or major inconsistencies in the implementation of the oversight standards.</p> <p>For other FMIs such as SSSs and CCPs a cooperative approach between central banks and securities regulators was applied to develop common standards that are used by national regulators and central banks. According to a gap-analysis made by the ECB, there is a high level of consistency between the principles developed at the EU level (EMIR RTS) and international standards (PFMIs); none of the deviations identified are considered of major concern.</p> <p>In relation to EMIR Colleges, Eurosystem representatives (in their capacity as central bank overseers and/or representing the central bank of issue) will contribute to ensuring full consistency between the PFMIs and the EU framework. It is envisaged to set up a new substructure under the PSSC in view of exchanging information and coordinating the work of Eurosystem</p>

	representatives in Colleges (at the time of writing, it is still unclear whether there will be colleges under CSDR).
Key conclusions for responsibilities	<p>The ECB has developed a comprehensive oversight policy framework, including quantitative and qualitative criteria to identify systemically important market infrastructures.</p> <p>The ECB oversight framework, including, policies, objectives, and instruments are publicly disclosed. Furthermore, the ECB has in place mechanisms and procedures to identify and remedy any potential gaps in terms of inadequate oversight regulations and rules, for payment systems infrastructures. ECB does not have the legal power to regulate or oversee post-trading FMIs. They are regulated by EA national authorities and overseen by Eurosystem's NCBs.</p>
Assessment	<i>Observed.</i>
Responsibility B: Regulatory, supervisory, and oversight powers and resources	
Central banks, market regulators, and other relevant authorities should have the powers and resources to carry out effectively their responsibilities in regulating, supervising, and overseeing FMIs.	
Key consideration 1: Authorities should have powers or other authority consistent with their relevant responsibilities, including the ability to obtain timely information and to induce change or enforce corrective action	<p><i>Powers or other authority consistent with relevant responsibilities</i> <i>Q.B.1.1: What are the authorities' powers or other authority and how are these consistent with the relevant responsibilities (as identified in Q.A.2.2)?</i></p> <p>The legal basis for the ECB's oversight competence is contained in the Treaty on the Functioning of the EU ("the Treaty"). According to the fourth indent of Article 127(2) of the Treaty, one of the basic tasks of the ESCB is "to promote the smooth operation of payment systems." This provision is mirrored in the fourth indent of Article 3.1 of the Protocol on the Statute of the ESCB and of the ECB ("the Statute of the ESCB"), which is annexed to and forms an integral part of the Treaty on EU and the Treaty on the Functioning of the EU.</p> <p>A specific legal basis for the ECB's oversight competence in this area is contained in Article 22 of the Statute of the ESCB, according to which "the ECB and the national central banks may provide facilities, and the ECB may make regulations, to ensure efficient and sound clearing and payment systems within the Union and with other countries."</p> <p>To enforce its oversight responsibilities, the ECB could make use of its legislative power, defined in Article 34 and Article 22 of the Statute. Regulations are legal acts of general application, are binding in their entirety, and are directly applicable in all member states. A decision is binding in its entirety upon those to whom it is addressed.</p>

	<p>According to Article 22 of the Statute, the ECB may issue regulations to ensure efficient and sound clearing and payment systems within the EU. It is worth recalling that Article 2(1) of Council Decision 98/415/EC of June 29, 1998 that requires the authorities of the Member States to consult the ECB on any draft legislation within its field of competence pursuant to the Treaty and in particular on payment and settlement systems.</p> <p>However, these legal provisions have been arguable as to whether they refer solely to payment systems or do cover post-trading FMIs. Historically, the ECB has refrained from exercising any oversight role over post-trade infrastructures.</p> <p>The new EU Regulation (EMIR) has broadened the ESCB oversight mandate, including the ECB, in relation to CCPs. According to EMIR, the ESCB members execute oversight by being closely involved in the authorization and monitoring of CCPs, recognition of third-country CCPs, and the approval of interoperability arrangements. Furthermore, in order to prevent the possible creation of parallel sets of rules, EMIR urged ESMA and the ESCB to cooperate closely when preparing the relevant draft technical standards.</p> <p>EMIR foresees that central bank overseers and the central bank of issue will become members of the Colleges to be set up for each CCP in the EU. Members of the college will need to contribute to the following college tasks mandated by EMIR:</p> <ul style="list-style-type: none"> • The <i>adoption of opinions of the college</i> on (i) the authorization of the CCP and any extensions of its activities over time; (ii) the CCP's models and parameters to calculate margin requirements, default fund contributions, collateral requirements and other risk control mechanisms; and (iii) interoperability agreements with other EU CCPs. • The <i>exchange of information</i>. • The agreement on the <i>voluntary entrustment of tasks</i> among its members. • The <i>coordination of supervisory examination program</i> based on a risk assessment of the CCP. • The determination of <i>procedures and contingency plans to address emergency situations</i>. • The (at least annual) <i>consideration of the findings of the competent authority's review of the CCP</i> (i.e., the review of the arrangements, strategies, processes, and mechanisms implemented by the CCP to comply with EMIR, and its evaluation of the risks to which the CCPs are, or might be, exposed) and any remedial action or penalties derived from this review.
--	--

