

Assessment of the Riksbank's and Finansinspektionen's oversight and supervision work of the financial infrastructure



DATE

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Internal Audit Department at Sveriges Riksbank and Finansinspektionen

Appendix: Basis for assessment

This assessment has been conducted on the basis of the questions addressed to authorities in the “*Principles for financial market infrastructures: Disclosure framework and assessment methodology*”.¹ The assessment has been conducted by employees of the Internal Audit Department² who have evaluated how the Riksbank and Finansinspektionen (the Swedish Financial Supervisory Authority) have jointly observed each of the A-E areas of responsibility stated in the principles for *Financial Market Infrastructures* (PFMIs) issued by the Committee on Payment and Settlement Systems (CPSS) and the International Organization of Securities Commissions (IOSCO)³. The Riksbank and Finansinspektionen have responded to these questions in writing and have supported each response with background material. Whenever required, both authorities have supplemented their responses. Subsequently, employees at the Internal Audit Department have made a compilation of the authorities’ responses and, on the basis of these responses, have assessed how well the authorities have jointly observed the responsibilities of the PFMIs. The assessment was conducted primarily during October-November 2013, apart from a number of minor additions completed at later dates.

Responsibility A: Regulation, supervision, and oversight of FMIs⁴

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

Key consideration 1

Authorities should clearly define and publicly disclose the criteria used to identify FMIs that should be subject to regulation, supervision, and oversight.

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

The Riksbank and Finansinspektionen apply the PFMIs and thus also the definition of FMIs according to the principles. Using similar definitions, it may be said that the legislator encompasses the FMIs that Finansinspektionen are required to regulate and supervise. *The Securities Market Act (2007:528)* and *The Financial Instruments Accounts Act (1998:1479)* encompass the securities settlement systems (Euroclear Sweden AB⁵ in Sweden), payment systems (Bankgirocentralen BGC AB⁶) and central securities depositories

¹ See 6.0 Questions by key consideration for the responsibilities for FMIs, pp. 75-81.

² The internal audit department at the Riksbank and Finansinspektionen are operated independently of other operations within the authorities.

³ The four categories are: Observed, Broadly Observed, Partly Observed, and Not Observed.

⁴ An Financial Market Infrastructure (FMI) is defined in the PFMIs as “a multilateral system among participating institutions, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions”.

⁵ Henceforth, Euroclear Sweden.

⁶ Henceforth, Bankgirot.

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	<p>(Euroclear Sweden in Sweden). Central counterparties (NASDAQ OMX Clearing AB⁷ in Sweden) and trade repositories (apart from the fact that they do not exist in Sweden, such organisations are not subject to supervision by national authorities) and are encompassed by EU legislation: <i>European Market Infrastructure Regulation (EMIR)</i>⁸, which is directly applicable in Sweden.</p> <p>However, from the viewpoint of financial stability, there are FMIs that are not necessarily significant to warrant complete oversight by the Riksbank. To identify the FMIs requiring oversight, the Riksbank applies six criteria:</p> <ul style="list-style-type: none"> • Number and value of transactions. • Market share. • The markets on which the FMI is active. • Available alternatives that could be used at short notice. • Interlinkage with other FMIs and other financial institutions. • Significance of the FMI for the implementation of monetary policy.
<p>Key consideration 2</p> <p>FMIs that have been identified using these criteria should be regulated, supervised, and overseen by a central bank, market regulator or other relevant authority.</p>	<p><i>Q.A.1.2: How are the criteria publicly disclosed?</i></p> <p>The legislation underlying Finansinspektionen's supervision is publicly disclosed. As regards the six criteria applied by the Riksbank, these are publicly disclosed in the <i>Financial Infrastructure 2013</i> and <i>The Riksbank's oversight of the financial infrastructure</i> reports.</p> <p><i>Q.A.2.1: Which FMIs have been identified for regulation, oversight and supervision? Did the authorities use the criteria set forth in key consideration 1?</i></p> <p>The Riksbank and Finansinspektionen pursue oversight and supervision in respect of the following FMIs:</p> <ul style="list-style-type: none"> • RIX – which is overseen by the Riksbank. • Euroclear Sweden – Finansinspektionen exercises supervision and the Riksbank oversees. • NASDAQ OMX Clearing – Finansinspektionen supervises and the Riksbank oversees. • Bankgirot – Finansinspektionen supervises and the Riksbank oversees. <p>FMIs are subject to the six criteria stated in Key Consideration 1. Euroclear Sweden, NASDAQ OMX Clearing and Bankgirot are also encompassed by the legislation noted in the same response.</p> <p>There are an additional five foreign FMIs active in Sweden and/or in Swedish currency that are subject to cooperation in terms of oversight and /or supervision between Sweden and other countries. These are regulated by means of Memorandums of Understanding (MoUs) or similar accords. In these cases, it is the jurisdiction in which such an FMI has its legal domicile that has primary responsibility for oversight.</p>

⁷ Henceforth, NASDAQ OMX Clearing.

