



AFSA

Astana
Financial
Services
Authority

Consultation Paper

AFSA-P-CE-2023-0002

Consultation paper on the proposed AIFC Commodities Exchange Framework

Unrestricted

March 20, 2023

Introduction

Why are we issuing this Consultation Paper (CP)?

1. The Astana Financial Services Authority (AFSA) has issued this Consultation Paper to seek suggestions from the market on the Policy paper and proposed AIFC Commodities Exchange Framework.

Who should read this CP?

2. The proposals in this paper will be of interest to current and potential AIFC participants operating an exchange platform, as well as the market participants and other stakeholders in the commodities derivatives market.

Terminology

3. Defined terms have the initial letter of the word capitalised, or of each word in a phrase. Definitions are set out in the Glossary Rules ([GLO](#)). Unless the context otherwise requires, where capitalisation of the initial letter is not used, the expression has its natural meaning.

What are the next steps?

4. We invite comments from interested stakeholders on the proposed framework. All comments should be in writing and sent to the address or email specified below. If sending your comments by email, please use “Consultation Paper AFSA-P-CE-2023-0002” in the subject line. You may, if relevant, identify the organisation you represent when providing your comments. The AFSA reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise. Comments supported by reasoning and evidence will be given more weight by the AFSA.
5. The deadline for providing comments on the proposed framework is **20 April 2023**. Once we receive your comments, we shall consider if any refinements are required to this proposal.
6. AFSA prefers to receive comments by email at consultation@afsa.kz or posted to:
Policy and Strategy Division
Astana Financial Services Authority (AFSA)
55/17 Mangilik EI, building C3.2, Kazakhstan

Structure of this CP

- Part I – Background;
- Part II – Proposals;
- Part III – Public Consultation Questions;
- Annex 1 – Draft Amendments to AIFC Financial Services Framework Regulations (FSFR);
- Annex 2 – Draft Amendments to AIFC Glossary (GLO);
- Annex 3 – Draft Amendments to AIFC General Rules (GEN);
- Annex 4 – Draft Amendments to AIFC Market Rules (MAR); and
- Annex 5 – Draft Amendments to AIFC Authorised Market Institutions Rules (AMI).

Background

1. Since the establishment of the AIFC's Authorised Market Institutions and Market framework, the AIFC capital markets has enabled the trading of different types of Securities and Units in a Listed Fund.
2. The current review of the AIFC Rules and Regulations has been conducted for the purpose of further enhancing AIFC's Authorised Market Institutions and Market framework to enable Commodities Exchange operations.
3. A Commodities Exchange is a market in which multiple buyers and sellers trade commodity-linked contracts based on rules and procedures laid down by the exchange. Commodities trading is conducted in mainly two kinds of markets: the spot market and the derivatives market. Commodities are divided into four categories: energy, metals, livestock and meat, and agricultural products.
4. Currently, there are 16 registered commodities exchanges in Kazakhstan. All commodities trading venues operating in the country are spot exchanges.

Proposals

5. Following the analysis of the commodities market in Kazakhstan and worldwide, it was concluded that the proposed AIFC legislation should support commodity derivatives trading, in particular, enabling electricity and emissions trading. The commodity derivatives admitted to trading in the AIFC might be settled by cash payment or physical delivery.
6. In terms of carbon emissions, the proposed initiative would benefit industrial companies that may face a shortage of the credits, persons willing to compensate for their carbon footprints, corporations with corporate sustainability targets, and other market participants.
7. Environmental instruments (i.e., carbon credits) are proposed to be included as a distinct type of Investments. This initiative would broaden the scope of financial instruments and allow exchanges to admit such products to trading as a standalone instrument in addition to being an underlying asset of derivatives.
8. The proposed framework is similar to DFSA and ADGM models and follows the IOSCO Principles for the Regulation and Supervision of Commodity Derivatives Markets.
9. The proposed framework includes amendments to the AIFC Financial Services Framework Regulations (FSFR), AIFC Glossary (GLO), AIFC General Rules (GEN), AIFC Market Rules (MAR) and AIFC Authorised Market Institutions Rules (AMI) in the following aspects:
 - a) Introduction of definitions of 'Commodities', 'Commodity Derivatives', 'Environmental Instruments', 'Price Information Providers' and extension of the term 'Investments' in the GLO. Environmental Instruments are included in the definitions of 'Commodities' and 'Investments';
 - b) Extension of the application of relevant provisions in the FSFR, MAR and AMI to cover Commodity Derivatives and Environmental Instruments with respect to the following: AFSA power to give directions to an Authorised Market Institution, market abuse, admission to trading, suspension or removal from trading, transparency obligations, clearing and settlement;
 - c) Extension of the list of potential members of an Authorised Investment Exchange to include Body Corporates who are not licensed to carry out broker or dealer activities and act on their own behalf or on behalf of a Group entity. Such admission will be allowed with respect to trading in Commodity Derivatives and Environmental Instruments only. Additional suitability criteria would apply with respect to such persons. Respective amendments are proposed to be made in the relevant FSFR, GEN and AMI provisions;
 - d) Fair and orderly trading is proposed to be ensured by the introduction of the following: requirements on Commodity Derivative contracts and their ongoing monitoring, price and

position limits with respect to Commodity Derivatives, administration of users' assets, transaction recording, requirements for the usage of Price Information Providers;

- e) Requirements for Clearing Houses regarding physical settlement of Commodity Derivative contracts;
- f) Additional provisions are proposed to be included with respect to requirements on risk management and complaints handling applicable to all Authorised Market Institutions; and
- g) Minor amendments to AMI regarding the time limits for submitting applications for admission of Securities (including Exempt Securities) to an Official List, and other provisions with the purpose of clarification.

Public Consultation Questions

In the course of public consultation, existing and potential market participants will be invited to comment on the following questions:

1. Do you agree with the introduction of a regulatory framework that would enable the AFSA to regulate Commodity Derivatives and Environmental Instruments trading? Do you agree with our proposal to include Environmental Instruments in the "Investments" and "Commodities" scope? If not, why not?
2. Do you have any concerns related to the physically settled Commodity Derivatives to be allowed to trading, along with cash settled derivatives?
3. Do you have any concerns related to the amendments proposed to introduce a new category of Members of a Commodities Exchange, Body Corporates that are neither Authorised Firms nor Recognised Non-AIFC Members, as well as suitability criteria relating to such Persons?
4. Do you agree with the proposed requirements for Commodities Exchanges related to ensuring fair and orderly trading of Commodity Derivatives?
5. Do you agree with the proposed additional requirements for Clearing Houses with respect to Commodity Derivatives?
6. Do you agree with the proposed amendments to AIFC Rules and Regulations set out in Annexes 1-5? If not, what are your concerns, and how should they be addressed?