	<p>Concerning CSDs/SSSs, it is recalled that central bank oversight of clearing and settlement systems in the EA is currently conducted by NCBs under national law competencies, alongside regulation by securities regulators and banking supervisors. The competencies and powers transferred to individual NCBs under such national laws differ. Memoranda of Understanding on cooperation have been concluded between EA central bank overseers and securities regulators.</p> <p>Power to obtain timely information</p> <p><i>Q.B.1.2: How do the authorities' powers or other authority enable them to obtain timely information from the FMIs, including confidential and non-public information, in order to carry out their responsibilities? What are the relevant constraints, if any?</i></p> <p>The ECB uses a wide range of information sources, including regular reporting on system activity (including incident reports and their follow-up), information requests sent on an ad hoc basis to the system user and system documentation, and bilateral contacts with system owners and operators. Occasionally, it also makes use of more general statistical information on payment and settlement systems collected by the Eurosystem and published by the ECB (in its Statistical Data Warehouse).</p> <p>The Eurosystem NCBs benefit from national legal basis to request and obtain information or through moral suasion where information is provided on a voluntary basis. In the envisaged ECB Regulation for making the CPSS-IOSCO PFMIs legally binding for SIPS, it is foreseen to include a provision on disclosure, whereby the relevant authority shall have the right to obtain from a SIPS operator all information and documents necessary for assessing compliance with the requirements of the regulation (also EMIR and CSDR contain provisions on the provision of information to authorities by FMIs).</p> <p>In principle, the ECB collects information both ex ante for assessments as well as for monitoring purposes, including for analytical work to identify various indicators (while ex post information is available, real-time information on participants is currently not available to the ECB).</p> <p>As the oversight authority and central bank of issue of the euro, the ECB has not faced any difficulties in obtaining oversight related information, including confidential and non-public information, from TARGET2 or EURO1.</p> <p>Should there be a material problem (or the possibility thereof) in the smooth functioning of TARGET2 or EURO 1, the respective operator will</p>
--	---

	<p>immediately inform the ECB oversight function. Overseers will then closely monitor the management and resolution of the event. Ex-post, there will be a review of an incident report (to be provided within two working days) and remedial actions taken by the operator.</p> <p><i>Q.B.1.3: What information are FMIs required to provide? How frequently does the FMI provide this information?</i></p> <p>The ECB has developed a statistical reporting framework for TARGET2 and EURO 1. It covers basic information on system features, general indicators for the system (on participation in the system, turnover and types and size of payments processed), indicators of risks within an individual system (credit risk, liquidity risk, operational risk, and other settlement risk indicators), concentration indicators (concentration of participants and system-to-system spillover effects), and efficiency of the system. The framework contains 53 indicators (with a further 17 sub-indicators). Data reporting takes place on a monthly basis.</p> <p>Guides have been developed for the implementation of the Eurosystem oversight function. These guides contain information on the types and frequency of information to be obtained by the oversight function. For example, the information to be obtained from the TARGET2 operator function is set out in Chapters 3 and 4 of the TARGET2 Oversight Guide.</p> <p><i>Q.B.1.4: To what extent do authorities have the ability to obtain information to understand and assess: (i) an FMI's various functions, activities, and overall financial condition; (ii) the risks borne or created by an FMI and, where appropriate, the participants; (iii) an FMI's impact on its participants and the broader economy; and (iv) an FMI's adherence to relevant regulations and policies?</i></p> <p>The ECB has not faced difficulties, in relation to EA payment systems for which it acts as lead overseer, to obtain information to understand and assess the systems various functions, activities, or overall financial condition. Overseers have received the necessary documentation and information from the respective system operators. In relation to TARGET2 and the Proprietary Home Account systems still in existence at one NCB, ECB overseers benefit from the close cooperation with the overseers of the respective NCB. As part of the organization of work within the Eurosystem (the central banks being independent legal entities), NCB overseers are responsible for the assessment of so-called national elements of TARGET2. Documentation and data reported or available to the ECB allow them to understand and assess the risks borne or created by the respective payment</p>
--	--

systems. However, it is noted that there is no real-time access by the ECB to information about TARGET2 participants (such information is available to the individual NCBs, for the banks with whom they have an account relationship). Intraday information (e.g., on account balance, queued payments, credit line available, etc.) in relation to an individual participant can, where necessary, be obtained from the relevant NCB(s), via teleconference.

A TARGET2 Simulator is available to a group of authorized overseers (and a group of authorized operators) to analyze various system features, risks and behaviors, on the basis of real transaction level data (data available since May 2008, with a time-lag of one day). This allows them to identify and analyze risks in relation to individual participants, as well as to conduct stress testing on the basis of different scenarios. The data available has also allowed studies in relation to, e.g., network analysis and risks associated with payments. The ECB overseers have made progress for understanding various interdependencies for both institutions based and system based interdependencies.

The regular oversight assessments conducted by the ECB provide information on the respective payment systems adherence with Eurosystem oversight standards and policies. A substantial amount of information is also received in regular on-going activities, e.g., from analysis of incidents, statistical analysis, meetings between overseers and operators, etc. The systems compliance with the “sound legal basis –principle” is also checked (with the help of legal colleagues).

Concerning ECB and the Eurosystem oversight of CCPs, by its participation in EMIR Colleges, it will obtain access to the necessary information due to the fact that EMIR and the related Regulatory Technical Standards (RTS) make the provisions of the PFMI legally binding. It is still unclear whether the CSDR and the related RTS will create a corresponding situation for CSDs and SSSs.

Powers to induce change or enforce corrective action

Q.B.1.5: What powers, authority, or other mechanisms enable authorities to induce change or enforce corrective action in an FMI that is not observing relevant principles or that is not complying with relevant regulations or policies? What are the relevant constraints, if any?