⁸ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

	<p>These FMIs are:</p> <ul style="list-style-type: none"> • CLS • EuroCCP (former EMCF, which changed corporate identity to EuroCCP in January 2014) • SWIFT • SwapClear • Euroclear SA/NV (parent company of Euroclear Sweden) <hr/> <p><i>Q.A.2.2: Which authority or authorities regulate, supervise or oversee the identified FMIs? What is the scope of the responsibilities for each authority?</i></p> <p>The Riksbank oversees FMIs in order to safeguard stability throughout the financial system. This responsibility is shared among the Riksbank, Finansinspektionen, Riksgälden (National Debt Office) and the Ministry of Finance. Cooperation among these authorities is regulated by means of an accord, namely, the <i>Agreement between the Government Offices (Ministry of Finance), Sveriges Riksbank, Finansinspektionen (the Swedish financial supervisory authority) and the Swedish National Debt Office Governing regarding cooperation in the fields of financial stability and crisis management</i>, which sets guidelines for consultation and information sharing among the parties in respect of financial stability and crisis management.</p> <p>FMIs wishing to provide clearing and settlement services or serve as a central counterparty are subject to licence requirements. Finansinspektionen issues licences (for clearing operations, for example) and supervises these FMIs. Following authorisation from the Government, Finansinspektionen may also decide on binding provisions that supplement legislation. Finansinspektionen's supervision is designed to contribute to and promote a stable and smoothly functioning financial system and solid consumer protection.</p> <p>As regards FMIs, there are aspects that are included in areas of responsibility of both the Riksbank and Finansinspektionen, which entail that these areas occasionally overlap. In such cases, the authorities attempt to develop effective forms of contact and cooperation, for which they jointly have developed formalised procedures.</p> <hr/> <p><i>Q.A.2.3: How have relevant authorities avoided (or addressed) any gaps in regulation, supervision or oversight of FMIs?</i></p> <p>The roles and tasks of Finansinspektionen and the Riksbank in respect of FMIs are clearly defined in legislation or interpreted from law.</p> <p>The areas where the work of the authorities overlap are subject to a joint agreement regarding the arrangement for cooperation, namely: the <i>Agreement between the Government Offices (Ministry of Finance), Sveriges Riksbank, Finansinspektionen (the Swedish financial supervisory authority) and the Swedish National Debt Office Governing regarding cooperation in the fields of on financial stability and crisis management</i>.</p> <p>In 2012, the Riksbank and Finansinspektionen also conducted a joint</p>
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	<p>project to review their cooperation on the oversight and supervision of the financial market infrastructure. The project was aimed at outlining the roles of both authorities in order to compare and identify areas of cooperation, beyond those already existing, in respect of FMIs. This is designed, in part, to reduce the FMIs' workload and, in part, to enhance the efficiency of the authorities' work.</p> <p>Although the project did not identify any areas that are not included in the authorities' oversight and supervision of FMIs, it is not possible to determine with absolute certainty that there are not significant aspects of one or more FMIs that may currently fall outside the oversight and supervision of the authorities.</p> <p>The Riksbank has interpreted the Riksbank Act⁹ and has accounted for how it comprehends its mandate to oversee FMIs – inter alia, in the report <i>The Riksbank's oversight of the financial infrastructure</i>.</p> <p>The Riksbank and Finansinspektionen have also established a forum concerning their activities involving FMIs and, within its framework, meet four times annually. The two authorities take turns in acting as chair/convening party. At these meetings, the Riksbank and Finansinspektionen discuss relevant areas for supervision and oversight of FMIs, inform each other of operational plans and projects and update each other in respect of other relevant information.</p>
Key conclusions for Responsibility A	<p>There are clear criteria governing which FMIs are to be supervised and which are to be overseen. These criteria have been publicly disclosed. The FMIs that have been identified by means of the criteria are overseen/supervised by the Riksbank and Finansinspektionen.</p> <p>The remits of the Riksbank and Finansinspektionen are clearly defined.</p> <p>These authorities cooperate in a bid to reduce the risk that significant areas among the FMIs fall outside the oversight of the Riksbank or the supervision of Finansinspektionen. Although it is impossible to guarantee that such gaps do not exist, the authorities have jointly surveyed this possibility in a project; in addition to which, they pursue several forms of consultation and meetings to efficiency enhance their cooperation and reduce the workload for FMIs.</p>
Assessment of Responsibility A	Observed
Recommendations and comments	