Proposed amendments to the AIFC Financial Services Framework Regulations

In these Regulations, the underlying indicates a new text and the strikethrough indicates a removed text

(...)

55. Persons eligible for Membership

1. Subject to such further admission criteria as the AFSA may prescribe by Rules, an Authorised Market Institution may only admit as a Member:
 - a) an Authorised Firm; ~~or~~
 - b) a Recognised Non-AIFC Member; or
 - c) a Person that is a Body Corporate which undertakes Commodity Derivative or Environmental Instrument transactions on the relevant Authorised Market Institution only on behalf of a wholly owned Holding Company or Subsidiary of a Holding Company or on its own behalf.

(...)

58. AFSA power to give directions to an Authorised Market Institution:

Without limiting the application of section 95 (Exercise of supervisory powers by the AFSA), the AFSA may direct an Authorised Market Institution to:

- a) close the market or facilities operated by an Authorised Market Institution in a particular manner or for a specified period; or
- b) suspend transactions on the market or through the facilities operated by the Authorised Market Institution; or
- c) suspend transactions in ~~Securities, Units in a Listed Fund or Private E-currencies~~ Investments conducted on the market or through the facilities operated by the Authorised Market Institution; or
- d) prohibit trading in loans, ~~Securities, Units in a Listed Fund or Private E-currencies~~ or Investments conducted on the market or through the facilities operated by the Authorised Market Institution; or
- e) defer for a specified period the completion date of transactions conducted on the market or through the facilities operated by the Authorised Market Institution; or
- f) prohibit a specified Person from undertaking any transactions on the facilities operated by the Authorised Market Institution; or
- g) do any act or thing, or not do any act or thing, in order to ensure an orderly market, or reduce risk to the AFSA's objectives.

(...)

86. Market Abuse

A Person must not, in the AIFC or elsewhere, directly or indirectly:

(...)

**Proposed amendments to the AIFC Glossary**

In these Rules, the underlying indicates a new text and the strikethrough indicates a removed text

2. INTERPRETATION

<u>Commodity</u>	<u>Any goods of a fungible nature that are capable of being delivered, including but not limited to metals and their ores and alloys, agricultural products, energy, such as gas and electricity, and Environmental Instruments.</u>
<u>Commodity Derivative</u>	<u>A Derivative in respect of a Commodity.</u>
<u>Environmental Instrument</u>	<u>An Investment which:</u> <u>a) enables its holder to emit greenhouse gases into the atmosphere in accordance with any emissions trading scheme (i.e., emissions allowances or equivalent);</u> <u>b) attests to the reduction or removal of greenhouse gases into the atmosphere (i.e., carbon credits or equivalent); or</u> <u>c) attests to the environmental attributes of an underlying unit (i.e., renewable energy or environmental attribute certificates).</u>
<u>Investment</u>	<u>A Security, Unit, Derivative, or a Digital Asset or Environmental Instrument and a right or interest in the relevant Security, Unit, Derivative, or a Digital Asset, or Environmental Instrument.</u>
<u>Price Information Provider</u>	<u>A price reporting agency or an index provider which constructs, compiles, assesses or reports, on a regular and systematic basis, prices of Investments, rates, indices, commodities or figures, which are made available to users.</u>



Proposed amendments to the AIFC General Rules

In these Rules, the underlying indicates a new text and the strikethrough indicates a removed text

(...)

1.1.14. Exclusion in respect of dealing in Commodity Derivatives or Environmental Instruments

A Person who is a Body Corporate does not carry on the Regulated Activity specified in paragraphs 1 or 2 of Schedule 1, where:

- a) the Person carries on such activities as a member of an Authorised Market Institution or Recognised Non-AIFC Market Institution;
- b) the Person carries on such activities for its own account or for another Body Corporate which is in the same Group as the Person, provided that any such member of the Group for which the Person acts is a wholly-owned Subsidiary of a Holding Company within the Group or is the Holding Company itself;
- c) the Person restricts such activities to transactions involving or relating only to Commodity Derivatives or Environmental Instruments on that Authorised Market Institution or Recognised Non-AIFC Market Institution;
- d) the main business of the Person is dealing in relation to Commodity Derivatives or Environmental Instruments; and
- e) the Person is not part of a Group whose main business is the provision of financial services.

(...)



Proposed amendments to the AIFC Market Rules

In these Rules, the underlying indicates a new text and the strikethrough indicates a removed text

(...)

5.1 Definition of Market Abuse

5.1.1 Conduct amounting to Market Abuse

The following conduct, wherever it occurs and whether engaged or participated in directly or indirectly, amounts to Market Abuse for the purposes of section 86 of the Framework Regulations:

(...)

5.1.2 Conduct not amounting to Market Abuse

The following conduct does not amount to Market Abuse for the purposes of section 86 of the Framework Regulations:

- a) disclosure of Inside Information made in the course of a Market Sounding;
- b) the behaviour described in MAR 5.3.4 to 5.3.6; ~~and~~
- c) accepted market practices established under MAR 5.4.4; and
- d) conduct or another activity which occurs outside the AIFC unless it affects the AIFC markets or their users.

5.2 Definition of Inside Information

5.2.1 Definition of Inside Information (general)

Inside information is information of a precise nature which:

- a) has not been made public;
- b) relates directly or indirectly, to one or more Issuers or to one or more ~~Securities~~ Investments; and
- c) would, if it were made public, be likely to have a significant effect on the prices of those ~~Securities~~ Investments or on the price of related ~~derivative Securities~~ Investments.

(...)

5.2.2 Definition of Inside Information (execution of orders)

For Persons charged with the execution of orders concerning ~~Securities~~ Investments, Inside Information:

- a) has the meaning given in MAR ~~5.2.2~~ 5.2.1 (Definition – Inside Information (general)); and
- b) is information conveyed by a client and relating to the client's pending orders in Securities which:



(i) is of a precise nature; and

(ii) relates directly or indirectly, to one or more Issuers or to one or more ~~Securities~~ Investments; and

(iii) if it were made public, would be likely to have a significant effect on the prices of those ~~Securities~~ Investments, the price of related spot commodity contracts, or on the price of related ~~derivative~~ Securities Investments.

