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Jurisdictions' ability to defer to each other's OTC derivatives market regulatory regimes

FSB report to G20 Finance Ministers and Central Bank Governors

Introduction

Background

At the September 2009 Pittsburgh Summit, the G20 Leaders agreed to complete reforms to over-the-counter derivatives (OTCD) markets, and this commitment has been reaffirmed at successive G20 meetings. As jurisdictions move forward in implementing regulatory reforms to meet this commitment, authorities, along with market participants and infrastructure providers, have noted that issues of actual or potential overlap, duplication, conflicts or gaps in regulatory requirements remain a concern. In some instances, jurisdictions report that such issues have delayed their own implementation of the agreed reforms, where they have been seeking to implement reforms consistent with those of other jurisdictions.

Deference – in part or in full – to another jurisdiction's OTCD regulatory regime, where appropriate, is an important tool for addressing some of the issues arising from differences in the regulatory reforms that jurisdictions undertake to meet the G20's overall goals. In September 2013, the G20 Leaders agreed that "jurisdictions and regulators should be able to defer to each other when it is justified by the quality of their respective regulatory and enforcement regimes, based on similar outcomes, in a non-discriminatory way, paying due respect to home country regulation regimes." The FSB's April 2014 progress report on implementation of OTCD market reforms also urged jurisdictions to provide clarity on their processes for making equivalency or comparability decisions.

To assist authorities' and the market's understanding of the legal capacities and processes jurisdictions have in place, or have proposed, to defer to one another in cross-border contexts, the FSB Chairman wrote to all FSB member jurisdictions on 8 May 2014 asking them to set out their frameworks with regard to OTCD reforms. In particular, the FSB Chairman's letter requested information on frameworks for deference to another jurisdiction's OTCD regulatory requirements applicable to trade repositories (TRs), central counterparties (CCPs) and exchanges/electronic trading platforms (together, "infrastructure providers") and to market participants.

Overview of responses

[Responses have been received from all 19 FSB member jurisdictions.](#)¹ All but five jurisdictions (Argentina, Brazil, China, India and Indonesia) report having some capability to defer to OTCD requirements in another jurisdiction.

In summary, the main findings that emerge from these responses are as follows:

- While there are some broad similarities in how jurisdictions approach the application of “deference”, there are nevertheless still differences in the circumstances under which deference would be applied, and how it would be applied.
- The authority (or types of authority), standards and processes for making determinations vary across jurisdictions and, in some instances, within jurisdictions, depending on the entity requesting deference or the scope of deference being granted.
- Among the 14 FSB member jurisdictions that report having some authority to exercise deference, all of these jurisdictions report having a framework for deference in place with respect to infrastructure providers, while fewer report having a framework for deference in place with respect to market participants. With respect to market participants, jurisdictions more commonly report having (or contemplating having) a framework for deference to certain transaction-level requirements than for entity-level requirements (such as the supervision of participants).
- Of the 14 member jurisdictions that report having some authority to exercise deference, 8 noted having specific statutory authority, 4 noted having authority based on general rule-making or exemptive authority, and 5 noted that deference could be granted based on discretionary authority.² Some jurisdictions can use a combination of these authorities for making deference decisions.
- The scope of deference a supervisor or regulator can exercise and the standard used for deference varies across jurisdictions and often even within a jurisdiction, depending on the policy area, the supervisor or regulator exercising deference (and the scope of the statutory authority granted to the supervisor or regulator) and/or the type of entity to which deference is being granted.
- Jurisdictions typically maintain their supervisory authority by requiring entities to register, be licenced or apply for an exemption, even if deference can be granted for a wide range of oversight responsibilities and requirements.
- Most jurisdictions report that they will not look for ‘identical’ rules in their assessments of foreign jurisdictions when considering whether to grant deference. Instead, they will typically consider (or plan to consider) outcomes or impact of a

¹ This report treats FSB member jurisdictions that are European Union member states (France, Germany, Italy, the Netherlands, Spain and the UK) as one jurisdiction, together referred to as the EU throughout the report.

² In some instances, different authorities in the same jurisdiction have a different basis for deference. One jurisdiction (Turkey) only discussed deference with respect to its ability to rely on host country requirements to regulate activities of one of its registered CCPs in a foreign jurisdiction. Another jurisdiction (Mexico) notes that it generally does not have authority to defer to a foreign jurisdiction, except through a special rule that allows for deference to the regulation of foreign exchange. Switzerland’s response is based on its proposed OTCD reform legislation which will allow for deference to be granted on terms similar to its existing authority to grant deference in other financial regulatory contexts.

foreign regulatory regime, compliance with the CPMI-IOSCO Principles for Financial Market Infrastructures (PFMIs) and other relevant international standards, and the comparability of oversight and enforcement by authorities in the foreign jurisdiction as part of their assessments. Two jurisdictions consider the foreign authority's deference or market access regime as part of the deference decision.

- As a condition for granting deference, many jurisdictions report that they will require the relevant foreign authorities to enter into, at minimum, information sharing or cooperation arrangements (e.g. memoranda of understanding (MoUs)). Jurisdictions also report that they will look closely at the home/host country's actual oversight and enforcement regimes as well as the home/host country's use of non-public or confidential information.
- In most jurisdictions, the assessment process would be triggered by an application from an entity or from the regulator or supervisor from a jurisdiction that has entities that are likely to operate or provide services in jurisdiction from which deference is being requested. The assessment process could take at least several months to complete. Most jurisdictions were not able to provide specific timelines for reaching a final decision.
- Although most jurisdictions have in place the authority to make deference decisions, only a small number of jurisdictions have to date made determinations and are already deferring to other jurisdictions for some portion of OTC regulation – only 3 jurisdictions report having some deference arrangements in place as of July 2014. (Australia, Canada, and the US (Commodity Futures Trading Commission (CFTC)); in the EU, the European Commission (EC) is in the course of proposing deference be granted to a number of jurisdictions with respect to central clearing).³
- Further decisions on deference by jurisdictions or individual regulators can be expected over time as the OTC reform process progresses. Some jurisdictions report that they anticipate making deference decisions only when their own rules are in effect and when rules in other jurisdictions are also finalised.

The remainder of this note summarises the responses received from jurisdictions, with more jurisdiction-specific detail provided in the annexes.

Approaches and authority to defer to another jurisdiction's supervision and oversight of market participants and infrastructure providers

Approaches to, and scope of, "deference"

Although jurisdictions' responses highlight some variation in approaches and perspectives with regard to the term "deference", there are a number of similarities in approaches as well. Deference encompasses a spectrum ranging from "full deference" to all relevant aspects of

³ Switzerland noted that under its existing authority to regulate exchanges, foreign stock exchanges have been authorised in Switzerland, but FINMA does not release a list of jurisdictions that have been determined comparable or equivalent. Japan also notes having some informal arrangements that allow for some reliance on foreign regulations, which do not necessarily involve a formal decision regarding the application of Japan's deference framework.

another jurisdiction's regime to "partial" or "conditional" deference to a particular rule or set of rules.

A number of jurisdictions share the view that the term "full deference" would include relying on a foreign jurisdiction for registration or licensing of an entity and taking no active supervisory action to either register, license or exempt the entity. Few jurisdictions have processes that would exercise deference in such a comprehensive fashion; instead most would retain some supervisory responsibility. One jurisdiction (EU) reports that, in cases where it would apply deference, this could be "full deference", which includes reliance on the relevant foreign supervisor or regulator for registration, licensing or other forms of authorisation and supervision.

The majority of jurisdictions (10) report that deference could be granted on a partial or conditional basis; four of these jurisdictions have frameworks that require some form of registration and licensing in all instances, even if broad deference is granted to another country's oversight and compliance with that country's rules. It should be noted, however, that the authority to grant full, partial or conditional deference can vary even within a jurisdiction based on the type of entity or the specific supervisor or regulator that is granting deference. Several jurisdictions that have powers to grant partial or conditional deference also have the ability to provide "full deference" in certain limited instances.

The most commonly reported form of deference requires some form of supervisory action (e.g. registration, licensing, prescription or exemption) to ensure an entity's eligibility to operate or provide services, coupled with deference to the entity's home country for specific rules, sets of rules and/or ongoing oversight, supervision and enforcement.

Some authorities note that they have a statutory obligation to oversee and/or register a particular type of entity or entities, but could meet that obligation by reliance on compliance with home country requirements (in certain instances). As such, a foreign entity could only operate in the host jurisdiction under the supervision of the host country authorities but, for the purposes of host authorities' supervision, compliance with the host country rules would largely be based on deference to compliance with the entity's home country regime.

Authority to defer

The authority for a supervisor or regulator to exercise deference varies across jurisdictions and, in some instances, even within a jurisdiction. Jurisdictions can have in place statutory, discretionary, rule-making or exemptive authority that allows for deference decisions to be made. In several instances, the specific authority used to make a deference determination can differ depending on the nature of the determination and/or the regulator or supervisor making the decision, or a determination can be based on a combination of different types of authority.