The ECB does not have the legal power to issue regulation or binding corrective action for post trading FMIs to induce changes, but rather rely on soft tools such as moral suasion, name and shame, etc. Nevertheless, the

	<p>Eurosystem takes action and induces change where it finds that a particular payment or settlement system, or the market infrastructure as a whole, does not have a sufficient degree of safety or efficiency. To this end, the Eurosystem has a range of tools available, including regulation, and moral suasion, influence stemming from its participation in systems.</p> <p>It is foreseen that the envisaged ECB Regulation, making the PFMIIs legally binding for SIPS, includes a provision mandating the ECB to impose sanctions in cases of non-compliance.</p>
<p>Key consideration 2:</p> <p>Authorities should have sufficient resources to fulfil their regulatory, supervisory, and oversight responsibilities</p>	<p>Q.B.2.1: <i>What resources (including adequate funding, qualified and experienced personnel, and appropriate ongoing training) are available to authorities in order to fulfill their responsibilities?</i></p> <p>At the ECB, the Directorate General Payments and Market Infrastructure (DG-P) deals with all payment and settlement systems issues relevant to the ECB and the Eurosystem (except those related to the development and operation of T2S). DG-P is made up of three divisions.</p> <p><i>Oversight Division</i> contributes to the definition and enforcement of the oversight policies and instruments developed by the ECB/Eurosystem. It also analyses and develops ECB/Eurosystem stances on market infrastructure developments and related legal initiatives at the EU level. Moreover, it conducts assessments of payment and settlement systems for which the ECB is the lead overseer.</p> <p>Although the Oversight Division operates independently of the other divisions in DG-P, it reports directly to DG-P senior management responsible for all three divisions. However, operations and oversight are under the responsibility of different Board Members at the level of the Executive Board of the ECB.</p> <p>In addition to fulfilling its own responsibilities with regard to its operational, oversight, and facilitation functions, the ECB coordinates and prepares the proposals/recommendations of the Payment and Settlement Systems Committee (PSSC) and its sub-structures. The PSSC, composed of representatives from NCBs, reports via the Executive Board of the ECB to the ECB's Governing Council. The PSSC has established four permanent sub-structures, one of which is the Oversight Working Group that deals with issues related to the oversight of payment, clearing and settlement systems, market infrastructures, critical service providers and payment instruments. Operational (and catalyst) matters are entrusted to separate Working Groups. In its deliberations, the PSSC clearly separates oversight issues from other matters (it may meet in different compositions and there are separate mailing lists and access to documents for oversight and operation).</p>

	<p>The Oversight Division currently has 21 staff, of which 14 are permanent staff, while seven persons have temporary and time- limited contracts. The majority of the permanent staff has worked with the Division for many years and is highly qualified to deal with payment systems issues.</p> <p>In view of additional tasks to be dealt with as from 2013, the ECB Governing council allocated one additional (permanent) FTE to the Oversight Division as from 2013. Moreover, two FTEs will be moved to the Oversight Division from the other divisions.</p> <p>Both in-house and external training is available to staff, and discussions on training needs and plans are an integral part of the appraisal process.</p> <p>In the fulfillment of its tasks, the Oversight Division also draws on resources from other ECB departments, in particular, the Legal Department. Moreover, when making assessments of market infrastructures, the Oversight Division sets up specific teams that include staff members of Eurosystem NCBs.</p> <p><i>Q.B.2.2: To what extent does the level of available resources constrain the ability of the authorities to carry out their responsibilities?</i></p> <p>In the past, the resources available have allowed the Oversight Division to fulfill its core commitment. However, the ECB is assuming new responsibility and tasks, including global cooperative oversight arrangements for two CCPs, and one TR will require significant additional resources. This is particularly true for 2013, where all CCPs currently authorized in the EU (including third-country CCPs) will have to (re-)apply for authorization (recognition in the case of third-country CCPs) within six months of entry into force of the related regulatory technical standards.</p> <p>Nevertheless, the Oversight Division may face challenges in resource management since its staff will take part in Colleges for CCPs relevant for the euro and located outside the EA. In addition, the ECB may be invited to represent the central bank of issue in Colleges for CCPs in the EA. It will also be important that the staff involved in these tasks builds up the required knowledge where this is not already the case. This includes analytical skills e.g., for the assessment of risk models and stress test results.</p> <p><i>Q.B.2.3: What is each authority's process for assessing the resources it needs to fulfill its regulator?</i></p> <p>Strategic priority and resource management planning is made annually at ECB, DG-P, and Oversight Division level. The process is guided by ECB</p>
--	--

	<p>priorities and only at this level may there be decisions on new resources for any business area (such as DG-P).</p> <p>Within the DG-P annual work plans are prepared and agreed for each division (based on existing resources). In addition, work plans are agreed for the PSSC and its sub-structures, including for the Oversight Working Group. All work plans are being followed-up.</p> <p>Legal protections</p> <p>Q.B.2.4: <i>Where relevant, what legal protections apply to the staff that carries out responsibilities for regulation, supervision, and oversight?</i></p> <p>As an ECB staff, member of the Oversight Division:</p> <ul style="list-style-type: none"> • Do enjoy immunity from legal proceedings (<i>Cf. Article 12a of the Protocol of April 8, 1965 on the privileges and immunities of the EU and Article 40 ESCB/ECB Statute</i>) in the territory of each EU Member State, in respect of acts performed by them in their official capacity. This immunity persists after an ECB staff member has ceased to hold office. • Are not liable for damages caused to the ECB or to third parties because of or in the due performance of their respective functions, unless such damages are due to gross negligence or wishful misconduct (ECB Conditions of Employment, Part I). • Are subject to the uniform jurisdiction of the Court of Justice of the EU as regards their personal liability towards the ECB for actions or omissions in the performance of their duties having caused damage to third parties, where the ECB has been sued by such third parties in accordance with the Treaty (Article 268, 340 TFEU, 35.5 of the ESCB/ECB Statute). <p>In addition to the above, members of the Executive Board (even when deciding on oversight matters) would enjoy full diplomatic immunity.</p>
<p>Key conclusions of responsibilities</p>	<p>In general, the ECB has the necessary powers and authority to fulfill its oversight responsibilities for payment systems, while it is lacking for post-trade infrastructures. Nevertheless, EMIR and the draft CSDR strengthen to some extent the legal power of the ECB to oversee post-trade FMI.</p> <p>In particular, the ECB does not have the legal power to issue regulation or to enforce its oversight for post-trading FMI. These tasks are carried out at the domestic level by Eurosystem NCBs. Many systems have substantial cross-border activities, and the design and operation of these systems would have an impact on the local as well as the rest of the EA due to the magnitude of risk stemming from cross-border activities. To this end, the</p>