⁹ The Swedish Riksbank Act (1988:1385)

Responsibility B: Regulatory, supervisory, and oversight powers and resources

Central banks, market regulators and other relevant authorities should have the powers and resources to carry out effectively their responsibilities in regulating, supervising and overseeing FMIs.

Key consideration 1

Authorities should have powers or other authority consistent with their relevant responsibilities, including the ability to obtain timely information and to induce change or enforce corrective action.

Q.B.1.1: What are the authorities' powers or other authority and how are these consistent with the relevant responsibilities (as identified in Q.A.2.2)?

The Riksbank and Finansinspektionen work in different ways to counteract deficiencies among the FMIs. In cases where its analysis points to deficiencies, the Riksbank may request a particular FMI to rectify these. However, the Riksbank may not issue regulations or decide on sanctions in demanding that FMIs take action. Instead, the Riksbank resorts to moral suasion, which entails that it publicly communicates its viewpoint, justifies it and expects FMIs to adapt their performance to this. These efforts encompass public statements, speeches and publications as well as dialogue and meetings with FMIs. When a deficiency is identified in an FMI, the deficiency is described in the annual report entitled *Financial Infrastructure*. The Riksbank may also issue a recommendation to the FMI and its participants in the *Financial Stability* report. Yet another approach to communicating a perceived deficiency is to discuss it in the Financial Stability Council.

Finansinspektionen has other tools at its disposal, since it has the potential to intervene against infringements by means of orders, public warning or withdrawal of licence. Finansinspektionen's powers are set out by legislation, and its operations are governed by legislation in the financial area. Pursuant to legislation, Finansinspektionen possesses tools that contribute to and promote a stable and smoothly functioning financial system as well as consumer protection within the financial system. These tools are also used in the supervision of identified FMIs.

Q.B.1.2: How do the authorities' powers or other authority enable them to obtain timely information from the FMIs, including confidential and non-public information, in order to carry out their responsibilities? What are the relevant constraints, if any?

Both the Riksbank and Finansinspektionen are legally entitled to obtain the information they require from FMIs in order to conduct their particular tasks. According to the Riksbank Act, there are no constraints as long as the Riksbank is of the opinion that the required information is necessary in its efforts to oversee the FMI's stability, pursuant to Chapter 6, Section 9 of the Riksbank Act. Pursuant to Chapter 23, Section 2, second paragraph of the Securities Market Act¹⁰, FMIs are compelled to furnish Finansinspektionen with the information it requests.

Q.B.1.3: What information are FMIs required to provide? How frequently does the FMI provide this information?

Pursuant to legislation, the Riksbank and Finansinspektionen are entitled

¹⁰ Securities Market Act (2007:528)

to request the information they require. FMIs are also expected to provide information regarding planned changes in their system or operations and of other significant factors that affect them. By way of example, this information may consist of existing documentation provided to the Riksbank and Finansinspektionen in conjunction with their quarterly meetings with the FMIs. Both authorities report that this arrangement has functioned smoothly to date and that FMIs have never failed to provide information regarding significant events.

In addition to this, both authorities receive or request statistics and information disclosures between the meetings and they also have the opportunity to request information from FMIs in the form of viewpoints from their participants. Regularly (each month) the Riksbank obtains certain information regarding settlement statistics from Bankgirot and RIX.

Finansinspektionen also has a verbal agreement with all FMIs to the effect that should changes in operations occur, they must inform Finansinspektionen in this respect, such as in the event of changes in rules. According to Finansinspektionen, this arrangement has functioned well to date. If the FMIs do not comply with the agreement, Finansinspektionen may demand the information and, should problems recur, it may exercise its regulatory rights.