Specific statutory authority or regulation provides a basis for a supervisor or regulator to defer to another jurisdiction in Australia, Canada (Canadian Securities Administrators (CSA)), EU, Korea, Singapore, South Africa and the US.⁴ In some instances there is no specific statutory authority, but deference to another jurisdiction's OTCD regulatory regime could be based on

⁴ Switzerland notes that its proposed legislation would provide authority for making deference decisions. South Africa is still in the process of developing its regime and notes that the scope of deference is still being considered.

the discretionary authority of a supervisor or regulator. For example, although a supervisor or regulator may not have the ability to delegate its supervision (e.g., through reliance on registration in a foreign jurisdiction), the supervisor or regulator may be able to meet its obligations by relying on compliance with specific foreign requirements and/or relying on foreign supervisors or regulators to carry out day-to-day supervision (Australia, Canada, Hong Kong, US). Some regulators also report having either general rulemaking or exemptive authority that would allow for deference to at least some aspects of a foreign jurisdiction's OTCD regime (Canada (CSA), US (SEC)).

Standards or criteria used for deference

Most jurisdictions report having in place standards or criteria that consider the impact or outcome of regulation when deciding whether to apply deference (Australia, Canada, EU, Japan, and US; some other jurisdictions noted focusing on comparability but did not specifically refer to impact or outcomes of foreign regulation). In a number of instances, jurisdictions report also taking into consideration the details of the rules in the foreign jurisdiction even though the focus of the review is to determine similarity in regulatory outcomes rather than in the rules themselves. The majority of jurisdictions would review whether the other jurisdiction implements the CPMI-IOSCO PFMI or other relevant international standards when carrying out an assessment to determine whether deference should be granted.⁵

All of the jurisdictions that have authority to defer to a foreign jurisdiction for some aspects of OTCD regulation also report requiring information sharing or supervisory cooperation arrangements (typically including arrangements for the treatment and protection of non-public information) to be in place as a condition for granting deference. In the case of TR recognition, the EC requires an agreement between the EC and relevant foreign regulators that ensures access by EU regulators to TR-held data, in addition to regulator-to-regulator cooperation and supervisory agreements.

Several jurisdictions also consider the sufficiency of the supervisory and enforcement regime of a jurisdiction when assessing whether deference should be granted.

The broad descriptions by jurisdictions of the standards or criteria that they use share similarities. Some examples are as follows:⁶

- sufficient equivalence and adequate cooperation arrangements (Australia);
- equivalent regulatory regime (taking into consideration enforcement regimes, investor protection, implementation of relevant international standards); existence of MoUs (Canada);
- having legally binding requirements that are complied with and are equivalent to the host country regulation (EU);

⁵ South Africa and Switzerland note that they intend to begin the process by evaluating the foreign jurisdiction's compliance with the relevant international standards (referencing the PFMI and IOSCO standards, respectively).

⁶ This non-exhaustive list provides examples of the variety of criteria considered and specific language used by jurisdictions in considering the exercise of deference. Many jurisdictions consider several of these factors, particularly outcomes, international standards, and the status of cooperative arrangements.

- outcomes-based approach taking fully into account international standards (Japan);
- having cooperative arrangements in place; home requirements and supervision that are comparable to those of the host in the degree to which host country objectives are achieved (Singapore);
- equivalent regulatory framework (South Africa);
- entity is adequately regulated and supervised, home regulator not objecting to cross-border activity and granting mutual assistance (among other entity-specific criteria) (Switzerland); and
- comparable, comprehensive supervision and regulation, including the effectiveness of the supervisory compliance programme administered, and the enforcement authority exercised, by authorities in the applicable jurisdiction (US-CFTC, SEC proposal).

In addition to these general standards, some jurisdictions will assess whether confidentiality or secrecy provisions are equivalent (EU, Turkey).

Two jurisdictions note that they would consider the foreign authority's deference or market access regimes as part of their own criteria for granting deference. The EU reports that it assesses whether the host country framework provides for an effective equivalent system for recognising other jurisdictions' regulatory regimes, and Switzerland notes that it may refuse admission of a foreign applicant if the home jurisdiction does not grant access to Swiss market participants or infrastructure.⁷

Process for deference

In the majority of jurisdictions, the process for assessing a foreign jurisdiction's regime for regulation of FMIs and OTCD activity begins when an entity makes a request for an exemption or other form of deferential treatment. In some instances, an authority from the home jurisdiction or an industry group representing a class of entities, may make a request for consideration. In one instance, the EU, acting as host jurisdiction, produces its own schedule for initiating determinations regarding whether home jurisdictions would receive deference, based on the nature and extent of interaction of infrastructures or firms in those home jurisdictions with the host markets (for example, where an infrastructure applies for recognition in the EU). The process of coming to a determination typically involves engaging foreign jurisdictions in detailed dialogue about their regulatory regimes. One regulator (US-SEC) reports that there is also a period for public comment on the application.

No jurisdiction has provided specific timelines for determinations and few were able to give estimates on the time it would take to make a determination.⁸ Those few that provide estimated time frames typically report that the process would take at least several months.

⁷ This additional criterion in the EU was reported in connection with evaluating the equivalence of CCP regulatory regimes and trading venue regulatory regimes, but assessment for equivalence of trading venue regulations will not be carried out until after January 2017.

⁸ Australia provided the most comprehensive guidance regarding timelines, including statutory minimum time frames and minimum estimated time frames. EU also provided some estimated, minimum time frames for decisions to be made.

Although a number of jurisdictions outlined their processes for making a deference decision, few had either adopted or proposed specific procedural rules regarding deference determinations⁹

Most jurisdictions noted that the relevant cooperation, supervisory or other arrangements between authorities that are part of the criteria for granting deference (see above) would need to be in place before deference can be granted and, in some instances, before the evaluation process begins.

Existing deference arrangements

Deference arrangements are in effect in three jurisdictions (Australia, Canada, US-CFTC) to provide partial deference.¹⁰ A number of deference arrangements have been proposed in one other jurisdiction (EU).

In Australia, nine foreign TRs have been temporarily prescribed to allow for lawful reporting of transactions, of which one is in the process of being assessed for being regulated under an equivalence regime. Additionally, Australia has found the EU to be equivalent with respect to CCP oversight and Germany, the UK, and the US to be equivalent with respect to oversight of trading venues. Australia also has found Germany, Hong Kong, Singapore, the UK and the US equivalent with respect to market participant regulation (which would include OTCD market participants). In June 2014, the Australian Securities and Investments Commission (ASIC) published regulatory guidance that states ASIC considers a number of jurisdictions' trade reporting requirements, including those of the EU, Japan and the US CFTC, are equivalent to the Australian requirements.¹¹

In Canada, the Ontario Securities Commission (OSC) determined the UK and US to be comparable with respect to supervision of central clearing. In addition, for the purposes of capital treatment, all of the CCPs used by federally regulated financial institutions are treated as qualifying CCPs as they are prudentially supervised in jurisdictions where the relevant regulator/overseer has established domestic rules and regulations that are consistent with the CPMI-IOSCO PFMI.

In the US, the CFTC has issued eight comparability determinations related to the regulatory frameworks of: Australia, Canada, the EU, Hong Kong, Japan, and Switzerland. These grant partial deference for a number of entity-level requirements (those rules related to registration and oversight) as well as a number of transaction-level requirements (e.g. swap confirmation, portfolio reconciliation, daily trading records).

Within the EU, the EC is in the course of proposing equivalence for CCP requirements in a number of jurisdictions, and is in the process of assessing several jurisdictions across different OTCD reform areas.

⁹ Australia has some statutory provisions providing for a minimum time period for TR recognition; in the US, the recent SEC cross-border proposal and rule would set out a process for making a determination.

¹⁰ Switzerland notes having foreign exchanges operating pursuant to existing legislation; its OTCD reform legislation will also allow for deference specific to OTCD reform areas.

¹¹ See <http://www.asic.gov.au/asic/asic.nsf/byheadline/ASIC-Derivative-Transaction-Rules-%28Reporting%29-2013---FAQs?openDocument#a2>.

Deference relating to rules for market participants

Jurisdictions more frequently report having a framework for deference in place with respect to infrastructure providers than with respect to market participants.

Overall, deference for market participants is more commonly focused on specific transaction-level requirements (e.g. the deference provides relief from specific reporting, clearing or trade execution requirements) than on entity-level requirements (e.g. relief from supervision and/or oversight) even though the home country may be relied upon in some part for day-to-day supervision and oversight. (See for example, Canada, EU and the SEC proposal.)

Two jurisdictions report that they currently use deference standards and process for market participants that are similar to that used for market infrastructure (Australia and the US (CFTC)).¹² In some instances, deference frameworks for market participants have yet to be fully developed, but will follow those in place or being developed for OTCD market infrastructure (Hong Kong, Japan, Singapore). Some other jurisdictions did not specify an approach for making deference determinations for market participants. This sequencing of decision-making in developing deference frameworks may reflect the sequencing of implementation of OTCD reforms in jurisdictions, where registration of infrastructure is often in place before transaction-level requirements come into force.

¹² In Australia, CCPs are regulated by both ASIC and RBA, while other types of market infrastructure as well as market participants are primarily regulated by ASIC. In the US, the SEC has proposed a substituted compliance framework for market participants that would allow for deference for certain transaction-level and entity-level requirements under the Securities Exchange Act of 1934. The US SEC proposal would also permit substituted compliance with respect to requirements related to: (i) regulatory reporting and public dissemination of security-based swap data, (ii) mandatory clearing of security-based swaps, and (iii) mandatory trade execution of security based swaps, which in each case, could involve the use of infrastructure providers in a foreign jurisdiction.