	<p>stability of financial markets in the EA as a whole would be entirely dependent on the resilience and risk management procedures of these systems.</p> <p>Due to the embedded deficiencies within the cross-border coordinated regulatory framework, such as conflicting interests to act quickly and decisively or lack of common understanding of the main risk, it would be disputable whether the current regulatory model in the EA would be adequate and effective in preventing or addressing the risk of systemically important FMIs.</p> <p>To induce change or corrective action for post trade FMIs, the ECB relies on “soft” tools, including moral suasion, public statements, influence stemming from its role as central bank of issue, and cooperation with other authorities. These tools may not be effective to enforce the ECB oversight responsibility with a potentially adverse impact on its credibility. However, the ECB does not have an exclusive mandate over post-trade FMIs.</p> <p>While the ECB is entrusted as the coordinator of TARGET2 crisis management it has not real-time access to information on participants liquidity positions (including information on account balance, queued payments and credit line available) as well as, when possible, collateral positions. For the majority of large participants, liquidity positions are maintained in several countries, and Eurosystem NCBs can only monitor the positions maintained on their own account system. TARGET2 offers a mechanism that allows participants to pool their available liquidity in a single account. Furthermore, the collateralization process and securities holding are decentralized across the Eurosystem countries. Centralizing the monitoring of participants’ liquidity and, when possible, collateral positions at the level of the ECB is crucial in order to allow the Eurosystem to maintain financial stability across the entire EA by acting quickly and effectively in the event of financial distress.</p>
Assessment	<i>Observed.</i>
Recommendations and comments	<p>The ECB oversight roles and responsibilities can be strengthened further by:</p> <ul style="list-style-type: none"> • Strengthen the ECB’s legal basis for its oversight responsibility for systemically important FMIs within the EA. • Entrusting the ECB to coordinate the oversight of systemically important FMIs with substantial cross-border activities. • Empower the ECB to issue and impose legally binding oversight measures to enforce its oversight responsibility on all types of FMIs. • Provide the ECB with real-time information about TARGET2 participants’

	<p>positions, which is available to individual NCBs, including the centralization of the monitoring of participants' liquidity and, when possible, collateral positions at the level of the ECB.</p> <ul style="list-style-type: none"> • Develop further new analytical oversight tools that would allow the ECB to move towards a risk based and forward looking oversight approach. • Increase significantly the number of oversight division staff in order to ensure credible fulfillment of its responsibilities.
<p>Responsibility C: Disclosure of policies with respect to FMIs</p>	
<p>Central banks, market regulators, and other relevant authorities should clearly define and disclose their regulatory, supervisory, and oversight policies with respect to FMIs.</p>	
<p>Key consideration 1:</p> <p>Authorities should clearly define their policies with respect to FMIs, which include the authorities' objectives, roles, and regulations</p>	<p><i>Q.C.1.1: What are each authority's policies with respect to FMIs, including its objectives, roles, and regulations? Are they clearly defined?</i></p> <p>The ECB's oversight policy framework is incorporated in the Eurosystem's framework, which defines the objectives, scope, methodology and organization of the Eurosystem's oversight function, as well as cooperation with other authorities. This framework was published by the ECB in July 2011.</p> <p>The ECB defines the oversight of payment and settlement systems as a central bank function whereby the objectives of safety and efficiency are promoted by monitoring existing and planned systems, assessing them against these objectives and, where necessary, fostering change. The ECB includes payment instruments in this definition, as they are an important part of the payment system. Safety and efficiency objectives are considered in relation to individual systems, however, safety objectives are also considered in relation to the overall market infrastructure.</p> <p>The scope of ECB's oversight covers:</p> <ul style="list-style-type: none"> • Large-value payment systems • Retail payment systems • Securities settlement systems • Central counterparties • Payments instruments/schemes, • Correspondent banking • Critical service providers • Trade repositories. <p>The ECB has regularly published reports providing detailed information on the oversight standards and oversight policies and activities.</p>

<p>Key consideration 2:</p> <p>Authorities should publicly disclose their relevant policies with respect to the regulation, supervision, and oversight of FMIs</p>	<p><i>Q.C.1.2: How are the relevant policies disclosed?</i></p> <p>The ECB's oversight related reports are published on the ECB web site and are mostly also available on the web sites of Eurosystem NCBs. Oversight information is also published in the Annual Reports of the ECB and Eurosystem NCBs, and in contributions to Monthly Bulletins or Financial Stability Reviews.</p> <p>Moreover, information has been provided in public speeches and in meetings with FMIs representatives and market participants, for example with the Contact Group on Euro Payments Strategy, the Contact Group on Euro Securities Infrastructure, Euro CLS Group and with various industry groups, such as the European Association of Clearing Houses or European Central Securities Depositories Association.</p> <p>Furthermore, reports on ECB oversight assessments of individual systems are made public.</p>
<p>Key conclusions</p>	<p>The policies, objectives, scope, methodology and organization of the ECB and Eurosystem's oversight function, as well as details of the Eurosystem's interaction with other authorities, are clearly set out in the Eurosystem's oversight policy framework.</p> <p>The ECB and Eurosystem oversight policies and oversight related reports are published on the ECB web site and are also available on the web sites of Eurosystem NCBs. Information is also published in Annual Reports of the ECB and in contributions to ECB Monthly Bulletins or ECB Financial Stability Reviews.</p>
<p>Assessment</p>	<p><i>Observed.</i></p>
<p>Responsibility D: Application of the principles for FMIs</p>	
<p>Central banks, market regulators, and other relevant authorities should adopt the CPSS-IOSCO <i>Principles for financial market infrastructures</i> and apply them consistently.</p>	
<p>Key consideration 1:</p> <p>Authorities should adopt the CPSS-IOSCO Principles for financial market infrastructures.</p>	<p><i>Q.D.1.1: How and to what extent have the relevant authorities adopted the principles?</i></p> <p>The ECB is considering making use of its regulatory powers under Article 22 of its Statute, and is in the process of preparing a legal act which will make the PFMIs legally binding for systemically important payment systems. The legal act will be endorsed by the ECB governing Council and envisaged to enter into force in Spring 2013.</p> <p>EMIR, together with RTS, introduces legislation binding for all CCPs and TRs</p>