5.2.3 Definition of Information of a 'precise nature'

Information will be deemed to be of a precise nature if it:

- a) indicates a set of circumstances which exists, or which may reasonably be expected to come into existence, or an event which has occurred, or which may reasonably be expected to occur; and
- b) is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of the ~~Securities~~ Investments or the related ~~derivative~~ Securities Investments.

(...)

5.2.4 Definition of Information likely to have a 'significant effect'

Information which, if it were made public, would be likely to have a significant effect on the prices of ~~Securities Investments~~ means information which a reasonable investor would be likely to use as part of the basis of his or her investment decisions.

(...)

5.3 Insider Dealing

5.3.1 Definition of Insider Dealing

The following amount to Insider Dealing:

- a. the use, by a Person who possesses Inside information, of that information by acquiring or disposing of, for its own account or for the account of a third party, directly or indirectly, ~~Securities Investments~~ to which that information relates; or
- b. the use of Inside Information by cancelling or amending an order concerning a ~~Security Investments~~ to which the information relates where the order was placed before the Person concerned possessed the Inside Information; or
- c. the use of recommendations or inducements to engage in Insider Dealing MAR 5.3.2 (Recommending or Inducing Insider Dealing), where the Person using the recommendation or inducement knows or ought to know that it is based on Inside Information.

5.3.2 Recommending or Inducing Insider Dealing

A Person ('A') recommends another Person ('B') to engage in Insider Dealing or induces B to engage in Insider Dealing, where A possesses Inside Information and:

- (a) recommends, on the basis of that information, that B acquires or disposes of ~~Securities Investments~~ to which that information relates, or induces B to make such an acquisition or disposal; or



- (b) recommends, on the basis of that information, that B cancels or amends an order concerning a Security Investments to which that information relates or induces B to make such a cancellation or amendment.

(...)

5.3.4 Behaviour that does not constitute Insider Dealing

A Person ('A') who is or who has been in possession of Inside Information will not be deemed to have used that information for acquisition or disposition of Securities Investments merely because A is or was in possession of Inside Information:

(a) Where A is a legal Person and A:

- i) has established, implemented and maintained adequate and effective internal arrangements and procedures that effectively ensure that neither the natural Person who made the decision on its behalf to acquire or dispose of Securities Investments to which the information relates, nor another natural Person who may have had an influence on that decision, was in possession of the Inside Information; and
- ii) (ii) has not encouraged, made a recommendation to, induced or otherwise influenced the natural Person who, on behalf of the legal Person, acquired or disposed of Securities Investments to which the information relates.

(b) Where A:

- i) for the Security Investments to which the information relates, is a Market Maker or a Person authorised to act as a counterparty, and the acquisition or disposal of Securities Investments to which that information relates is made legitimately in the normal course of the exercise of its function as a market maker or as a counterparty for that Security Investments; or
- ii) is authorised to execute orders on behalf of third parties and the acquisition or disposal of Securities Investments to which the order relates, is made to carry out such an order legitimately in the normal course of the exercise of that Person's employment, profession or duties;

(c) Where A conducts a transaction to acquire or dispose of Securities Investments and that transaction is carried out in the discharge of an obligation that has become due in good faith and not to circumvent the prohibition against Insider Dealing and:

- i) that obligation results from an order placed or an agreement concluded before the Person concerned possessed Inside Information; or
- ii) that transaction is carried out to satisfy a legal or regulatory obligation that arose, before the Person concerned possessed Inside Information.

(...)

5.3.6 Behaviour that does not constitute Insider Dealing – use of own knowledge

The mere fact that a Person uses its own knowledge that it has decided to acquire or dispose of Securities Investments in the acquisition or disposal of those Securities Investments will not of itself constitute use of Inside Information.

(...)



Proposed amendments to the AIFC Authorised Market Institutions Rules

In these Rules, the underlying indicates a new text and the strikethrough indicates a removed text

(...)

Guidance: Purpose and application of AMI

The Rules and Guidance in AMI complement Chapter 2 of Part 3 of the Framework Regulations (Licensing of Authorised Market Institutions) and Part 6 of the Framework Regulations (Capital Markets) where relevant. AMI also contains rules in relation to the supervision of Authorised Market Institutions which complement the provisions in Part 8 of the Framework Regulations (Supervision of Authorised Persons) and Chapter 7 of the GEN rulebook (Supervision). The purpose of the rules and guidance in AMI is to set out:

- the licensing requirements, or standards, which an applicant must satisfy to be granted a Licence to carry on either of the Market Activities of Operating an Investment Exchange, Operating Digital Assets Trading Facility and Operating a Clearing House and at all times thereafter. Reference in these Rules and Guidance to an “Authorised Market Institution” or any type of an Authorised Market Institution should be taken to refer also to an applicant where relevant;

(...)

2. RULES APPLICABLE TO ALL AUTHORISED MARKET INSTITUTIONS

2.1. Requirements in GEN

(...)

Rules in this chapter supplement, and should be read in conjunction with, the Rules in GEN.

Guidance: risk management requirements

1. An Authorised Market Institution is subject to the risk management requirements in GEN 5.8. Additional risk management requirements are prescribed for Authorised Market Institutions Operating a Clearing House in AMI 4.2 and 4.3.
2. In assessing the adequacy of an Authorised Market Institution’s systems and controls for identifying, assessing and managing risks, the AFSA may also have regard to the extent to which such systems and controls enable the Authorised Market Institution to:
 - a. identify all the general, operational, legal and market risks wherever they arise in its activities;
 - b. measure and mitigate the different types of risk;
 - c. allocate responsibility for risk management to Persons with appropriate levels of knowledge and expertise; and
 - d. provide sufficient and reliable information to its officers and Employees who are Approved Individuals or Designated Individuals and, where relevant, the Governing Body of the Authorised Market Institution.



3. As part of assessing the adequacy of risk controls, the AFSA will also consider how internal and external audits operate in the context of systems and controls. In doing so the following factors may be considered:
 - a. the size, composition and terms of reference of any audit committee of the Authorised Market Institution's Governing Body;
 - b. the frequency and scope of external audit;
 - c. the provision and scope of internal audit;
 - d. the staffing and resources of the Authorised Market Institution's internal audit department;
 - e. the internal audit department's access to the Authorised Market Institution's records and other relevant information; and
 - f. the position, responsibilities and reporting lines of the internal audit department and its relationship with other departments of the Authorised Market Institution.
4. In addition, the AFSA will also consider the adequacy of the risk management function, in particular:
 - a) the access which the individuals performing risk management function have to the Authorised Market Institution's records and other relevant information; and
 - b) the position, responsibilities and reporting lines of the risk management department and its relationship with other departments of the Authorised Market Institution.

(...)