Annex A: Deference to cross-border OTC derivatives regulatory regimes for TRs, CCPs and exchanges or electronic trading platforms

Summary of responses by each jurisdiction

Part A: Requirements on Market Infrastructure Q1–2	A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made	A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).
Argentina	At present, does not have the ability to defer to another jurisdiction's regulatory regime, in large part because derivatives markets are largely standardised and traded on exchange already with little cross-border activity and still in the process of developing OTC regulation.	
Australia	<p>The Corporations Act (the Act) in Australia provides full, partial or conditional deference in connection with the G20 commitments on OTCD markets reform. This is based on deference to a foreign regulatory regime, if certain conditions are met.</p> <p>For TRs:</p> <ul style="list-style-type: none"> - partial, conditional or full deference is available through licensing exemptions granted by ASIC; - full deference is available where trade repositories are prescribed by regulation; - partial or conditional deference in relation to supervision. <p>For CCPs and exchanges:</p> <ul style="list-style-type: none"> - conditional deference through overseas CS facility licensing or overseas market operator licence; - in certain circumstances licensing exemptions may also be available. 	<p>The broad standard for deference requires that entities be subject to sufficient equivalent foreign regulation and the existence of adequate cooperation arrangements.</p> <p>TR: Regulatory guide 249- Derivative Trade Repositories provides guidance on ASIC's licensing requirements for TRs and outlines how overseas TRs seeking a licence may seek exemptive relief from ASIC or may wish ASIC to perform its supervisory functions in respect of the repository's activities, by relying on their compliance with a foreign regulatory regime. This can include exemptions from substantive parts of the Australian regimes, deference based on reliance on compliance with overseas regulation (in whole or in part) or a combined approach.</p> <p>Partial/conditional or Full deference through licencing exemptions. ASIC has the power to exempt a licensed TR from licensing or other requirements of the Act or ASIC Rules and has publicly state that it would consider doing so in cases where an overseas-based trade repository is regulated as a trade repository in its home jurisdiction and ASIC is satisfied of certain additional matters.</p> <p>Full deference - "Prescribed" TRs. Full deference is an option through 'prescription.' Prescription is by regulation for reporting to a prescribed TR in accordance with a foreign reporting obligation that is substantially equivalent, subject to certain conditions being met (as of 30 June 2014, there were 9 TRs prescribed on a temporary basis (until 30 June 2015).</p> <p>Partial/conditional deference - Supervisory deference: Corporations Act provides that if a licensed TR is wholly or partly operated in a foreign country, ASIC may, to the extent it considers appropriate, perform the function of supervising the TR by satisfying itself that: (i) the</p>

<p>Part A: Requirements on Market Infrastructure Q1–2</p>	<p>A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made</p>	<p>A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>
		<p>'home country' regulatory regime provides adequate supervision, or (ii) adequate cooperative arrangements are in place with an appropriate authority of that country to ensure that the TR will be adequately supervised by that authority. ASIC has stated publicly it would normally expect to be satisfied of both criteria.</p> <p>"Sufficiently equivalent" considers whether overseas regulatory regime is:</p> <ul style="list-style-type: none"> a) clear, transparent and certain; b) is adequately enforced in the foreign country; c) is consistent with the CPMI-IOSCO principles; and d) achieves equivalent outcomes to the Australian regulatory regime for trade repositories <p>For CCPs, before granting any overseas licence (i.e. full or conditional deference) the Minister must be satisfied of a number of criteria which include that in its principal place of business the requirements and supervisions are sufficiently equivalent in relation to:</p> <ul style="list-style-type: none"> a) the effectiveness and fairness of services they achieve; and b) the degree of protection from systemic risk. <p>ASIC and the RBA will provide advice to the Minister on whether a CCP is sufficiently equivalent. To do so ASIC and the RBA will assess whether the:</p> <ul style="list-style-type: none"> a) regulatory regime is clear, transparent and certain; b) regulatory regime is adequately enforced in the foreign country; c) regulatory regime is consistent with the relevant CPMI and IOSCO principles; and d) the regulatory regime achieves the systemic risk protection and fair and effective services outcomes that are achieved by the Australian regulatory regime for comparable domestic entities. <p>In addition, the RBA will consider the following:</p> <ul style="list-style-type: none"> a) the clarity and coverage of financial stability-related principles applied by the home regulator relative to those set by the RBA; b) the nature and intensity of the home regulator's oversight process; and c) the observed outcomes relative to those in Australia, as reflected in initial assessments of the CS facility operating under the overseas regime. <p>For Exchanges and Electronic Platforms, before granting and overseas licence (i.e. full or conditional deference) the Minister must be satisfied of a number of criteria which include that in its</p>

<p>Part A: Requirements on Market Infrastructure Q1–2</p>	<p>A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made</p>	<p>A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>
		<p>principal place of business the home regulatory regime is sufficiently equivalent in relation to the degree of investor protection and market integrity.</p> <p>ASIC will provide advice to the Minister on whether there is sufficient equivalence. To do so ASIC will assess whether the:</p> <ul style="list-style-type: none"> a) regulatory regime is clear, transparent and certain; b) regulatory regime is adequately enforced in the foreign country; c) regulatory regime is consistent with the relevant IOSCO principles; and d) the regulatory regime achieves the investor protection and market integrity outcomes that are achieved by the Australian regulatory regime for comparable domestic entities. <p>For CCPs, Exchanges and Electronic Platforms, deference also requires adequate cooperation arrangements to be in place.</p> <p>The Minister may, in exceptional circumstances, also grant an exchange/electronic trading platform an exemption from licensing if:</p> <ul style="list-style-type: none"> a) regulatory outcomes are not relevant to the facility; b) regulatory outcomes for the facility are achieved without regulation; or c) the cost of regulation required to achieve the regulatory outcomes from the facilities significantly outweighs the benefits of those outcomes.
<p>Brazil</p>	<p>No current provision to defer to another jurisdiction's framework</p>	
<p>Canada</p>	<p>The Payment Clearing and settlement Act (PCSA) in Canada gives the Bank of Canada (the Bank) the responsibility for oversight of clearing and settlement systems that are deemed to have systemic importance. Although the Bank is not able to delegate its oversight responsibilities, it has latitude in determining how it will satisfy its oversight authorities most effectively.</p> <p>If the Bank participates in cooperative oversight, it has latitude in determining to what extent it will rely on the work of the lead overseer to satisfy its responsibilities.</p> <p>Provincial securities regulators have the power to grant full, partial</p>	<p>CCPs: The Bank has the possibility of cooperative oversight and the scope to rely on the lead overseer in another jurisdiction's is facilitated by agreement on the use of the PFMI as the international risk management standards to be applied to CCPs and securities settlement systems.</p> <p>TRs/Exchange/electronic trading platforms. Canadian Securities Administrators (CSA) can make a determination on a case-by-case basis using an outcomes based standard about whether a foreign regulatory regime is equivalent even though it may not be identical.</p> <p>Criteria may include:</p> <ul style="list-style-type: none"> i) an analysis of enforcement regimes, notably the level of investor protection; ii) the implementation of relevant international standards; iii) the existence of MoUs or appropriate agreements with the entity's home regulator to provide

Part A: Requirements on Market Infrastructure Q1–2	A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made	A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).
	or conditional exemptions in deference to a foreign jurisdictions regulatory framework and/or authority.	access to the information needed to carry out respective regulatory mandates.
China	<p>As China is in a very early stage of developing OTC Derivative market, the equivalence assessment framework and relevant regulations have not been set up for the time being.</p> <p>China has actively communicated with major jurisdictions through bilateral dialogues and supported the mutual recognition of qualified CCPs and other OTC market infrastructures.</p>	
European Commission	Authority to recognise comes from EMIR/MIFID and provides for full deference to home country once recognised and EU authorities will not provide any direct oversight.	<p>TRs: must be recognised by ESMA which requires under EMIR, determining that:</p> <ul style="list-style-type: none"> i) the legal and supervisory regime in the third country in which the TR is established comply with legally binding requirements that are equivalent to the one laid down in EMIR; ii) that those TRs are subject to effective on-going supervision and enforcement in the third country; and iii) that guarantees of professional secrecy exist that are at least equivalent to those of EMIR. <p>Further, the EC must execute agreements with third country regulators ensuring access to data in the recognised TR and ESMA must establish agreements with the relevant third country authorities regarding exchange of information and coordinated supervision. Once recognised, the TR only complies with home country regulation.</p> <p>CCPs: The legal and supervisory regime in the home country have:</p> <ul style="list-style-type: none"> i) legally binding requirements that are complied with and that are equivalent to EMIR; ii) CCPs subject to effective on-going supervision and enforcement in the home country; and iii) the legal framework provides for an effective equivalent system for the recognition of CCPs authorised under third country legal regimes. <p>Trading Venues: EC has adopted an equivalence decision similar to the CCP standards with additional considerations around the transparency of rules; investor protection; provision of market transparency and integrity. (<i>Will come into effect January 2017, after which equivalence decisions can be evaluated.</i>)</p>