	<p>in the EU. It also regulates aspects in relations with third countries. While EMIR entered into force in August 2012, there is, at time of writing, still some uncertainty as to when the RTS will get legal force. Except for some deviations at the margin, EMIR and the RTS taken together make the PFMI legally binding for CCPs and TRs in the EU.</p> <p>The proposed “Regulation on Improving Securities Settlement in the EU and on Central Securities Depositories (CSDR)” will complement EMIR in terms of FMI coverage, and make all CSDs and SSSs subject to regulation, supervision and oversight. It is foreseen that also CSDR will be accompanied by RTS. The CSDR and related RTS are expected to make the PFMI legally binding for CSDs and SSSs in the EU. It is not yet fully clear when this legal package could be finalized.</p> <p>In relation to EMIR Colleges (and future cooperation arrangements under CSDR), ECB representatives will contribute to ensuring full consistency between the PFMI and the EU framework.</p> <p>While waiting to adopt the CSDR and its RTS at the EU level, the ECB is envisaging inviting the Governing Council to adopt the PFMI as Eurosystem oversight standards. The ECB is currently consulting with the securities regulators before formalizing this decision, given that the ESCB-CESR Standards were adopted both by central banks and securities regulators, to ensure a continued consistent approach.</p>
<p>Key consideration 2:</p> <p>Authorities should ensure that these principles are, at a minimum, applied to all systemically important payment systems, CSDs, SSSs, CCPs, and TRs</p>	<p><i>Q.D.2.1: To which systemically important payment systems, CSDs, SSSs, CCPs, and TRs do authorities apply the principles? Are there systemically important FMIs to which the relevant authorities do not apply the principles?</i></p> <p>The PFMI will be applied to all systemically important payment systems in the EA, on the basis of the forthcoming ECB legal act. While EMIR and the related RTS taken together make the PFMI legally binding for all CCPs and TRs in the EU, likewise the CSDR and related RTS are expected to make the PFMI legally binding for all CSDs and SSSs in the EU.</p> <p><i>Q.D.2.2: How do the authorities disclose to which FMIs they apply or do not apply the principles? How does each relevant authority justify its decision to apply or not to apply the principles to specific FMIs?</i></p> <p>All legal Acts will be published in the Official Journal. Should the Governing Council of the ECB decide to go for the interim solution being considered, the ECB/Eurosystem will immediately publish such oversight policy on its website.</p>

<p>Key consideration 3:</p> <p>Authorities should apply these principles consistently within and across jurisdictions, including across borders, and to each type of FMI covered by the principles.</p>	<p><i>Q.D.3.1: How do authorities apply these principles consistently within the relevant jurisdictions, including to public-sector owned or operated FMIs, and across jurisdictions, including across borders?</i></p> <p>As for payment systems, the ECB legal Act (implementing the PFMI) sets out criteria for the definition of systemically important payment systems. The Act will apply to both private and public sector owned systems, including TARGET2 which is owned and operated by the Eurosystem. Regarding CCPs, TRs, CSDs and SSSs, EMIR and CSDR together with the respective RTS will apply to all such FMIs within the EU. Both legal packages are making the PFMI legally binding, ensuring consistent application.</p> <p>In relation to EMIR Colleges (and cooperative arrangements under CSDR), ECB will contribute to ensuring full consistency between the PFMI and the EU framework. It is envisaged to set up a new substructure under the PSSC in view of exchanging information and coordinating the work of Eurosystem representatives in Colleges.</p> <p><i>Q.D.3.2: If an authority is an owner and operator of FMI, as well as the overseer of private sector FMIs, how does it consider and address possible conflicts of interest?</i></p> <p>To ensure equal treatment, the ECB applies the same oversight policies to all systems—i.e., both private systems and those Eurosystem’s operated systems.</p> <p>Within the ECB the operational and oversight functions are allocated to separate divisions, each with their own staff and management. To preserve their independence, the relations between the two functions have been formalized. The operational function does not have access to information or data collected from FMIs and maintained by the oversight function. Overseers ensure that confidential oversight related information will be treated with all appropriate care and will not be compromised or misused. Moreover, at the level of the Executive Board of the ECB operations and oversight are under the responsibility of different Board Members.</p> <p>Should there be a crisis, the Eurosystem oversight function convenes in the dedicated oversight crisis communication group, while (where relevant) the TARGET2 operator function convenes separately as the group of TARGET2 crisis managers.</p> <p>Moreover, the Governing Council has decided that: (i) staff and managers in charge of T2S oversight would neither be members of the T2S Program</p>
---	---