2.3.1. Conflicts of interest – core obligation

(...)

Guidance: regulatory functions of Authorised Market Institution

The regulatory functions of an Authorised Market Institution include, as appropriate:

- its obligations under AMI to monitor and enforce compliance with its membership rules, Business Rules, Direct Electronic Access Rules;
- its obligation to prevent, detect and report market abuse or financial crime; and
- its obligations in respect of admission of ~~Securities or Units in a Listed Fund~~ Investments to an Official List, to Trading or to Clearing.

(...)

2.5.1. Requirement to prepare Business Rules

Save where the AFSA otherwise directs, an Authorised Market Institution must establish and maintain Business Rules governing relations between itself and the participants in the market, including but not limited to:

- a) Membership Rules, prepared in accordance with AMI 2.6, governing the admission of Members and any other Persons to whom access to its facilities is provided;
- b) Direct Electronic Access Rules, prepared in accordance with AMI 2.7, in case a Direct Electronic Access is available at the Authorised Market Institution, setting out the rules and conditions pursuant



to which its Members may provide their clients with Direct Electronic Access to the Authorised Market Institution's trading systems;

- c) Default Rules, prepared in accordance with either AMI 3.5 or AMI 4.6, governing action that may be taken in respect of unsettled Market Contracts in the event of a Member being, or appearing to be, unable to meet its obligations;
- d) Admission to Trading Rules, prepared in accordance with AMI 3.2 or AMI 6.3, or Admission to Clearing Rules, prepared in accordance with AMI 4.1, governing the admission of Securities, Units in a Listed Fund, ~~or~~ Digital Assets, Commodity Derivatives, or Environmental Instruments to trading, or clearing and settlement, as appropriate to its facilities;

(...)

2.5.2. Content and effect of Business Rules

An Authorised Market Institution's Business Rules must:

- a. be based on objective criteria;
- b. be non-discriminatory;
- c. be clear and fair;
- d. set out the Members' and other participants' obligations:
 - (i) arising from the Authorised Market Institution's constitution and other administrative arrangements;
 - (ii) when undertaking transactions on its facilities; and
 - (iii) relating to professional standards that must be imposed on staff and agents of the Members and other participants when undertaking transactions on its facilities;
- e. be made publicly available free of charge;
- f. contain provisions for the resolution of Members' and other participants' disputes and an appeal process from the decisions of the Authorised Market Institution, whether by an internal but independent body or otherwise; ~~and~~
- g. contain disciplinary procedures, including any sanctions that may be imposed by the Authorised Market Institution against its Members and other participants; and
- h. be legally binding and enforceable against the Members and other participants.

(...)

2.6.1. Persons eligible for Membership

- (1) An Authorised Market Institution, except an Authorised Digital Asset Trading Facility, may only admit as a Member a Person who satisfies admission criteria set out in its Membership Rules and who is either:
 - a) an Authorised Firm whose Licence permits it to carry on the Regulated Activities of Dealing in Investments; ~~or~~
 - b) a Recognised Non-AIFC Member; or



- c) a Person dealing in Commodity Derivatives or Environmental Instruments who meets the criteria in GEN 1.1.14.
- (3) Prior to admitting a Person referred to in (1)(c) as a Member, an Authorised Market Institution must undertake due diligence to ensure that such a Person:
- a) is of sufficient good repute;
 - b) has a sufficient level of competence, experience and understanding of relevant Investments, Financial Services, transactions and any associated risks, including appropriate standards of conduct for its staff who will be permitted to use its order entry system; and
 - c) has organisational arrangements, including financial and technological resources, which are no less than those of an Authorised Firm carrying out similar Regulated Activities.

(...)

2.6.2. Admission criteria

An Authorised Market Institution must ensure that access to its facilities is subject to objective criteria designed to protect the orderly functioning of the market and the interests of investors.

(...)

2.6.4. Undertaking to comply with AFSA rules

An Authorised Market Institution may not admit a ~~Recognised Non-AIFC Member~~ as a Member a Person referred to in 2.6.1.(1)(b) or (c) unless it:

- a. agrees in writing to submit unconditionally to the jurisdiction of the AFSA in relation to any matters which arise out of or which relate to its use of the facilities of the Authorised Market Institution;
- b. agrees in writing to submit unconditionally to the jurisdiction of the AIFC Courts in relation to any disputes, or other proceedings in the AIFC, which arise out of or relate to its use of the facilities of the Authorised Market Institution;
- c. agrees in writing to subject itself to the AIFC laws in relation to its use of the facilities of the Authorised Market Institution; and
- d. where the ~~Recognised Non-AIFC Member~~ Person is incorporated outside the Republic of Kazakhstan, appoints and maintains at all times, an agent for service of process in the AIFC.

(...)

2.7. Direct Electronic Access

2.7.1. Direct Electronic Access

Direct Electronic Access means any arrangement, such as the use of the Member's trading code, through which a Member or the clients of that Member are able to transmit electronically orders relating to Securities, Units in a Listed Fund, or Digital Assets, Commodity Derivatives, or Environmental Instruments directly to the facility provided by the Authorised Market Institution and includes arrangements which involve the use by a Person of the infrastructure of the Authorised Digital Asset Trading Facility or the Member or participant or client or any connecting system provided by the



Authorised Digital Asset Trading Facility or Member or participant or client, to transmit the orders and arrangements where such an infrastructure is not used by a Person.

(...)

2.9. Safeguarding and administration of assets

2.9.1. Safeguarding and administration of users' assets

1. An Authorised Market Institution must ensure that where its facilities include making provision for the safeguarding and administration of assets belonging to users of those facilities, satisfactory arrangements are made for that purpose with an appropriate custodian or settlement facility and clear terms of agreement between the users of the facility and the Authorised Market Institution.
2. When assessing its systems and controls for the safeguarding and administration of assets belonging to users of its facilities, an Authorised Market Institution should have regard to the totality of the arrangements and processes by which it records:
 - a. the assets held and the identity of the legal and beneficial owners of the relevant assets, and where appropriate, any Persons who have charges over, or other interests in, those assets; and
 - b. any additions, reductions and transfers in each individual account of assets.

(...)

2.10. Transaction recording

An Authorised Market Institution must ensure that satisfactory arrangements are made for recording transactions effected on its facilities or cleared (or to be cleared) by the Authorised Market Institution by means of its facilities.