Part A: Requirements on Market Infrastructure Q1–2	A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made	A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).
Hong Kong	<p>Under the Securities and Futures Ordinance (SFO) in Hong Kong, provisions have been introduced to enable regulators to avoid conflicting or duplicating requirements.</p> <p>The Securities and Futures Commission (SFC) and Hong Kong Monetary Authority (HKMA) will jointly oversee the OTC derivatives market.</p> <p>In practice, reliance may be placed on home country regulator of an entity providing services into HK and required to be authorised in HK. (<i>Partial deference possible.</i>)</p>	<p>TRS: Not applicable; required to use HKMA.</p> <p>CCPs: Still has to be authorised in HK, but day -to-day supervision is left to the home regulator. Authorisation is based on an assessment by the SFC that the overseas CCP is subject to regulation in its home country comparable to the regulation of CCPs in HK and consistent with international standards.</p> <p>Plans to adopt a 'similar' regulatory outcome approach considering "effective monitoring and supervision of the overseas CCPs; effective and comparable enforcement regime and authority; and expectation that home regulators of the overseas CCPs have implemented the international standards (PFMIs)</p> <p>Exchanges/Electronic Trading Platforms: Still has to be authorised in HK, but day -to-day supervision is left to the home regulator. Authorisation is based on an assessment by the SFC that the overseas exchange/platform is subject to regulation in its home country comparable to the regulation of exchange/platform in HK and consistent with international standards. Plans to adopt a 'similar' regulatory outcome approach considering effective monitoring and supervision of the overseas exchanges/electronic trading platforms and effective and comparable enforcement regime and authority.</p>
India	There is no legal framework in India which enables authorities to defer to another jurisdiction's regulatory framework with respect to OTC derivatives.	
Indonesia	<p>For the time being, a framework for making equivalence or comparability decisions has not yet been put in place.</p> <p>Bearing in mind the low level of derivatives transactions in Indonesia compared to the global market and the low percentage of cross-border transactions relative to local transactions, the authorities consider cross-border issues not yet to be relevant for Indonesia. The authorities remain open to consider any such approaches base on the relevance of the issues and cost and benefit considerations.</p>	

Part A: Requirements on Market Infrastructure Q1–2	A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made	A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).
Japan	<p>CCPs: Need to obtain a license from the JFSA to provide clearing services to Japanese counterparties. Some domestic requirements are exempted for foreign CCPs subject to the same licensing requirements and where a cooperative supervision/information sharing arrangement is in place.</p> <p>TRS: Designation from the JFSA is required but JFSA defers in principle to home country regulation, provided access to TR held information can be provided to the JFSA.</p> <p>Exchanges/electronic trading platforms: Required to obtain permission from JFSA to provide execution services, but some domestic requirements are exempted where they have the same kind of registration or equivalent from a foreign authority with whom the JFSA has a cooperative supervision/information sharing arrangement.</p>	JFSA will take an outcomes based approach, taking fully into account international standards, where they are appropriate, on the basis of the ODRG agreement.
Korea	Financial Investment Services and Capital Markets Act (FISCMA) and its Enforcement Decree and Regulation are implemented by the Korean FSC/FSS and allow for partial and conditional deference on a case by case basis.	Central Clearing: the FISCMA Enforcement Decree requires that Korean participants using a clearing house for foreign financial investment trading be approved and supervised by foreign financial investment supervisor.
Mexico	<p>However, a recent amendment to the Rules for electronic trading platforms allows for the CNBV to recognise electronic trading platforms for market participant use.</p> <p>There is a special rule for conditional recognition of foreign exchanges when they celebrate an agreement with a domestic exchange in order to mutually routing electronic orders on derivative contracts listed on both exchanges, such agreement is celebrated with exchanges established on jurisdictions that are nominated members of the Board of IOSCO or foreign markets recognised by Bank of Mexico, and certain minimum requirements are met.</p> <p>Authorities are also in the process of developing a broader framework to allow for recognition of foreign infrastructure providers.</p>	With respect to recognition of market infrastructure, <i>standards include:</i> (i) whether similar outcomes result from the supervision and oversight by the relevant foreign authority resulting from PFMI implementation; and (ii) BoM and foreign authority enter into MOU for supervision that considers information sharing; reciprocity and confidentiality. For foreign electronic trading platforms, required to show that (i) the platform is supervised by its foreign authority and it is in full compliance with the requirements set by its jurisdiction's supervisor; and (ii) the platform has a regulatory framework that provides for periodic, comprehensive and timely disclosure requirements regarding its financial and legal condition. This recognition process also requires a prior signed agreement MOU between the CNBV and the pertinent foreign authority (which should have similar functions to the ones carried out by the CNBV), in which the principle of reciprocity is stated.

Part A: Requirements on Market Infrastructure Q1–2	A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made	A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).
Russia	Legislative provisions to allow for deference are being developed. Currently, national laws or regulations do not specifically address the issue of deference to another jurisdiction's regulatory framework with respect to OTC derivatives. However, the Bank of Russia has some discretionary authority to rely on foreign jurisdictions' frameworks.	
Saudi Arabia	<p>SAMA and CMA are both authorised to actively cooperate with foreign regulatory authorities.</p> <p>Where appropriate and on a case-by-case basis, SAMA and CMA can take into account existing foreign regulatory licenses, authorisations or other regulatory decisions or existing standards when they assess whether an applicant complies with licensing requirements or is in compliance with existing requirements under applicable financial regulatory laws and rules.</p>	N/A. So far neither SAMA nor CMA have formally deferred to a foreign authority or regulatory system.
Singapore	MAS is the sole relevant authority and has the capacity to exercise deference decisions to the extent possible under the Securities Futures Act (SFA).	<p>MAS will:</p> <ul style="list-style-type: none"> i) ensure cooperative arrangements are in place with home regulator; ii) TR/CCP subject to home requirements and supervision that are comparable to the degree to which MAS objectives of regulation are achieved; iii) MAS will consider relevant laws and practices and the rules of practice; and iv) that home requirements are in line with and encompass the PFMLs <p>TRs and CCPs: Authorisation takes into account the regulatory regimes of home jurisdictions and foreign infrastructures are licensed as either "Licensed Foreign TRs" or "Recognised Clearing Houses," respectively.</p> <p>TRs and CCPs are subject to a "baseline" of statutory obligations under the SFA, such as a general obligation to operate in a safe and efficient manner, to manage any risks prudently and maintain sufficient resources, consistent with PFMLs.</p> <p>MAS will, on an ongoing basis, defer to the home regulatory regime of the foreign TR or CCP on the discharge of its statutory obligations under the SFA.</p> <p>Exchanges/electronic trading platforms: OTS not currently regulated in Singapore.</p>

<p>Part A: Requirements on Market Infrastructure Q1–2</p>	<p>A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made</p>	<p>A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>
		<p>Amendments will be proposed to regulate electronic trading platforms and deference similar to the CCP/TR regime is being contemplated.</p>
<p>South Africa</p>	<p>Financial Markets Act (FMA) allows for the Minister of Finance to prescribe the functions and duties that may be exercised by external (foreign) market infrastructure and may be prescribed based on recognition if certain conditions are met.</p>	<p>For the external CCP or TR which is authorised to perform its functions in another country, at a minimum: (a) must be subject to laws that establish a regulatory framework equivalent to that established by the FMA; and (b) are supervised by a supervisory authority.</p> <p>Further criteria are in the process of being developed.</p>
<p>Switzerland</p>	<p>Proposed legislation implementing the OTCD reforms (draft FMA) will allow for deference to be granted for regulation and supervision of foreign CCPs, trading venues and TRs provided that they have been recognised by FINMA.</p> <p>This authority already exists under the Stock Exchange Act in respect of foreign exchanges.</p>	<p>According to the draft FMA, foreign FMIs will be recognised if:</p> <p>Market venue: (a) the market venue is adequately regulated and supervised by its home regulator and (b) the home regulator (1) is not objecting to cross border activity, (2) confirms to inform FINMA of any violation of law or other malpractices and (3) is granting mutual assistance.</p> <p>CCP: (a) the CCP is adequately regulated and supervised by its home regulator and (b) the home regulator (1) is not objecting to its cross border activity, (2) confirms to inform FINMA of any violation of law or other malpractices and (3) is granting mutual assistance.</p> <p>TRs: (a) the TR is adequately regulated and supervised by its home regulator and (b) the home regulator is (1) not objecting to its cross border activity, (2) confirms to inform FINMA of any violation of law or other malpractices and (c) competent Swiss authorities have direct access.</p>
<p>Turkey</p>	<p>Although there is no specific provision for deference to another country's regime, for Turkish CCPs operating abroad, the foreign activities can be regulated by the host country, subject to the discretionary authority of the CMB.</p> <p>Generally cross-border regulatory relationships focus on information sharing and cooperative arrangements stemming from the IOSCO MMoU.</p>	<p>Notes information sharing provisions around TRs and that an agreement can be reached on information sharing, taking into consideration whether there is:</p> <ul style="list-style-type: none"> a) an MoU; b) whether there is any secrecy regulation similar to local regulations; and c) the purpose of the demand.