	<p>Board, nor would they report to the T2S Program Board member on this matter; and (ii) members of the T2S Program Board would not be involved in the oversight of the CSDs that outsource their settlement platform to T2S.</p> <p>Since 2005, the Governing Council of the ECB has considered four reviews on the experience gained concerning the separation of the operations and oversight functions, with special attention to possible conflicts of interest between them. No concrete cases of conflicts of interest between the Eurosystem operations and oversight functions have been reported.</p> <p><i>Q.D.3.3: If an FMI does not observe all applicable principles, how do authorities ensure that the FMI takes appropriate and timely action to remedy its deficiencies?</i></p> <p>Except in the cases of acting as a lead overseer, the ECB does not have the power to force an FMI to comply with the principles. However, the Eurosystem NCBs have the legal power to take actions and induces change where it finds that a particular payment or settlement system does not have a sufficient degree of safety or efficiency. In its assessment report jointly carried out by the ECB and Eurosystem NCBs, recommendations are made to address any shortcomings, including a deadline to implement such recommendations.</p> <p>To ensure actions are taken by the system operator, the Eurosystem NCBs have a range of tools available from “soft” to legally binding legal instruments.</p> <p>It is foreseen that the envisaged ECB Regulation making the PFMIIs legally binding for SIPS includes a provision mandating the ECB to impose sanctions in cases of non-compliance.</p>
Key conclusions	<p>Several key legislative acts are currently being prepared that would make 2012 CPSS-IOSCO Principles for FMIs legally applicable on both private and public owned systemically important FMIs in the EU. In addition, the ECB Governing Council will be invited to adopt the PFMIIs as oversight standards for all relevant FMIs, including trade repositories.</p> <p>In principle, the operational and oversight functions are separated within the ECB. At the level of the Executive Board of the ECB operations and oversight are under the responsibility of different Board members.</p> <p>To ensure that the operator takes actions that are necessary for the observance of all applicable principles, the Eurosystem NCBs have a range of “soft” tools available, including moral suasion, public statements,</p>

	influence stemming from its role as central bank of issue, and cooperation with other authorities, as well as “hard” tools, that is binding legal instruments (ECB regulations or decisions). The draft ECB Regulation includes a provision mandating the ECB to impose sanctions in cases of non-compliance.
Assessment	<i>Observed.</i>
Recommendations and comments	Further enhance clarity on the separation between the oversight and the operation functions throughout the ECB and its committees, aimed at enhancing transparency and accountability.
Responsibility E: Cooperation with other authorities	
Central banks, market regulators, and other relevant authorities should cooperate with each other, both domestically and internationally, as appropriate, in promoting the safety and efficiency of FMIs.	
Key consideration 1: Relevant authorities should cooperate with each other, both domestically and internationally, to foster efficient and effective communication and consultation, in order to support each other in fulfilling their respective mandates with respect to FMIs. Such cooperation needs to be effective in normal circumstances, and should be adequately flexible to facilitate effective communication, consultation, or coordination, as appropriate, during periods of market stress, crisis situations, and the potential recovery, wind-down, or resolution of an FMI	<p>The ECB and the Eurosystem NCBs have a comprehensive cooperation with other authorities and central banks both within the EU and at the international level. The Eurosystem Oversight Report, published in April 2012, provide wide-ranging Information on Eurosystem cooperation arrangements.</p> <p>At the European level, the ECB has actively participated and contributed to the work of several authorities, including the European Commission, European Council, the EBA, the ESMA, CESR, and the ESRB. These works focused mainly on the soundness and efficiency of post-trading services, and payment systems related issues.</p> <p>At the international level, the ECB holds regular bilateral meetings on payment and settlement issues with the Federal Reserve, Bank of England, Bank of Japan, and People’s Bank of China. Occasional meetings are also held with some other central banks. Such meetings facilitate the exchange of information on oversight and regulatory developments in the respective jurisdictions, sharing of information on applicable oversight policies and practices, and provide an opportunity to discuss issues related to individual FMIs that are of common interest.</p> <p>The ECB and EA G10 central banks are members of the Committee of Payment and Settlement Systems (CPSS), which brings together 25 major central banks worldwide. The CPSS is one of the global standards setting bodies recognized by the Financial Stability Board. The CPSS secretariat maintains, on behalf of CPSS, a crisis communication contact list.</p> <p>The ECB holds the co-chair of the Editorial Team, and has actively</p>

	<p>contributed to the development of the FMIs principles under the leadership of the CPSS central banks and securities regulators of the International Organization of Securities Commissions (IOSCO).</p> <p>The ECB/Eurosystem is involved in a wide range of global and European cooperation arrangements involving central banks and other authorities having responsibilities/mandates with respect to global FMIs such as CLS, SWIFT, DDRL, IceClear, and LCH-Clearnet.</p> <p>The oversight arrangements for EU CCPs will be complemented by Colleges as prescribed by EMIR. Cooperative arrangements are also foreseen for CSDs and SSS under CSDR rules. These colleges composed of relevant central banks and securities regulators and other agencies, will ensure the effective coordination of oversight, including on-site inspections, and development of procedures and contingency plans to address emergency situations. The establishment and functioning of the college shall be based on a written agreement between all its members.</p> <p><i>Q.E.1.1: For which FMIs is there cooperation among authorities and what authorities are involved?</i></p> <p>The cooperative oversight arrangements in place for CLS, IceClear, (regarding CDS), LCH.Clearnet Ltd (regarding IRS), DDRL, and SWIFT are to their nature global, the one for TARGET2-Securities is European and those for Euroclear Bank and Euro CHATS are bilateral. The cooperative oversight arrangements for IceClear, LCH.Clearnet Ltd and DDRL have, at time of writing, just been signed (although the one for DDRL is a continuation of the previous arrangement set up by the Federal Reserve for the DTCC Warehouse Trust).</p> <p>For some FMIs, such as CLS, the oversight arrangements involve the G10 central banks and the central banks of issue of currencies settled by CLS. The ECB participates, together with other five Eurosystem NCBs, in the cooperative oversight framework for CLS. Given that CLS Bank is established in the United States, the Federal Reserve System (the Federal Reserve) accepts primary oversight responsibility, while the ECB has primary oversight responsibility for settlement in euro by CLS.</p> <p><i>Q.E.1.2: How does the cooperation among authorities, both domestically and internationally, foster efficient and effective communication and consultation in order to support each other in fulfilling their respective mandates, with respect to FMIs in normal circumstances?</i></p>
--	--