Q.B.1.4: To what extent do authorities have the ability to obtain information to understand and assess: (a) an FMI's various functions, activities and overall financial condition; (b) the risks borne or created by an FMI and, where appropriate, the participants; (c) an FMI's impact on its participants and the broader economy; and (d) an FMI's adherence to relevant regulations and policies?

The Riksbank is entitled to receive the requisite information to oversee the stability of the payment system, and the FMIs must furnish Finansinspektionen with the information that it requests (refer also to the response to B1.2.).

As part of its supervisory activities, Finansinspektionen studies the qualitative and quantitative information by means of quarterly meetings. According to Finansinspektionen, these activities provide an appropriate understanding and information regarding a particular FMI's organisation, activities and financial position, as well as the operational risks to which FMIs may be exposed, as well as the effect that these may have on its participants and, in extension, on society as a whole. In addition to its supervisory meetings, Finansinspektionen conducts various investigatory activities to determine whether or not the particular FMI's operations are pursued according to relevant legislation and regulations.

The authorities also urge the FMIs to conduct recurring self-assessments on the basis of governing international standards. In the opinion of Finansinspektionen and the Riksbank, this provides a reliable picture of each FMI's operations/function, risk management, influence by participants and so forth.

Q.B.1.5: What powers, authority or other mechanisms enable authorities to induce change or enforce corrective action in an FMI that is not

	<p><i>observing relevant principles or that is not complying with relevant regulations or policies? What are the relevant constraints, if any?</i></p> <p>The two authorities can influence the actions of FMIs. In the case of the Riksbank, moral suasion applies (refer also to the response to B1.1). In a direct dialogue with an FMI, the Riksbank can exert influence by means of objective and well-argued analysis. The Riksbank can also communicate its argument publicly. However, since any public argumentation can be made difficult by the existence of confidential information that cannot and may not be made public, such an argumentation must be maintained at a general level. Ultimately, the Riksbank can elect to advise market participants to avoid using certain FMIs.</p> <p>Finansinspektionen is legally bound to intervene and sanction FMIs that are under its supervision and who infringe governing legislation and regulations. The sanctions that Finansinspektionen may levy are: a remark, warning, or a revocation of licence. A decision regarding a warning or remark may be accompanied by a penalty fee. Finansinspektionen is also required to undertake examinations of ownership and management in an effort to secure the soundness of the FMI, as well as ensuring that the correct competency requirements and set criteria are fulfilled. Finansinspektionen is also obliged to issue orders; for example, demanding that an FMI take certain actions.</p> <p>However, the international standards – the PFMI – may only form the foundation for imposing a sanction if they are incorporated into Swedish legislation. Should they lack support in Swedish legislation, statements by Finansinspektionen may only be regarded as recommendations to FMIs. According to Finansinspektionen, however, Swedish legislation and the PFMI overlap to a large extent. FMIs that are assessed on the basis of the requirements of the PFMI are expected to “comply or explain” these principles.</p>
<p>Key consideration 2</p> <p>Authorities should have sufficient resources to fulfill their regulatory, supervisory and oversight responsibilities.</p>	<p><i>Q.B.2.1: What resources (including adequate funding, qualified and experienced personnel, and appropriate ongoing training) are available to authorities to enable them to fulfil their responsibilities?</i></p> <p>According to Chapter 9, Section 1 of the Riksbank Act, it is the board of directors that is responsible for the business and is expected to ensure that it is operated efficiently and in compliance with governing law, that it is accounted for in a reliable and legally correct manner and that the Riksbank economises with public funds. The Executive Board also determines the overall budget.</p> <p>The Riksbank’s oversight of FMIs is conducted by its Financial Infrastructure Division (EFI), which is staffed by 11 employees. Employees at EFI have different academic backgrounds (currently mainly economists, one of whom has a research background, but also includes two legal counsels and one engineer) and various professional experiences and expertise. Many of the employees have worked at the Riksbank for several years, some of them at other departments, and several of them have experience from other companies and authorities in the financial sector. There are various types of competency development programmes available to employees, such as project manager training</p>

and financial analysis courses at the Stockholm School of Economics, in addition to research, conferences and fairs. The number of employees at EFI is determined on the basis of operational plans and the budget allocated to EFI. If the resources are insufficient – meaning if a requirement arises for other or specialist expertise – there is the potential to commission consultants.