<p>Part A: Requirements on Market Infrastructure Q1–2</p>	<p>A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made</p>	<p>A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>
<p>United States</p>	<p>CFTC: The Commodity Exchange Act (CEA) has several specific provisions allowing for exemptions or relief in instances where there is comparable, comprehensive supervision and regulation of market infrastructure by a foreign jurisdiction.</p> <p>TRs: The Dodd-Frank Act does not permit the CFTC to issue exemptions from registration for swap data repositories (i.e. TRs). Pending the issuance of a comparability determination, CFTC staff has provided conditional relief until December 2014 from certain swap data reporting requirements to non-US swap dealers and major swap participants in Australia, Canada, EU, Japan and Switzerland.</p> <p>CCPs: the CFTC may exempt conditionally or unconditionally a derivatives clearing organization (DCO) for, registration for the clearing of swaps if the CFTC determines that the DCO is subject to comparable, comprehensive supervision and regulation by the appropriate government authorities in the home country of the DCO.</p> <p>Exchanges/electronic trading platforms: Under the CFTC regulatory regime, "swap execution facilities" (SEFs), "designated contract markets" (DCMs) and "foreign boards of trade" (FBOTs) represent the only permitted types of 'exchanges or electronic trading platforms.' The CFTC can exempt, conditionally or unconditionally, a SEF from registration if the CFTC finds that the SEF is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the appropriate governmental authorities in the home country of the facility. The CFTC does not have the authority to exempt a DCM from registration. In adopting rules and regulations requiring registration with the CFTC, the CFTC may consider whether an FBOT is subject to comparable, comprehensive supervision and regulation by the appropriate governmental authorities in its home country and any previous CFTC findings that the FBOT is subject to the same.</p>	<p>CFTC: In several of its rulemakings and other policy statements, the CFTC has relied upon the PFMI, the international standards for CCPs as adopted by the Committee on Payment and Settlement Systems and the International Organization of Securities Commissions. For example, the CFTC permits FBOTs to clear through CCPs that are either registered with the CFTC as DCOs or observe the PFMI. The CFTC also has indicated publicly that, if it were to exercise its authority to exempt foreign-based CCPs from DCO registration, it might condition such exemptions on, among other things, the CCP having been assessed to be in compliance with the PFMI.</p> <p>As applicable to certain types of market participants, the CFTC takes into consideration all relevant factors, including, but not limited to:</p> <ul style="list-style-type: none"> i) the comprehensiveness of those requirements; ii) the scope and objectives of the relevant regulatory requirements; iii) the comprehensiveness of the foreign regulator's supervisory compliance program; and iv) the home jurisdictions' authority to support and enforce its oversight of the registrant. <p>Comparability determinations are made regarding specific requirements rather than to the regime as a whole.</p> <p>The CFTC utilises an outcomes-based approach that begins with consideration of the regulatory objectives and where the requirements do not have to be identical to CEA requirements, but rather comparable and comprehensive.</p> <p>CFTC works with regulators and registrants to consider whether alternative approaches may result in a determination that substituted compliance applies. Compliance with PFMI is also considered when determining whether to provide an exemption.</p> <p>SEC: The SEC would be able to make a substituted compliance determination only if it finds that the requirements of the relevant foreign financial regulatory system are comparable to otherwise applicable requirements, after taking into account several factors including (but not limited to):</p> <ul style="list-style-type: none"> - scope and objectives of relevant foreign requirements; - effectiveness of supervisory compliance program; - enforcement authority exercised.

<p>Part A: Requirements on Market Infrastructure Q1–2</p>	<p>A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made</p>	<p>A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>
	<p>SEC: The SEC has proposed a substituted compliance framework with respect to requirements related to: (i) regulatory reporting and public dissemination of security-based swap data, (ii) mandatory clearing of security-based swaps, and (iii) mandatory trade execution of security-based swaps, which, in each case, could involve the use of infrastructure providers in a foreign jurisdiction.</p>	<p>With respect to the regulatory reporting and public dissemination of security-based swap data , the proposal would not permit the SEC to make a substituted compliance determination unless it finds that: (i) the data elements that are required to be reported pursuant to the rules of the foreign jurisdiction are comparable to those required to be reported pursuant to Rule 901 of the SEC's Regulation SBSR; (ii) the rules of the foreign jurisdiction require the security-based swap to be reported and publicly disseminated in a manner and a timeframe comparable to those required by the SEC's Regulation SBSR; (iii) the SEC has direct electronic access to the security-based swap data held by a trade repository or foreign regulatory authority to which security-based swaps are reported pursuant to the rules of that foreign jurisdiction; and (iv) any trade repository or foreign regulatory authority in the foreign jurisdiction that receives and maintains required transaction reports of security-based swaps pursuant to the laws of that foreign jurisdiction is subject to requirements regarding data collection and maintenance; systems capacity, resiliency, and security; and recordkeeping that are comparable to the requirements imposed on security-based swap data repositories under specific SEC rules.</p> <p>Under the proposed framework, the SEC would expect to take a holistic approach in making substituted compliance determinations, whereby its analysis would ultimately focus on regulatory outcomes as a whole with respect to the requirements within the same category, rather than a rule-by-rule comparison</p>

<p>Part A: Requirements on Market Infrastructure Q3–5</p>	<p>A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	<p>A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.</p>	<p>A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.</p>
<p>Argentina</p>			
<p>Australia</p>	<p>TRs: Application from a potential TR licensee would first have to be submitted and ASIC would begin discussions concurrently with the relevant regulator. ASIC would consider whether to exempt from compliance or whether to place reliance on overseas requirements in respect of a provision or provisions of the ASIC rules. Adequate cooperative arrangements must also be in place (e.g., a) arrangements that provide force prompt sharing of information by the home regulatory authority; and b) effective cooperation on supervision, and investigation and enforcement).</p> <p>A conservative estimate is 6-12 months to assess an application, including time needed to agree the supervisory agreements. Minimum time specified by statute is 42 days.</p> <p>CCPs: Generally, a CCP operator seeking to conduct business in Australia would approach ASIC (or sometimes the RBA) to commence the licensing process.</p> <p>Generally:</p> <ol style="list-style-type: none"> a) An applicant typically submits a <i>draft</i> application before making a <i>formal</i> application so that ASIC can ensure it is sufficiently complete for ASIC and the RBA to be able to prepare advice for the Minister. b) It will generally take between 12 and 16 weeks for ASIC and the RBA to assess a facility's formal application and prepare advice for the Minister. This part of the process will include assessing sufficient equivalence and 	<p>For TRs:</p> <p>S902A & S907D of the Corporations Act 2001 http://www.comlaw.gov.au/Details/C2013C00605/Html/Volume_4#_Toc367969634</p> <p>ASIC Regulatory Guide 249: <i>Derivative trade repositories</i> http://www.asic.gov.au/asic/asic.nsf/byheadline/Regulatory+Guide+249+Derivative+trade+repositories?openDocument</p> <p>ASIC Derivative Trade Repository Rules 2013 http://www.comlaw.gov.au/Details/F2013L01344</p> <p>Australian Derivative Trade Repository licence application form http://www.asic.gov.au/asic/asic.nsf/byheadline/Derivative+trade+repositories?openDocument</p> <p>ASIC Regulatory Guide 54: <i>Principles for cross-border financial regulation</i> http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/rg54-published-29-June-2012.pdf/\$file/rg54-published-29-June-2012.pdf</p> <p>For CCP deference:</p> <p>Corporations Act 2001 http://www.comlaw.gov.au/Details/C2013C00003</p>	<p>For TRs, DTCC DR (Singapore) has a draft application under review</p> <p>For CCPs, EU-assessments have been carried out with respect to EMIR, UK Recognition Requirements, and the European Settlement Finality Directive for the purposes of licensing LCH.Clearnet Ltd.</p> <p>For trading platforms, the UK, US and Germany have been determined to be sufficiently equivalent to Australia.</p>

<p>Part A: Requirements on Market Infrastructure Q3–5</p>	<p>A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	<p>A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.</p>	<p>A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.</p>
	<p>establishing cooperation arrangements with the licensee and its home regulator(s).</p> <p>c) Generally ASIC and the RBA will engage with the applicant on the draft application before requesting a formal application and this process can take quite some time. The stated processing time excludes time spent clarifying issues, waiting for information, consulting with third parties (if deemed necessary to do so), or – in the case of novel or complex applications, consulting with the public. If public consultation is required, processing may take significantly longer than 16 weeks</p> <p>Exchanges/Electronic trading platforms: Initiated when ASIC receives an application for an overseas markets licence from an overseas market operator. The process is not commenced by the home regulator.</p> <p>The application process has two distinct stages, the informal and formal lodgement. On completing a preliminary review, and subject to ASIC being satisfied that the applicant is eligible to apply and that the information provided addresses all the regulatory requirements, the applicant is then invited to formally lodge.</p> <p>Once ASIC is satisfied that all the requirements in the Act and relevant regulations are met, an advice is provided to the Minister. ASIC generally aims to provide the Minister with advice about an application for an overseas market licence within 16 weeks of receiving an application that contains all the information and documents required. This review period does</p>	<p>ASIC Regulatory Guide 211: <i>Clearing and settlement facilities: Australian and overseas operators</i> (https://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/rg211-published-18-december-2012.pdf/\$file/rg211-published-18-december-2012.pdf)</p> <p>ASIC Regulatory Guide 54 <i>Principles for cross border financial regulation</i> (http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/rg54-published-29-June-2012.pdf/\$file/rg54-published-29-June-2012.pdf)</p> <p>RBA publication, ‘<i>Assessing the Sufficient Equivalence of an Overseas Regulatory Regime</i>’ (http://www.rba.gov.au/payments-system/clearing-settlement/standards/overseas-equivalence.html)</p> <p>The Reserve Bank's Approach to Assessing Clearing and Settlement Facility Licensees (http://www.rba.gov.au/payments-system/clearing-settlement/standards/assess-csf-licensees.html)</p> <p>Exchanges/electronic trading platforms:</p> <p>ASIC Regulatory Guide 177: <i>Australian market licences: Overseas operators</i> (http://www.asic.gov.au/asic/pdflib.nsf/LookupByFileName/ps177.pdf/\$file/ps177.pdf)</p>	