	<p>The cooperation arrangements, to some extent, differ depending on the overseen infrastructure. The common feature of the cooperative arrangements is that there is a lead overseer that is in charge of organizing and administering the oversight works, and the relevant central banks and agencies participate actively, to various degree, in the process including, exchange of information, periodical or ad-hoc assessment of the system, mutual consultation before implementing policies or taking any action that could materially affect the overseen entity.</p> <p><i>Q.E.1.3: How does the cooperation among authorities facilitate the effective communication, consultation, or coordination, as appropriate, during periods of market stress, crisis situations, and the potential recovery, wind-down or resolution of an FMI?</i></p> <p>The involved overseers have set up procedures for crisis communication framework to ensure timely and accurate dissemination of information. For instance, the lead overseer may initiate a conference call when needed (either on its own initiative or if requested by other overseers).</p>
<p>Key consideration 2:</p> <p>If an authority has identified an actual or proposed operation of a cross-border or multicurrency FMI in its jurisdiction, the authority should, as soon as it is practicable, inform other relevant authorities that may have an interest in the FMI's observance of the CPSS-IOSCO Principles for financial market infrastructures</p>	<p><i>Q.E.2.1: Which FMIs in the authorities' jurisdiction provide cross-border or multicurrency services? How do authorities identify an actual or proposed operation of a cross-border or multicurrency FMI in their jurisdiction?</i></p> <p>The lead overseer would notify and initiate a consultation process with other relevant overseers when new rules or regulation would be introduced or when material changes are introduced by the system.</p> <p><i>Q.E.2.2: What criteria do authorities use to determine whether other relevant authorities should be notified?</i></p> <p>When material changes or regulatory amendments are planned</p> <p><i>Q.E.2.3: How and when are notifications provided to other relevant authorities?</i></p> <p>See Q.E.2.1 above.</p>

<p>Key consideration 3:</p> <p>Cooperation may take a variety of forms. The form, degree of formalization, and intensity of cooperation should promote the efficiency and effectiveness of the cooperation, and should be appropriate to the nature and scope of each authority's responsibility for the supervision or oversight of the FMI and commensurate with the FMI's systemic importance in the cooperating authorities' various jurisdictions. Cooperative arrangements should be managed to ensure the efficiency and effectiveness of the cooperation with respect to the number of authorities participating in such arrangements</p>	<p>Forms of cooperation</p> <p><i>Q.E.3.1: What are the forms of cooperation for each FMI identified under key consideration 1?</i></p> <p>The formalized multilateral cooperative oversight arrangement. In the case of SWIFT, there is a bilateral MOU between the National Bank of Belgium and each relevant central bank.</p> <p><i>Q.E.3.2: How are the forms of cooperation appropriate to the nature and scope of each authority's responsibility for the supervision or oversight of the FMI?</i></p> <p>It seems that the formalized cooperative oversight arrangements proved to be appropriate and worked well so far. When justified, different levels of working groups were set up to deal with policy and technical issues.</p> <p>Efficiency and effectiveness of cooperation</p> <p><i>Q.E.3.3: How does the management of cooperative arrangements promote the efficiency and effectiveness of the cooperation, including with respect to the number of authorities participating in such arrangements?</i></p> <p>This varies from one system to another but in general specific processes and procedures of the involved overseers are developed in a guide and central banks and, when relevant, securities regulators are represented in the oversight committee.</p>
<p>Key consideration 4:</p> <p>For an FMI where cooperative arrangements are appropriate, at least one authority should accept responsibility for establishing efficient and effective cooperation among all relevant authorities. In international cooperative arrangements where no other authority accepts this responsibility, the presumption is the authority or authorities with primary responsibility in the FMI's home jurisdiction should accept this responsibility</p>	<p><i>Q.E.4.1: For each FMI identified under key consideration 1 where cooperative arrangements are appropriate, which authority or authorities have accepted responsibility for establishing efficient and effective cooperation among all relevant authorities?</i></p> <p>In principle, the authorities of the jurisdiction where the system is legally established.</p> <p><i>Q.E.4.2: What are the duties of this authority or these authorities with respect to the cooperation?</i></p> <p>The lead overseer organizes and administers the respective Oversight Committee and provides the Chairperson and Secretariat for the OC.</p>