Guidance

When determining whether it has satisfactory arrangements for recording the transactions effected on, or cleared, or to be cleared, by means of, its facilities, an Authorised Market Institution should have regard to:

- a. its arrangements for creating, maintaining and safeguarding an audit trail of transactions for at least 6 years; and
- b. the type of information recorded and the extent to which the record includes details for each transaction of:
 - i) the name of the Investment (and, if relevant, the underlying asset) and the price, quantity and date of the transaction;
 - ii) the identities and, where appropriate, the roles of the counterparties to the transaction;
 - iii) if its rules make provision for transactions to be effected, cleared or to be cleared in more than one type of facility, or under more than one part of its rules, the type of facility in which, or the part of its rules under which, the transaction was effected, cleared or to be cleared; and
 - iv) the date and manner of settlement of the transaction.

(...)



2.11. Complaints handling

An Authorised Market Institution must:

- a) have effective arrangements in place for the investigation and resolution of complaints made against it;
- b) establish and maintain a register of complaints made against it and their resolution; and
- c) keep records of the complaints for a minimum of six years.

Guidance

Procedures should be in place to acknowledge a complaint promptly, for making an objective consideration of the complaint and for a timely response to be sent to the complainant.

(...)

3.1.1-1. Price and position limits in respect of Commodity Derivatives

An Authorised Investment Exchange must ensure that the risks to fair and orderly trading, arising from sharp price movements, are mitigated for Commodity Derivatives.

3.1.1-2. Price Limits

An Authorised Investment Exchange may impose price limits in relation to a Commodity Derivative to mitigate the risks to fair and orderly trading arising from sharp movements in the price of the Commodity Derivative.

3.1.1-3. Position Limits

An Authorised Investment Exchange must, in respect of a Commodity Derivative, implement position limits for the purposes of mitigating the risk of Market Abuse.

Guidance

An Authorised Investment Exchange should:

- a) consider the impact on its Commodity Derivative market from changes in the underlying market and set its position limits accordingly;
- b) ensure that its position limits are not exceeded by any Member or other participant trading in the Derivative, including through the acquisition of additional positions;
- c) require that its Members and other participants report their positions on a regular basis and upon the occurrence of certain relevant events;
- d) include provisions in its Business Rules which impose appropriate obligations on Members and other participants, to ensure their compliance with its position limit obligations;
- e) immediately notify the AFSA when a position limit threshold is exceeded, detailing:
 - i) the reason why such a large position is being held;
 - ii) how the holding of the position furthers the participant's or Member's trading strategy; and



- iii) whether the position is being used for hedging and details of the relevant contracts being hedged against (where applicable);
- f) upon request by the AFSA, make available the information collected by the Authorised Investment Exchange for the purposes of monitoring and enforcing the position limit obligations of its Members and other participants; and
- g) have in place appropriate internal governance arrangements to ensure its position limits are effective in mitigating relevant risks, including the risks relating to Market Abuse.

3.1.3. Publicly available data on quality of executions

An Authorised Investment Exchange must make available to the public, without any charges, data relating to the quality of execution of transactions on the Authorised Investment Exchange on at least an annual basis. Reports must include details about price, costs, speed and likelihood of execution for individual Securities, or Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments.

(...)

3.1.6. Tick size regimes

The Authorised Investment Exchange must adopt a tick size regime in respect of each type of a Security, or Unit in a Listed Fund, Commodity Derivative, or Environmental Instrument traded on each trading venue operated by it. The tick size regime must:

(...)

3.1.7. Short selling and position management

- a) An Authorised Investment Exchange must have in place effective systems, controls and procedures to monitor and manage:
 - (i) Short selling in shares, debentures and any other similar Investments; and
 - (ii) Risks arising from position concentrations.
- b) For the purposes of (a), an Authorised Investment Exchange must have adequate powers over its Members to mitigate the probability and impact of risk to the orderly functioning of its facilities arising from unsettled positions in a Security, or Unit in a Listed Fund, Commodity Derivative, or Environmental Instrument.

(...)

3.2. Admission of Securities to trading

3.2.1. Admission to Trading Rules

An Authorised Investment Exchange must make clear and transparent rules concerning the admission of Securities, or Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments to trading on its facilities.

3.2.2. Content of Admission to Trading Rules

The rules of the Authorised Investment Exchange must ensure that:



- a) Securities, ~~or~~ Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments admitted to trading on an Authorised Investment Exchange's facilities are capable of being traded in a fair, orderly and efficient manner;
- b) Securities, ~~or~~ Units in a Listed Fund, or Environmental Instruments admitted to trading on an Authorised Investment Exchange's facilities are freely negotiable; ~~and~~
- c) In case of Commodity Derivatives:
 - i) contracts for Commodity ~~d~~Derivatives admitted to trading on an Authorised Investment Exchange's facilities are designed so as to allow for their orderly pricing as well as for the existence of effective settlement conditions;
 - ii) the rules and procedures must promote transparency by ensuring that there is sufficient information made available to the markets relating to the terms and conditions of the Derivative contracts traded on its facilities (including, where relevant, information relating to delivery and pricing of Derivative contracts); and
- d) Where an Authorised Investment Exchange admits to trading or trades on its facilities Investments the value of which is determined by reference to an underlying benchmark or index provided by a Price Information Provider, it must only do so in accordance with the requirements in AMI 3.2.2-3.

Guidance: Fair, orderly and efficient trading

When assessing whether a Security, ~~or~~ Unit in a Listed Fund, Commodity Derivative or Environmental Instrument is capable of being traded in a fair, orderly and efficient manner, the Authorised Investment Exchange shall take into account, depending on the nature of the Security, ~~or~~ Unit in a Listed Fund, Commodity Derivative or Environmental Instrument being admitted, whether the following criteria are satisfied:

- a. the terms of the Security, ~~or~~ Unit in a Listed Fund, Commodity Derivative or Environmental Instrument are clear and unambiguous and allow for a correlation between the price of the Security, ~~or~~ Unit in a Listed Fund, Commodity Derivative or Environmental Instrument and the price or other value measure of the underlying;
- b. the price or other value measure of the underlying is reliable and publicly available or ascertainable; and
- c. there is sufficient information publicly available or ascertainable of a kind needed to value the Security, ~~or~~ Unit in a Listed Fund, Commodity Derivative or Environmental Instrument.