Part A: Requirements on Market Infrastructure Q3–5	A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).	A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.	A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.
	not include time spent clarifying issues with the applicant. A component of this assessment involves the review on the sufficient equivalency of the home regulatory regime.		
Brazil			
Canada	<p>In the context of infrastructure providers, entity will submit an application to the authorities and as applicable including materials to support their application. The CSA regulators then look to the application and interact with the foreign regulators to determine whether the foreign regulatory regime offers the same level of investor protection and to defer or not to the foreign jurisdiction's regulatory framework.</p> <p>There is no established time frame for coming to a decision.</p> <p>Information sharing is governed by a formal MOU.</p>	CSA OSC staff Notice 21-702 Regulatory Approach for Foreign-Based Stock Exchanges: http://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20031031_21-702_foreignbased.jsp AMF Policy Statement respecting the Authorization of Foreign-Based Exchanges: http://www.lautorite.qc.ca/files/pdf/reglementation/valeurs-mobilieres/instr-gen-bourses-etranangeres/2005-03-30/2005mars30-ig-boursesetrangeres-en.pdf OSC staff Notice 24-702 Regulatory Approach to Recognition And Exemption From Recognition of Clearing Agencies: http://www.osc.gov.on.ca/documents/en/Securities-Category2/sn_20100319_24-702_clearing-agencies.pdf	OSC has determined the UK is comparable with respect to the supervision of certain clearing agencies and that the US is comparable or equivalent in respect of the supervision of certain clearing agencies and exchanges or electronic trading platforms
China			
European Commission	Begins a process with an assessment of rules carried out by the staff of the EC, who gathers information with the involvement of and consultation with home countries, including through questionnaires. The staff of the EC then provides a draft decision for consultation with other services of the EC and with		In the process of proposing CCP equivalence for a number of jurisdictions. Pending assessments/determinations for a number of other jurisdictions.

Part A: Requirements on Market Infrastructure Q3–5	A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).	A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.	A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.
	member states. The overall process is expected to take a few months and is initiated on the EC's own initiative. Cooperation arrangements between ESMA and home countries are also necessary.		
Hong Kong	TRs: N/A. CCPs and Exchanges/Electronic Trading Platforms: Does not have a process to determine equivalence of standards on a jurisdictional level. The assessment on whether an overseas CCP or exchange/electronic trading platform is subject to comparable standards and supervision as local CCPs or exchange/electronic trading platform is normally triggered by an application for authorisation made by the CCP or exchange/electronic trading platform. MoUs or other arrangements for information sharing and cooperation would also be needed.	N/A, as still in the process of finalising rules	N/A as currently no application from CCPs or exchanges/electronic trading platforms.
India	There is no legal framework in India which enables authorities to defer to another jurisdiction's regulatory framework with respect to OTC derivatives.		
Indonesia			
Japan	JFSA will assess whether they are subject to appropriate regulation and supervision of their home countries; authorities. Review periods would depend on submission of all necessary information and materials and JFSA will need to conclude cooperative supervision/information sharing arrangements with foreign authorities.	N/A	N/A/

Part A: Requirements on Market Infrastructure Q3–5	A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).	A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.	A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.
Korea	<p>No procedure is stipulated in the legal framework for deferring to another jurisdiction.</p> <p>For foreign clearing houses being used to clear foreign investment trading, an information exchange system, disclosure system, cooperative arrangement for supervision and examination with the foreign supervisor needs to be in place.</p>	Relevant law and regulation can be found at www.fsc.go.kr/eng	No jurisdiction has been found comparable or equivalent.
Mexico	<p>Process for recognition for transactional requirements under review.</p> <p>Revision process to determine key criteria for granting regulatory equivalence to foreign electronic platforms will also be carried out.</p> <p>Secondary legislation will also be drafted to address capital surcharges and margins.</p>		
Russia			
Saudi Arabia	N/A. There is no formal process.	N/A. There are no such forms or weblinks	N/A. There are no such jurisdictions.
Singapore	Process begins with an application from the CCP or TR.	<p><u>TRs and CCPs</u> Links to the forms for application to be recognised by MAS are provided below:</p> <p>TR: http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Funds-Management/Forms/Trade-Repositories-Forms/2013/Form-1--Application-for-Trade-Repository-Licence-or-Foreign-Trade-Repository-Licence.aspx</p>	Currently no licensed foreign TRs or recognised Clearing Houses.

Part A: Requirements on Market Infrastructure Q3–5	A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).	A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.	A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.
		CCP: http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Funds-Management/Forms/Clearing-Facilities-Forms/2013/Form-1-Notice-of-intent-to-establish-or-operate-a-clearing-facility.aspx	
South Africa	An assessment of home country regulatory compliance with PFMI first needed to establish equivalence between the South African and the home authority. No specific processes or timeframes are currently prescribed but are in the process of being developed; joint actions are addressed through bilateral MoUs.	https://www.fsb.co.za/Departments/capitalMarkets/Documents/Financial%20Markets%20Act%2019%20of%202012.pdf Ministerial regulations supporting the forthcoming Financial Sector Regulation Bill (once finalised) will be published.	No jurisdictions have been assessed or determined to be equivalent or comparable. Commencement of assessments is dependent on the finalisation of the Ministerial regulations.
Switzerland	Process begins with an application from an entity if the conditions above are met. FINMA may refuse recognition of the applying FMI if the country in which the applicant is located does not grant Swiss financial market infrastructures access to its market or does not apply the principle of national treatment.	For market venues under the Stock Exchange Act: http://www.finma.ch/e/beaufsichtigte/pages/aufsicht-ueber-die-boersen-und-maerkte.aspx http://www.finma.ch/e/beaufsichtigte/Documents/wl-boersen-ausl-e.pdf	List of foreign stock exchanges recognised by FINMA under the Stock Exchange Act may be found on the FINMA website. (<i>Note: this would be pursuant to existing authority and not the proposed legislation</i>).
Turkey	N/A	N/A	N/A

<p>Part A: Requirements on Market Infrastructure Q3-5</p>	<p>A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	<p>A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.</p>	<p>A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.</p>
<p>United States</p>	<p>CFTC: Per the responses to Q1-2 above, the CEA permits certain relief for market infrastructures under specific circumstances.</p> <p>As applicable to certain market participants, requests for comparability determinations can be submitted by: (i) foreign regulators; (ii) individual non-US entities or a group of non-US entities; (iii) a US bank with respect to its foreign branches; or (iv) a trade association, or other group, on behalf of similarly – situated entities.</p> <p>CFTC process involves consultation with regulators in each jurisdiction for which an application has been submitted and considers all relevant factors (as noted in response to Q. A.2).</p> <p>Cooperation with overseas regulators is an essential component in and an MOU or similar supervisory arrangement should be negotiated with the relevant regulators.</p> <p>SEC: With respect to each of the substituted compliance frameworks proposed by the SEC that could involve the use of market infrastructure providers in a foreign jurisdiction (i.e., regulatory reporting and public dissemination, mandatory clearing, and trade execution) the SEC rule sets forth general procedures for submission of requests for substituted compliance determinations. Applications must be submitted by a party that would potentially comply with requirements or by the relevant foreign regulator and must be submitted in writing.</p>	<p>CFTC: As applicable to certain market participants, all comparability determinations issued by the CFTC are available at: http://www.cftc.gov/LawRegulation/DoddFrankAct/CDSCP/index.htm</p> <p>For broad guidance on CFTC approach to cross-border regulation, see: CFTC Proposed Cross-Border Guidance, 77 FR 41214 (July 12, 2012) (available at: http://www.cftc.gov/ucm/groups/public/@Irfederalregister/documents/file/2012-16496a.pdf) (proposed interpretive statement and guidance); and CFTC Guidance, 78 FR 45292 (July 26, 2013) (available at: http://www.cftc.gov/ucm/groups/public/@Irfederalregister/documents/file/2013-17958a.pdf) (final guidance).</p> <p>For all materials related to the supervisory arrangements, see www.cftc.gov</p> <p>SEC: The SEC has not adopted any particular documentation or forms for sharing with jurisdictions or entities as part of the process for making a substituted compliance determination. A copy of the SEC Cross-Border Proposal, which should provide additional detail and granularity on the overall process and analysis to be used by the SEC in making substituted compliance determinations under the proposed framework is available at: http://www.gpo.gov/fdsys/pkg/FR-2013-05-</p>	<p>CFTC: As applicable to certain types of market participants, the CFTC has made 8 broad comparability determinations that permit substituted compliance with non- US regulatory regimes for certain swaps provisions of the CEA and the CFTC’s regulations.</p> <p>Working with authorities in Australia, Canada, the EU, Hong Kong, Japan and Switzerland issued comparability determinations for a broad range of entity level requirements; the CFTC also approved substituted compliance for certain transaction level requirements for the EU and Japan.</p> <p>SEC: Current framework is ‘proposed’ and not yet a final rule. No determinations have been made or pending as a result.</p>