<p>Key consideration 5:</p> <p>At least one authority should ensure that the FMI is periodically assessed against the principles and should, in developing these assessments, consult with other authorities that conduct the supervision or oversight of the FMI and for which the FMI is systemically important</p>	<p><i>Q.E.5.1: Which relevant authority ensures that the FMI is periodically assessed against the principles?</i></p> <p>The lead overseer or regulator periodically assesses the FMI concerned (in particular for European arrangements). In addition, the lead authority expects the system operator to prepare self-assessments.</p> <p><i>Q.E.5.2: How does this authority consult on and share assessments with other relevant authorities that conduct the supervision or oversight of the FMI and for which the FMI is systemically important?</i></p> <p>The lead authority/overseer shares outcomes of assessments with the participating authorities/central banks. The latter also reserve the right to prepare their own independent analyses and assessments of the system against international standards when they find it necessary to do so. Such assessments should be shared with the OC.</p>
<p>Key consideration 6:</p> <p>When assessing an FMI's payment and settlement arrangements and its related liquidity risk-management procedures in any currency for which the FMI's settlements are systemically important against the principles, the authority or authorities with primary responsibility with respect to the FMI should consider the views of the central banks of issue. If a central bank of issue is required under its responsibilities to conduct its own assessment of these arrangements and procedures, the central bank should consider the views of the authority or authorities with primary responsibility with respect to the FMI</p>	<p><i>Q.E.6.1: For which currency (or currencies), does the authority or authorities with primary regulation, supervision, or oversight responsibility assess the FMI's payment and settlement arrangements and its related liquidity risk-management procedures?</i></p> <p>When applicable, for all currencies settled or cleared by the relevant systems.</p> <p><i>Q.E.6.2: When assessing an FMI's payment and settlement systems and its related liquidity risk-management procedures in any currency for which the FMI's settlements are systemically important, how does the authority or authorities with primary regulation, supervision, or oversight responsibility with respect to the FMI consider the views of the central bank(s) of issue?</i></p> <p>The lead authority/overseer is mandated to consult the relevant central bank of issue, although the individual central banks have the right to prepare their own independent analyses and assessments. Such assessments should be shared within other relevant overseers.</p> <p><i>Q.E.6.3: When conducting its own assessment of the payment and settlement arrangements and liquidity risk-management procedures of an FMI, how does the central bank of issue consider the views of the authority, or authorities, with primary responsibility with respect to the FMI?</i></p> <p>To avoid inconsistencies, individual authorities/central banks should consult the other participating authorities/central banks, as necessary, before implementing policies or taking any action that could materially affect the overseen system.</p>

<p>Key consideration 7:</p> <p>Relevant authorities should provide advance notification, where practicable and otherwise as soon as possible thereafter, regarding pending material regulatory changes and adverse events with respect to the FMI that may significantly affect another authority's regulatory, supervisory, or oversight interests</p>	<p><i>Q.E.7.1: How do relevant authorities provide advance notification, where practicable and otherwise as soon as possible thereafter, regarding pending material regulatory changes and adverse events with respect to an FMI that may significantly affect the respective regulatory, supervisory or oversight interests of another domestic or foreign authority?</i></p> <p>The lead authority will notify the others as soon as practicable. This would also be followed-up during the oversight committee/group meetings.</p> <p><i>Q.E.7.2: Where appropriate, how does the authority consider the views of such authorities in connection with such regulatory actions taken with respect to the FMI?</i></p> <p>The views of the cooperating central banks are discussed during OC meetings.</p>
<p>Key consideration 8:</p> <p>Relevant authorities should coordinate to ensure timely access to trade data recorded in a TR</p>	<p><i>Q.E.8.1: If the authority regulates, supervises, or oversees a TR that maintains data pertaining to other jurisdictions, how does such an authority coordinate with other authorities who have a material interest in the trade data consistent with their responsibilities, to ensure that they have timely and appropriate access to trade data in the TR?</i></p> <p>The lead overseer is the U.K. authorities (ESMA in the future), which are not covered by this assessment.</p>
<p>Key consideration 9:</p> <p>Each authority maintains its discretion to discourage the use of an FMI or the provision of services to such an FMI if, in the authority's judgment, the FMI is not prudently designed or managed or the principles are not adequately observed. An authority exercising such discretion should provide a clear rationale for the action taken both to the FMI and to the authority or authorities with primary responsibility for the supervision or oversight of the FMI</p>	<p><i>Q.E.9.1: Has the authority exercised discretion to discourage the use of an FMI, or the provision of services to an FMI, on the grounds that it is not prudently designed or managed, or the principles are not adequately observed?</i></p> <p>No.</p> <p><i>Q.E.9.2: If so, did the authority provide a clear rationale to the FMI and to the authority or authorities with primary responsibility for the supervision or oversight of the FMI?</i></p> <p>Not applicable.</p>

<p>Key conclusions</p>	<p>The ECB has extensive oversight cooperation with a wide range of authorities both at the European and global levels. Within the EU, the ECB has been the driving force in promoting stability and integration of financial infrastructures. In particular, the ECB participates actively in the EU institutions and fora to define EU's policies and to develop EU regulations. Globally, the ECB has also assumed leadership and contributed to the CPSS-IOSCO works on Principles for FMIs, FMI recovery and resolution, OTC derivatives reporting and aggregation requirements, as well as CPSS and BCBS work on intraday liquidity management and a review of foreign exchange settlement risk guidance.</p> <p>The ECB is also involved in several global cooperative oversight arrangements: for payment systems (CLS), for CCPs (IceClear and LCH.Clearnet Ltd), for a TR (DDRL), and for the critical service provider SWIFT. The ECB leads the oversight cooperation for the future TARGET2-Securities service. Moreover, it cooperates bilaterally with the NBB on the oversight of Euroclear Bank and with Hong Kong Monetary Authority for EuroCHATS.</p> <p>In the near future, the ECB will become a member in some of the Colleges set up under EMIR, representing the central bank of issue for the euro.</p> <p>In its advisory role, the ECB is to be consulted in relation to proposed Community acts and draft national legislative provisions on matters in its fields of competence. Moreover, the ECB plays a leading and coordinating role in crisis communication and management, and in this regard, has set up a crisis communication framework for oversight purposes, covering all types of FMIs.</p>
<p>Assessment</p>	<p><i>Observed.</i></p>