3.2.2-1. Contract design specifications

1. An Authorised Investment Exchange must ensure that the Commodity Derivative contracts have terms and conditions which:
 - a) promote price discovery of the underlying commodity;
 - b) ensure, to the extent possible, that there is a correlation to the operation of the physical market in the underlying commodity;
 - c) include contract delivery specifications which address matters specified in Schedule 1; and
 - d) provide for legally enforceable settlement and delivery procedures.
2. For the purposes of meeting the requirement in 3.2.2(c)(i), an Authorised Investment Exchange must include in its Business Rules contract design specifications relating to Derivative contracts traded on its facilities which, at a minimum, include:



- a) minimum price fluctuations (price ticks);
- b) maximum price fluctuations (daily price limits), if any;
- c) last trading day;
- d) settlement or delivery procedures as applicable;
- e) trading months;
- f) position limits, if any;
- g) reportable levels; and
- h) trading hours.

3.2.2-2. On-going review

An Authorised Investment Exchange must:

- a. establish and implement clear procedures relating to the development and review of contract design for Commodity Derivative contracts traded on its facilities;
- b. have adequate process through which the views of potential users of Commodity Derivative contracts can be taken into account when developing and reviewing contract design for Commodity Derivative contracts;
- c. have adequate powers which enable it to eliminate contractual terms which produce, or are likely to produce, manipulative or disorderly conditions in the markets generally, or in relation to the particular class or type of Commodity Derivative contracts; and
- d. have adequate mechanisms to monitor and evaluate whether the settlement procedures reflect the underlying physical market and promote reliable pricing relationship between the two markets.

Guidance

- 1. When assessing whether an Authorised Investment Exchange's rules and procedures are adequate, the AFSA will consider, among other things:
 - a) the criteria adopted by the Authorised Investment Exchange for Commodity Derivative contracts to be traded on its facilities;
 - b) what powers the Authorised Investment Exchange has in order to eliminate manipulative or disorderly conduct, including powers to vary, remove or rescind conditions of any Commodity Derivative contracts already traded where these are found to cause manipulative or disorderly conditions; and
 - c) what mechanisms are established by the Authorised Investment Exchange to monitor and review market activities relating to Commodity Derivative contracts traded on its facilities.
- 2. When designing and reviewing the design of Commodity Derivative contracts, an Authorised Investment Exchange should consider the following physical market characteristics, including differences within a commodity market with regard to the commodity in question:
 - a) size and structure of the physical market;



- b) commodity characteristics (such as grade, quality, weight, class, growth, origin, source etc.);
- c) historical patterns of production, consumption and supply, including seasonality, growth, market concentration in the production chain, domestic or international export focus and logistics;
- d) extent of distribution or dispersal of production and consumption of the underlying physical commodity among producers, merchants and consumers;
- e) the liquidity of the underlying physical market;
- f) the spot market pricing system including transparency, availability, reliability and frequency of cash pricing;
- g) price volatility; and
- h) the existence of price controls, embargoes, export restrictions or other regulation or controls affecting the price or supply of the underlying physical commodity.

Guidance: Effective settlement conditions

When assessing whether a contract for a derivative contains effective settlement conditions, the Authorised Investment Exchange shall take into account, depending on the nature of the derivative being admitted, whether the following criteria are satisfied:

- a) the arrangements for determining the settlement price of the derivative ensure that this price properly reflects the price or other value measure of the relevant underlying Investment; and
- b) where the settlement of the derivative requires or provides for the possibility of the delivery of an underlying Investment or asset rather than cash settlement, there are adequate settlement and delivery procedures for that underlying Investment as well as adequate arrangements to obtain relevant information about that underlying Investment;
- c) appropriate supervisory arrangements are in place to monitor trading and settlement in such Derivative; and
- d) settlement and delivery, whether physical delivery or by cash settlement, can be effected in accordance with the contract terms and conditions of those Derivatives.

3.2.2-3. Use of Price Information Provider

1. An Authorised Investment Exchange may admit to trading or trade on its facilities Investments the value of which is determined by reference to an underlying benchmark or index provided by a Price Information Provider where it has undertaken appropriate due diligence to ensure that the Price Information Provider, on an on-going basis, meets the requirements set out in (2).
2. For the purposes of (1), the Price Information Provider must:
 - a) have fair and non-discriminatory procedures for establishing prices of Investments which are made public;
 - b) demonstrate adequate and appropriate transparency over the methodology, calculation and inputs to allow users to understand how the benchmark or index is derived and its potential limitations;
 - c) where appropriate, give priority to concluded transactions in making assessments and adopt measures to minimise selective reporting;



- d) be of good standing and repute as an independent and objective price reporting agency or index provider;
- e) have a sound corporate governance framework;
- f) have adequate arrangements to avoid its staff having any conflicts of interest where such conflicts are, or are likely to have, a material adverse impact on price establishment process; and
- g) adequate complaint resolution mechanisms to resolve any complaints about the Price Information Provider's assessment process and methodology.

(...)

3.2.3. Undertaking to comply with AFSA rules

An Authorised Investment Exchange may not admit Securities, ~~or~~ Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments to trading unless the Person who seeks to have such Investments admitted to trading:

(...)

3.2.4. Review of compliance

The Authorised Investment Exchange must maintain arrangements regularly to review whether the Securities, ~~or~~ Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments-admitted to trading on its facilities comply with the Admission to Trading Rules.

(...)

3.3. Suspending or removing ~~Securities or Units in a Listed Fund~~ from trading

3.3.1. Power to suspend

The rules of an Authorised Investment Exchange must provide that the Authorised Investment Exchange has the power to suspend or remove from trading on its facilities any Securities, ~~or~~ Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments which no longer comply with its rules.

3.3.2. Limitation on power to suspend or remove ~~Securities or Units in a Listed Fund~~ from trading

An Authorised Investment Exchange may not suspend or remove from trading on its facilities any Security, ~~or~~ Unit in a Listed Fund, Commodity Derivative, or Environmental Instrument-which no longer complies with its rules, where such step would be likely to cause significant damage to the interests of investors or the orderly functioning of the financial markets.

3.3.3. Suspension or removal from trading of associated ~~d~~Derivatives

Where the Authorised Investment Exchange suspends or removes any ~~Security or Unit in a Listed Fund Investment~~ from trading on its facilities, it must also suspend or remove from trading on its facilities any ~~d~~Derivative that relates to or is referenced to that Investment where that is required to support the objectives of the suspension or removal of trading of that Investment.

3.3.4. Publication of decision to suspend or remove ~~Securities or Units in a Listed Fund~~ from trading



Where the Authorised Investment Exchange suspends or removes any Security, or Unit in a Listed Fund, Commodity Derivative, or Environmental Instrument from trading on its facilities, including any dDerivative in accordance with AMI 3.3.3, it must notify the AFSA and make that decision public.