<p>Part A: Requirements on Market Infrastructure Q3–5</p>	<p>A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	<p>A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.</p>	<p>A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.</p>
	<p>Once an application is complete, SEC staff will review and the make a recommendation to the SEC. The process also would include a public comment period on the submission.</p> <p>The proposed framework contemplates that the SEC must have entered into a supervisory and enforcement MOU or other arrangement with the appropriate financial regulatory authority or authorities addressing oversight and supervision and expressing a commitment to cooperate with each other to fulfil their respective regulatory mandates.</p> <p>The proposed framework would permit the SEC, on its own initiative, to modify the terms or withdraw the determination after appropriate notice and opportunity for comment. The SEC has the ability to periodically review previously issued determinations and a modification or withdrawal could result for example due to changes in the regulatory regime or failures to exercise supervisory or enforcement authority effectively.</p>	<p>23/pdf/2013-10835.pdf.</p> <p>A copy of the SEC Cross-Border Adopting Release, which contains the final Rule 0-13 that sets forth the general procedures for submission of requests for substituted compliance determinations, is available at: http://www.sec.gov/rules/final/2014/34-72472.pdf.</p>	

Annex B: Deference to cross-border OTC derivatives regulatory regimes for **market participants**

Summary of responses by each jurisdiction

Part B: Requirements on Market Participants Q1–2	B.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made.	B.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).
Argentina	At present, does not have the ability to defer to another jurisdiction's regulatory regime, in large part because derivatives markets are largely standardised and traded on exchange already with little cross-border activity and still in the process of developing OTC regulation.	
Australia	<p>ASIC can exercise full or partial deference for foreign financial services providers (FFSP) that fall within its jurisdiction - this would capture deference for financial resource and risk mitigation requirements.</p> <p>ASIC can provide a class order relief or partial deference for oversight/regulation. Also have the capacity to use a form of substituted compliance to defer to transaction rules of another jurisdiction.</p>	<p>Deference for ASIC licensing can be granted to the FFSP where it:</p> <ul style="list-style-type: none"> a) provides services to wholesale clients only; and b) is regulated by an overseas regulator, approved by ASIC, based on the standard of sufficient equivalence, effective cooperation agreements and the FFSP meeting all the relevant conditions of relief for substituted compliance of transaction rules. <p>For other obligations, there are variations based on the commitment areas/types of rules.</p> <p>For reporting, the entity itself must first determine that it is eligible for alternative reporting.</p> <p>For clearing, a final decision on substituted compliance cannot be made until mandatory requirements are first in place, but anticipate consideration of whether the requirements can be met by complying with foreign requirements.</p> <p>Similarly, an assessment of how to use deference SC for trade execution and margin requirements will be made once requirements are in place.</p>
Brazil	No current provision to defer to another jurisdiction's framework	

Part B: Requirements on Market Participants Q1–2	B.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made.	B.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).
Canada	<p>CSA has the capacity to defer regulatory responsibility with respect to transactional requirements to reporting, central clearing, capital, margin/risk mitigation and trade execution.</p> <p>With respect to OTC derivatives market participants, regulations and processes for substituted compliance decisions have not yet been developed but would be in principle, similar to those described for infrastructure.</p> <p>Even though OSFI does not defer on OTC related capital incentives, a QCCP may be a foreign CCP regulated by its home country regulation that is consistent with the PFMI. As such, OSFI relies on oversight of CCPs by relevant regulator and the application of the PFMI.</p>	CSA uses an 'outcomes-based' standard. May include a provision-by-provision comparison; an overview of regulatory outcomes; the authorities communicating with the relevant foreign authority throughout the process.
China	<p>As China is in a very early stage of developing OTC Derivative market, the equivalence assessment framework and relevant regulations have not been set up for the time being.</p> <p>China has actively communicated with major jurisdictions through bilateral dialogues and supported the mutual recognition of qualified CCPs and other OTC market infrastructures.</p>	
European Commission	<p>EMIR and MIFID empower the EC to determine equivalence and adopt rules on the basis of deference. Standard is to verify that the framework delivers equivalent results and is not aimed at verifying that rules are identical to EU rules.</p> <p>The assessment is "outcomes-focused" and takes account of the specificities of the regulatory context including the nature of the relevant markets.</p>	<p>Supervision of investment firms: Equivalence framework regarding <i>authorisation</i> and <i>supervision</i> of investment firms is similar to the framework for granting deference for CCP oversights, with consideration of additional conditions around ongoing supervision, capital requirements; internal control, business conduct and market transparency/prevention of market abuse</p> <p>Transaction level requirements - Central clearing, margin & reporting: EC may adopt implementing acts declaring that the legal, supervisor and enforcement arrangements of a third country: (i) are equivalent to the respective requirements in EMIR; (ii) ensure an equivalent protection of professional secrecy; and (iii) are being applied in an equitable and non-distortive manner so as to ensure effective supervision and enforcement in that country. For trading obligation, Commission can determine that the legal and supervisory framework of a third country has an</p>

Part B: Requirements on Market Participants Q1–2	B.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made.	B.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).
		equivalent effect. Investment firms, where the Commission has determined that the legal and supervisory arrangements ensure that authorised firms comply with legally binding prudential and business conduct requirements which have equivalent effect, investment firms from that jurisdiction may provide investment activities.
Hong Kong	HK has not yet finalised their decision on deference, but would intend to adopt a 'similar' regulatory outcome approach where appropriate and a deference framework that would likely take into account (i) the quality of the relevant regulatory and enforcement regimes for derivatives market participants, and (ii) the equivalence and comparability of the relevant rules or requirements.	
India	There is no legal framework in India which enables authorities to defer to another jurisdiction's regulatory framework with respect to OTC derivatives.	
Indonesia	For the time being, a framework for making equivalence or comparability decisions has not yet been put in place. Bearing in mind the low level of derivatives transactions in Indonesia compared to the global market and the low percentage of cross-border transactions relative to local transactions, the authorities consider cross-border issues not yet to be relevant for Indonesia. The authorities remain open to consider any such approaches base on the relevance of the issues and cost and benefit considerations.	
Japan	Foreign branches: Required to register, but not subject to additional requirements; registration requirements do not apply to foreign market participants outside of Japan. When the JFSA would apply its regulation at cross-border going forward, it would consider a framework to defer to another jurisdictions regulation and supervision.	JFSA will take an outcomes-based approach, taking fully into account international standards where they are appropriate, on the basis of ODRG agreement.
Korea	No procedure stipulated in the legal framework for deferring to another jurisdiction.	N/A

Part B: Requirements on Market Participants Q1–2	B.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made.	B.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).
Mexico	Legal framework does not provide for general deference with respect to requirements on market participants.	
Russia	Legislative provisions to allow for deference are being developed. Currently, national laws or regulations do not specifically address the issue of deference to another jurisdiction's regulatory framework with respect to OTC derivatives. However, the Bank of Russia has some discretionary authority to rely on foreign jurisdictions' frameworks.	
Saudi Arabia	SAMA and CMA are both authorised to actively cooperate with foreign regulatory authorities. Where appropriate and on a case-by-case basis, SAMA and CMA can take into account existing foreign regulatory licenses, authorisations or other regulatory decisions or existing standards when they assess whether an applicant complies with licensing requirements or is in compliance with existing requirements under applicable financial regulatory laws and rules.	N/A. So far neither SAMA nor CMA have formally deferred to a foreign authority or regulatory system.
Singapore	SFA does not extend to OTC market participants and MAS will be proposing amendments to SFA. Deference for the licensing of such entities will be contemplated under the regimes for such entities. In the case of existing market participants who are regulated under the SFA, the SFA provides that reporting and clearing obligations can be deemed by the MAS to be complied with in the case of a cross-border transaction via compliance with the foreign jurisdictions obligations. Capital requirements: Foreign bank branches are subject to home country rules. Margin and risk mitigation & trade execution: rules are currently not in place.	MAS will monitor the necessity of applying the deemed compliance approach to a foreign jurisdiction depending on market needs. <ul style="list-style-type: none"> • Reporting: In practice, domestic market participants are able to leverage on the local licensed TR, which operates within a network of overseas affiliates, to direct transaction reports to fulfil domestic as well as foreign reporting obligations. • Clearing: In practice, the local CCP which clears OTC derivatives has applied to both the US/EU for authorisation, to allow for US and EU persons to discharge their home jurisdiction clearing obligations through it.
South Africa	ZA provides a description of entities that have to be registered/supervised in ZA. The definition is broad and includes those entities with a physical presence and	N/A

