Japanese Bankers Association (ZENGINKYO)

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Committee on Payment and Settlement Systems of the Bank for International Settlements
Technical Committee of the International Organization of Securities Commissions

RE: Comments on *Principles for Financial Market Infrastructures*

Dear Sir/Madam:

The Japanese Bankers Association (JBA) appreciates this opportunity to comment in response to the Consultative Report published on March 10, 2011, by the Committee on Payment and Settlement Systems of the Bank for International Settlements and the Technical Committee of the International Organization of Securities Commissions.

The JBA is an industry association that represents and works on behalf of banks and bank holding companies headquartered and/or with branches in Japan, as well as regional bankers associations in Japan. The JBA conducts various activities in order to contribute to a sound and successful banking system that benefits the growth of the Japanese economy. Almost all banks that conduct banking operations in Japan are JBA members.

The JBA highly appreciates the proposed principles which are *designed to ensure that the essential infrastructure supporting global financial markets is even more robust and thus even better placed to withstand financial shocks than at present.* The JBA, however, would like to add some comments from the viewpoint of FMI participants in order to make the proposed principles more viable and effective in light of current practices.

1. Principle 2: Governance

We agree with the purpose of the standard proposed. However, as pointed out in 3.2.4. of the consultative report, the general agreement concerning governance is that *[a]rrangements may differ significantly because of national law, ownership structure, or organizational form.* Therefore, allowances should be granted for organizational forms or director structures necessary for governance that are suitable for individual organizations' different ownership structures or sizes.

2. Principle 4: Credit risk & Principle 7: Liquidity risk

Excessive minimum risk management level requirements for CCPs relative to the possible risks may result in excessive cost burdens on CCP participants and customers. In turn, this would not only significantly undermine the efficiency of settlements, but may unnecessarily skew the financial markets.

In Japan, domestic banks are part of major players of CCPs, and they often hold very large long/short positions. Various kinds of legal frameworks have been established over the past for such domestic banks in view of past financial crises. Under such circumstances, the possibility of at most two participants defaulting at the same time is extremely low. In spite of this, the proposal notes that all CCPs should be uniformly required to prepare themselves for the event of at most two participants defaulting, even in cases where risk management is adequate for at most one participant defaulting. Not allowing CCPs to conduct this type of risk management will lower the incentive of participants to use CCPs.

In particular, in markets where participants have the option of not using CCPs, e.g. through bilateral transactions, an incentive to use CCPs might be lost. Furthermore, it may prevent us from achieving the original purpose of reducing risks surrounding the market as a whole by concentrating payments on CCPs. This in turn could have tremendously negative effects.

Therefore, from the standpoint of CCP participants, the JBA opposes the standard requirement of preparing for at most two participants from defaulting.

3. Principle 8: Settlement finality

As the standard proposes, we believe that the earliest intra-day or real time final settlement will help reduce settlement risk. We thus agree with this proposal.

4. Principle 15: General business risk

The JBA share the idea that *[a]n FMI should identify, monitor and manage its general business risk…so that it can continue providing services as a going concern* as noted in the proposed principle. However, the JBA opposes the establishment of a minimum quantitative requirement on liquid net assets.

The appropriate capital level for protecting against FMI business risk is believed to vary depending on the risk level of operations conducted by the FMI, in addition to other factors such as the form under which the FMI was established, shareholder structure and internal reserves management policy (optimum capital structure that takes into consideration risks, such as M&A risk). The JBA therefore feels it is inappropriate to impose an across-the-board quantitative standard based on operating expenses without taking into consideration various factors such as the aforementioned risk. In principle, a qualitative standard should first be required upon establishment of a new FMI and then later on, best practices regarding appropriate indicators should be added incrementally.

5. Effective date

With regard to the effective date of the above principles, the JBA seeks flexibility in accordance with the preparation status of each country. This is because all stakeholders to whom these principles are to apply, including FMI participants, and not solely the FMI, will need time for preparation (including time for systems development).

Respectfully,

The Japanese Bankers Association