3.3.5. Publication of decision to lift suspension or re-admit ~~Securities or Units in a Listed Fund~~ to trading

Where the Authorised Investment Exchange lifts a suspension or re-admits any Security, or Unit in a Listed Fund, Commodity Derivative, or Environmental Instrument to trading on its facilities, including any dDerivative suspended or removed from trading in accordance with AMI 3.3.3, following a decision made under AMI 3.3.1, it must notify the AFSA and make that decision public.

3.4. Transparency obligations

3.4.1. Pre-trade transparency obligation

An Authorised Investment Exchange must make available to the public on a continuous basis during normal trading hours the current bid and offer prices of Securities, or Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments traded on its systems and the depth of trading interests at those prices.

Guidance

The disclosure required by 3.4.1 will depend upon the type of trading system employed, including continuous auction order-book, quote-driven, periodic auction and hybrid trading systems. An Authorised Investment Exchange should discuss its proposals for compliance with this requirement with the AFSA. The AFSA may waive or modify the requirement in respect of certain types of trade order, transaction, trading system or types of Investment (including large orders and illiquid instruments) pursuant to Section 8 of the Framework Regulations.

3.4.2. Post-trade transparency obligation

An Authorised Investment Exchange must make available to the public in as close to real-time as technically possible the price, volume and time of the transactions executed in respect of Securities, or Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments traded on its facilities.

(...)

3.5. Default management

3.5.1. Default Rules

An Authorised Investment Exchange must have legally enforceable Default Rules which, in the event of a Member or other participant on the facility of the Authorised Investment Exchange being or appearing to be unable to meet his obligations in respect of one or more Market Contracts, enable it to suspend or terminate such Member's Membership (or other participation) and cooperate by sharing information with its Authorised Clearing House or Recognised Non-AIFC Clearing House, and enable action to be taken in respect of unsettled Market Contracts to which that Member or other participant is a party.

(...)

3.5.2. Public notice of suspended or terminated Membership



The Authorised Investment Exchange must issue a public notice on its website in respect of any Member or other participant whose Membership (or other participation) is suspended or terminated in accordance with AMI 3.5.1.

3.5.3. Cooperation with office-holder

The Authorised Investment Exchange must cooperate, by the sharing of information and otherwise, with the AFSA, any relevant office-holder and any other authority or body having responsibility for any matter arising out of, or connected with, the default of a Member or other participant of the Authorised Investment Exchange or the default of an Authorised Clearing House or another Authorised Investment Exchange.

(...)

3.6.5. Application for admission of Securities or Units in a Listed Fund to an Official List

(...)

(4) Subject to (5), at least 5-10 business days prior to an admission of Securities (other than (i) Exempt Securities or (ii) Equity Securities in connection with Pre-IPO Listings) or Units in a Listed Fund to its Official List, an Authorised Investment Exchange must provide the AFSA with notice of the decision and include the following information in the notification:

- a. a copy of the listing application;
- b. a copy of the assessment of the listing application carried out by the Exchange; and
- c. any information requested by the AFSA.

(4-1) Subject to (5), at least 2-5 business days prior to an admission of Exempt Securities to its Official List or Equity Securities to its Official List under the sub-heading "Pre-IPO Listings", an Authorised Investment Exchange must provide the AFSA with notice of the decision and include the information specified in (4) above.

(...)

4. RULES APPLICABLE TO AUTHORISED CLEARING HOUSES

4.1. Admission of ~~Securities or Units in a Listed Fund to C~~clearing

4.1.1. Admission to clearing rules

1. An Authorised Clearing House must have clear and objective criteria included in its rules according to which Investments can be cleared or settled on its facilities.
2. In the case of Commodity Derivative contracts, an Authorised Clearing House must have regard to:
 - (a) the degree of standardisation of the contractual terms and operational processes of the Commodity Derivative contract;



- (b) the volume and liquidity of the Commodity Derivative contract; and
- (c) the availability of fair, reliable and generally accepted pricing information in the Commodity Derivative contract.

(...)

4.4.3. Physical delivery

1. An Authorised Clearing House must:
 - a. have rules and procedures which clearly state its obligations with respect to the delivery of physical instruments or commodities.
 - b. identify, monitor, and manage the risks and costs associated with the storage and delivery of physical instruments or commodities.
2. A Clearing House must have adequate arrangements, including service agreements, which enable it to meet its physical delivery obligations.

Guidance

1. Where an Authorised Clearing House matches participants that have delivery and receipt obligations, the Authorised Clearing House would not need to be involved with the physical storage and delivery process but it should monitor the participants' performance and to the extent practicable, ensure the participants have the necessary systems and resources to be able to fulfil their physical delivery obligations.
2. The legal obligations for delivery should be clearly expressed in the Clearing Rules, Default Rules, and any related agreements, including provisions to specify, for instance:
 - a. whether the receiving participant should seek compensation from the Authorised Clearing House or the delivering participant in the event of a loss; and
 - b. if the Authorised Clearing House holds margin on the matched participants, such margin will only be released when the Authorised Clearing House confirms that both participants have fulfilled their obligations.

(...)

4.5. Central securities depositories and exchange-of-value settlement systems

4.5.1. Central securities depositories

An Authorised Clearing House acting as a Central Securities Depository must:



(1) have appropriate rules, procedures, and controls, including robust accounting practices, to safeguard the rights of issuers and holders of Securities, ~~or~~ Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments, prevent the unauthorised creation or deletion of Securities or Units in a Listed Fund, and conduct periodic and at least daily reconciliation of issues of Securities or Units in a Listed Fund it maintains;

(2) prohibit overdrafts and debit balances in accounts of Securities, ~~or~~ Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments;

(3) maintain Securities, ~~or~~ Units in a Listed Fund, Commodity Derivatives, or Environmental Instruments in an immobilised or dematerialised form for their transfer by book entry;

(4) protect assets against custody risk through appropriate rules and procedures consistent with its legal framework;

(5) ensure segregation between the Central Securities Depository's own assets and the securities of its participants and segregation among the securities of participants; and

(6) identify, measure, monitor, and manage its risks from other activities that it may perform.

(...)

5.2.7. Notification of admission to or removal from trading

Where an Authorised Investment Exchange proposes to suspend or remove from trading or admit to trading, by means of its facilities, a class of Security, ~~or~~ Unit in a Listed Fund, Commodity Derivative, or Environmental Instrument which it has not previously traded, but is licensed to do so, it must give the AFSA notice of that event, at the same time as the proposal is communicated to Persons granted access to its facilities or shareholders, with the following information:

(...)