Part B: Requirements on Market Participants Q1–2	B.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made.	B.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).
	<p>which are counterparties to ZA registered persons.</p> <p>Any two OTC derivatives providers (ODPs) located in the Republic whether those ODPs are locally incorporated or are branches or subsidiaries of a parent undertaking in a foreign jurisdiction; an ODP and a counterparty/client, whether that counterparty/client is locally incorporated, a branch or a subsidiary of a parent undertaking in a foreign jurisdiction or located in a foreign jurisdictions (cross-border trade)</p>	
Switzerland	<p>Proposed legislation implementing the OTCD reforms (draft FMA) will allow for deference to be granted for regulation and supervision of foreign securities dealers provided that they have been admitted by FINMA.</p> <p>Existing authority under the Stock Exchange Act to admit foreign securities dealers to Swiss exchanges.</p> <p>Draft FMA will also allow for deference to be granted for clearing, margining, reporting and trading obligation to be fulfilled by Swiss market participants provided that foreign OTC derivatives regulation is determined as equivalent and the foreign FMI has been recognised on the conditions as set out above (Annex A).</p>	<p>According to the draft FMA (and the Stock Exchange Act) FINMA grants securities dealer not located in Switzerland admission to the participation at Swiss trading venues if the securities dealer is adequately regulated and supervised by its home regulator. This includes in particular that it is subject to equivalent rules of conduct as well as equivalent record keeping and reporting obligations. Furthermore, the securities dealer's competent home regulator (1) is not objecting to its activity in Switzerland and (2) grants mutual assistance to FINMA.</p> <p>Process for deference decision in respect of clearing, margining, reporting and trading obligation will be solidified during implementation of draft FMA.</p>
Turkey	N/A	N/A
US	<p>CFTC: Generally expect that non-US person swap dealers and MSPs engaging in swaps with US persons (above a certain threshold) may be required to comply with certain CFTC rules. However, such persons would be eligible for substituted compliance with regard to certain requirements.</p> <p>SEC: The SEC has proposed rules establishing a substituted compliance framework for market participants that would allow for deference for certain transaction-level and entity-level requirements under the Securities Exchange Act of 1934.</p>	<p>CFTC: See Annex A, Question A.2</p> <p>SEC: The SEC would be able to make a substituted compliance determination only if it finds that the requirements of the relevant foreign financial regulatory system are comparable to otherwise applicable requirements, after taking into account several factors including (but not limited to):</p> <ul style="list-style-type: none"> - scope and objectives of relevant foreign requirements; - effectiveness of supervisory compliance program;

<p>Part B: Requirements on Market Participants Q1–2</p>	<p>B.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made.</p>	<p>B.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>
		<p>- enforcement authority exercised.</p> <p>Under the proposed framework, the SEC would expect to take a holistic approach in making substituted compliance determinations, whereby its analysis would ultimately focus on regulatory outcomes as a whole with respect to the requirements within the same category, rather than a rule-by-rule comparison.</p>

Part B: Requirements on Market participants Q3–5	B.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).	B.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.	B.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.
Argentina			
Australia	<p>An application is made by an entity, not the jurisdiction, though the jurisdiction's authorities are notified and ASIC works with the relevant authorities.</p> <p>No time frame specified for decisions as this varies on a case-by-case basis</p>	<p>ASIC Regulatory Guide 176 <i>Foreign financial services providers</i> http://www.asic.gov.au/asic/pdf/lib.nsf/LookupByFileName/rg176-published-29-June-2012.pdf/\$file/rg176-published-29-June-2012.pdf)</p> <p>There is no prescribed form for applying for relief under RG176 http://www.asic.gov.au/asic/pdf/lib.nsf/LookupByFileName/rg176-published-29-June-2012.pdf/\$file/rg176-published-29-June-2012.pdf). Section D sets out general information about the process and requirements for applying for relief.</p> <p>Information Sheet INFO 157 provides practical guidance to entities seeking to provide financial services under the relevant FFSP class order and Question 3 sets out the questions that entities are required to answer when applying for individual relief. http://www.asic.gov.au/asic/pdf/lib.nsf/LookupByFileName/InfoSheet_157.pdf/\$file/InfoSheet_157.pdf</p>	<p>ASIC has issued a number of class orders that grant relief to FFSPs (which include OTC derivatives market participants) as well as individual relief to a number of entities.</p> <p>The class orders apply to entities regulated by:</p> <ul style="list-style-type: none"> a) UK FSA (which carries over to the UK FCA and PRA) b) US SEC c) US Federal Reserve and OCC d) Singapore MAS e) Hong Kong SFC f) US CFTC g) German BaFin
Brazil			

Part B: Requirements on Market participants Q3–5	B.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).	B.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.	B.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.
Canada	<p>Process can be initiated through either the foreign jurisdiction's authorities or from communication with foreign market participants.</p> <p>There is no prescribed time frame for coming to a decision.</p> <p>It is not always required that other agreements be entered into or conditions to be met by the authority in the home country in order for substituted compliance to be granted.</p>	N/A	<p>Subject to certain conditions, compliance with CFTC swap data reporting rules is comparable to certain OSC rules for some market participants.</p> <p>For the purposes of capital treatment, all of the CCPs used by federally regulated financial institutions are treated as QCCPs as they are prudentially supervised in jurisdictions where the relevant regulator/overseer has established domestic rules and regulations that are consistent with the CPMI-IOSCO PFMI.</p>
China			
European Commission	<p>Clearing, margin, reporting: EC staff drafts an equivalence decision, gathering information with the involvement of and consultation with home countries, including through questionnaires. The staff of the EC then sends the draft decision to other services of the EU for consultation. At the end of the consultation, member states are consulted</p>	N/A	<p>In the process of assessing jurisdictions for clearing, margin and reporting rules. MIFIR/MIFID will come into effect January 2017 and decisions will be taken in due course after that time.</p>

Part B: Requirements on Market participants Q3-5	B.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).	B.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.	B.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.
	via the European Securities Committee. The entire process is expected to take a few months.		
Hong Kong	Not yet determined. Will closely monitor development of such process by other jurisdictions.	N/A, as still in the process of considering an appropriate deference framework.	N/A, as still in the process of considering an appropriate deference framework.
India			
Indonesia			
Japan	It is appropriate to establish a framework to defer to another jurisdiction's regulation and supervision and make a decision before the JFSA applies its regulation cross-border.	N/A	N/A
Korea	No procedure stipulated in the legal framework for deferring to another jurisdiction.	Relevant law and regulation can be found at www.fsc.go.kr/eng	No jurisdiction has been found comparable or equivalent.
Mexico			

Part B: Requirements on Market participants Q3-5	B.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).	B.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.	B.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.
Russia			
Saudi Arabia	N/A. There is no formal process.	N/A. There are no such forms or weblinks	N/A. There are no such jurisdictions.
Singapore	N/A	N/A	N/A
South Africa	N/A	https://www.fsb.co.za/Departments/capitalMarkets/Documents/Financial%20Markets%20Act%2019%20of%202012.pdf	N/A
Switzerland	<p>Process in respect of foreign securities dealers begins with an application if the conditions above are met.</p> <p>FINMA may refuse recognition of the applying securities dealer if the country in which the applicant is located does not grant Swiss financial market participants access to its market or does not apply the principle of national treatment.</p> <p>Process for deference decision in respect of clearing, margining, reporting and trading obligation will be solidified during implementation of draft FMA.</p>	<p>Securities dealers under the Stock Exchange Act</p> <p>http://www.finma.ch/e/beaufsichtigte/pages/aufsicht-ueber-die-boersen-und-maerkte.aspx,</p>	

<p>Part B: Requirements on Market participants Q3–5</p>	<p>B.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	<p>B.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.</p>	<p>B.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.</p>
<p>Turkey</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>
<p>United States</p>	<p>CFTC: See Annex A, Q.A.3</p> <p>SEC: The SEC rule sets forth general procedures for submission of requests for substituted compliance determinations. Applications must be submitted by a party that would potentially comply with requirements or by the relevant foreign regulator and must be submitted in writing.</p> <p>Once an application is complete, SEC staff will review and the make a recommendation to the SEC. The process would also include a public comment period on the submission.</p> <p>The proposed framework contemplates that the SEC must have entered into a supervisory and enforcement MOU or other arrangement with the appropriate</p>	<p>CFTC: All comparability determinations issued by the CFTC are available at: http://www.cftc.gov/LawRegulation/DoddFrankAct/CDSCP/index.htm</p> <p>For broad guidance on CFTC approach to cross-border regulation, see: CFTC Proposed Cross-Border Guidance, 77 FR 41214 (July 12, 2012) (available at: http://www.cftc.gov/ucm/groups/public/@Irfederalregister/documents/file/2012-16496a.pdf) (proposed interpretive statement and guidance); and</p> <p>CFTC Guidance, 78 FR 45292 (July 26, 2013) (available at: http://www.cftc.gov/ucm/groups/public/@Irfederalregister/documents/file/2013-17958a.pdf) (final guidance).</p> <p>For all materials related to the supervisory arrangements, see www.cftc.gov</p> <p>SEC:</p>	<p>CFTC: See Annex A, Q.A.5</p> <p>SEC: Current framework is 'proposed' and not yet a final rule. No determinations have been made or pending as a result.</p>

<p>Part B: Requirements on Market participants Q3-5</p>	<p>B.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	<p>B.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.</p>	<p>B.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.</p>
	<p>financial regulatory authority or authorities addressing oversight and supervision and expressing a commitment to cooperate with each other to fulfil their respective regulatory mandates.</p> <p>A substituted compliance decision regarding a jurisdiction would extend to all market participants from that jurisdiction. The proposed framework would permit the SEC, on its own initiative, to modify the terms or withdraw the determination after appropriate notice and opportunity for comment. The SEC has the ability to periodically review previously issued determinations and a modification or withdrawal could result for example due to changes in the regulatory regime or failures to exercise supervisory or enforcement authority effectively.</p>	<p>The SEC has not adopted any particular documentation or forms for sharing with jurisdictions or entities as part of the process for making a substituted compliance determination. A copy of the SEC Cross-Border Proposal, which should provide additional detail and granularity on the overall process and analysis to be used by the SEC in making substituted compliance determinations under the proposed framework, is available at: http://www.gpo.gov/fdsys/pkg/FR-2013-05-23/pdf/2013-10835.pdf.</p> <p>A copy of the SEC Cross-Border Adopting Release, which contains the final Rule 0-13 that sets forth the general procedures for submission of requests for substituted compliance determinations, is available at: http://www.sec.gov/rules/final/2014/34-72472.pdf.</p>	