5.2.8. Notification of removal from or admission to clearing

Where an Authorised Clearing House proposes to cease clearing or settling, or to commence clearing or settling, by means of its facilities, a class of Security, ~~or~~ Unit in a Listed Fund, Commodity Derivative, or Environmental Instrument which it has not previously cleared or settled, but is licensed to do so, it must give the AFSA notice of that event, at the same time as the proposal is communicated to Persons granted access to its facilities or shareholders, with the following information:

(...)



SCHEDULE 1: CONTRACT DELIVERY SPECIFICATIONS

1. Application

This Schedule applies to an Authorised Market Institution which trades, or clears or settles, on its facilities Commodity Derivative contracts which require physical delivery of the underlying commodity.

2. Deliverability of the underlying commodity

An Authorised Market Institution must, for the purposes of meeting the requirement in AMI 3.2.2-1.(1)(c) ensure that the terms and conditions of the Commodity Derivative contracts which are to be traded, or cleared or settled, on its facilities, are designed to include the matters specified in this Schedule.

3. Quality or deliverable grade

A Commodity Derivative contract must include specifications of commodity characteristics for par delivery, including those relating to grade, class, and weight. The quality or grade specified must conform to the prevailing practices in the underlying physical market relating to the relevant commodity.

Guidance

Par delivery envisages delivery of commodities which are of a comparable quality or grade as specified in the contract. Contracts that call for delivery of a specific quality of commodity may provide commercial participants with a clearer, more efficient hedging and price-basing contracts than a contract that permits delivery of a broad range of commodity grades or classes.

However, as contracts that permit delivery of only a specific grade of commodity may be susceptible to manipulation if that grade of the commodity is in short supply or controlled by a limited number of sellers, an Authorised Market Institution should require appropriate measures to mitigate such risks.

4. Size of delivery unit

A Commodity Derivative contract must contain provisions relating to size or composition of delivery units which conform to the prevailing market practice in the underlying physical market to ensure that it does not constitute a barrier to delivery or otherwise impede the performance of the contract.

Guidance

An Authorised Market Institution should, if the provisions relating to size and delivery units of the Commodity Derivatives contract deviate from the underlying physical market, examine the reasons for such deviation and ensure that the risks arising from such deviation can be effectively addressed by the contract parties.

5. Delivery instruments

A Commodity Derivative contract must specify the acceptable form or type of delivery instruments, and whether such instruments are negotiable or assignable and, if so, on what conditions.



Guidance

Acceptable delivery instruments include warehouse receipts, bills of lading, shipping certificates, demand certificates, or collateralized depository receipts.

6. The delivery process and facilities

A Commodity Derivative contract must specify:

- a. the delivery process, including timing, location, manner and form of delivery, and
- b. the delivery or storage facilities available, which conform to the prevailing practices in the underlying physical market to permit effective monitoring and to reduce the likelihood of disruption.

Guidance

An Authorised Market Institution should consider issues associated with the delivery process, including those relating to acceptable delivery locations. Such issues include:

- a. the level of deliverable supplies normally available, including the seasonal distribution of such supplies;
- b. the nature of the physical market at the delivery point (e.g., auction market, buying station or export terminal);
- c. the number of major buyers and sellers; and
- d. normal commercial practices in establishing cash commodity values.

The delivery months specified in the commodity derivative contract should take into account cyclical production and demand and accord with when sufficient deliverable supplies are expected to exist in the underlying physical market. Seasonality of a commodity should also be taken into account in relation to transport and storage, as it may affect the availability of warehouse space and transportation facilities.

Consistent with the grade differentials noted above, commodity derivative contracts that permit delivery in more than one location should set delivery premiums or discounts consistent with those observed in the underlying physical market. The adequacy of transportation links to and from the delivery point should also be taken into account when setting delivery premiums.

The delivery facilities available can include oil or gas storage facilities, warehouses or elevators for agricultural commodities and bank or vault depositories for precious metals.

An Authorised Market Institution should consider issues relating to the selection of delivery facilities under the contract which include:

- a. the number and total capacity of facilities meeting contract requirements;



- b. the proportion of such capacity expected to be available for short traders who may wish to make delivery against commodity derivative contracts and seasonal changes in such proportions;
- c. the extent to which ownership and control of such facilities is dispersed or concentrated; and
- d. its ability to access necessary information from such facility.

7. Inspection and certification procedures

A Commodity Derivative contract must specify applicable inspection or certification procedures for verifying that the delivered commodity meets the quality or grade specified in the contract, which conform to the prevailing practices in the underlying physical market.

Guidance

If the commodity is perishable, the commodity derivative contract should specify if there are any limits on the duration of the inspection certificate and the existence of any discounts applicable to deliveries of a given age.

8. Payment for transportation or storage

A Commodity Derivative contract must specify:

- a. the respective responsibilities of the parties to the contract regarding costs associated with transporting the commodity to and from the designated delivery point and any applicable storage costs; and
- b. how and when title to the commodity transfers, including from any short to long position holder.

9. Legal enforceability

A Commodity Derivative contract must, where any one or more of the activities of trading, clearing or settlement under the contract take place in different jurisdictions, contain adequate arrangements to mitigate risks arising from any disparity between governing laws applicable in the relevant jurisdictions.

Guidance

An Authorised Market Institution should, when assessing whether the contractual terms adequately provide for addressing jurisdictional risks, take into account:

- a. whether the contract clearly identifies the different legal requirements applicable in the relevant jurisdictions and any differences, including those relating to the manner in which standard clauses are interpreted;
- b. the impact such differences may have in dealing with matters such as delivery disputes, and determination of rights in insolvency proceedings; and



- c. whether the contract contains effective measures to address risk of unenforceability of the contractual terms, particularly those relating to cargos and storage where jurisdictional differences could have a significant impact on the deliverability.

10. Default provisions and force majeure

A Commodity Derivative contract must specify:

- a. the rights and obligations of the parties to the contract in the event of default by the parties, or in the event of frustration of the contract due to force majeure or other specified event; and
- b. whether any Clearing House guaranties the settlement of the transaction in an event specified in (a), and if so, the manner in which such settlement will occur.

Guidance

An Authorised Market Institution, when considering whether a Commodities Derivative contract adequately provides for contract certainty in the event of default or force majeure, should take into account:

- a. whether any collateral provided by the contracting parties would be sufficient to address the replacement risk in the performance of the contract; and
- b. whether there are any monetary consequences attaching to defaulting parties that would act as a disincentive against default.

The contract terms should clearly specify which jurisdictional laws are applicable to the governing law, including where there are any significant variations in the rights and liabilities attaching to the contracting parties for the events that occur in the relevant jurisdiction.