Currently, eight full-time employees are employed at the Finansinspektionen unit for infrastructure supervision. Most of these have long-standing experience in their area and have worked at Finansinspektionen for a number of years and, thus, possess good insight, knowledge and experience. The unit also engages in close cooperation with the capital markets law unit which consists of eight legal counsellors. Finansinspektionen also has specialist units that analyze operational risk, credit and market risk, which may be used when required. Every six months, Finansinspektionen employees who have worked with supervision tasks for at least one year are offered an opportunity to participate in supervisory training in an effort to enhance their skills in supervisory work. They also have the opportunity to participate in courses offered by ESMA¹¹ in a number of areas.

Activities involving infrastructure oversight are based on a supervisory plan that is balanced with available resources, according to Finansinspektionen. In cases in which existing resources do not suffice or specialist expertise is required, there is the possibility – through framework agreements or contracts – to commission support from consultants. In conjunction with major activities, such as the ongoing EMIR implementation, temporary staff may also be employed.

Q.B.2.2: To what extent does the level of available resources constrain the ability of the authorities to carry out their responsibilities?

The Riksbank (EFI) does not have sufficient resources to conduct in-depth analyses in all areas involving all FMI. EFI therefore works with a risk-based approach in order to distribute resources to the areas where they are most needed. EFI is of the opinion that the resources available have been sufficient to date to conduct all the analyses that have been prioritised on the basis of this working approach. There is the possibility to procure any competency that is lacking at the Riksbank. There is also the possibility to cooperate with Finansinspektionen and “utilise” its expertise. The risk-based working method was introduced in 2012 as part of efforts to comply with the recommendation provided by the IMF in the survey (FSAP¹²) that was conducted in 2011.¹³

Infrastructure supervision at Finansinspektionen is founded on a risk-based analysis. The analysis provides a base for operational planning, which also includes the application of regulations and policy work. The prioritisation of supervisory activities is firmly rooted among and approved by departmental and areas management. In cases where

¹¹ European Securities and Markets Authority.

¹² Financial Sector Assessment Program.

¹³ The survey conducted by the IMF of the Riksbank and Finansinspektionen was part of a larger assessment. Among other results, the Riksbank and Finansinspektionen were downgraded on the basis of their oversight and supervision programmes. Both the Riksbank and Finansinspektionen were recommended to start working with a risk-based working method.

	<p>incidents occur that require extraordinary actions, priorities are rearranged in consultation with the management of Finansinspektionen.</p> <p>As regards the issue of resources, Finansinspektionen is of the opinion that there is a constant conflict between supervisory requirements and resources. There are limited resources at the disposal of infrastructure supervision, and Finansinspektionen as a whole, while the need for supervision is viewed as virtually unlimited. This means that the prioritisation of supervision activities is particularly important. Priority supervision activities are conducted in accordance with the norms and quality requirements prevailing in the area. Since Finansinspektionen is compelled to focus resources on supervision of an ad-hoc type, such as incident-based supervision, a downgrade of the priority of a planned activity may occur, but only after consultation with the management of the relevant department or area. Finansinspektionen is of the opinion that it can conduct its supervision activities with the highest quality and it believes that it is doing an adequate job.</p> <p><i>Q.B.2.3: What is each authority's process for assessing the resources it needs to fulfil its regulatory, supervisory or oversight responsibilities?</i></p> <p>Every autumn at the Riksbank, the EFI formulates an oversight plan for the coming year. The FMIs that are overseen are the ones identified in Q.A.1.1. Since the resources are limited, the division applies a risk-based working approach in respect of the oversight of the Swedish FMIs. The oversight plan is approved by the head of department. The division's resources (number of employees, travel expenses, etc) are reserved on the basis of the needs that exist. If the head of department should decide to cut back on the division's resources, the oversight plan would have to be revised. Fewer resources would give rise to a need for a change of priorities.</p> <p>At Finansinspektionen, at the start of each financial year, an operational plan is devised that includes scope for the on-going supervision and for any other supervisory activities that may be added. Finansinspektionen applies a risk-based working approach for determining the risk areas in FMIs that should be followed up during the financial year. Although resources are reserved in the implemented operational plan, the needs may change during the course of a year depending on any special events that may arise. In addition, Finansinspektionen may in certain cases transfer resources from other parts of Finansinspektionen and may also use consultants.</p> <p><i>Q.B.2.4: Where relevant, what legal protections apply to the staff that carries out responsibilities for regulation, oversight and supervision?</i></p> <p>With the greatest probability, this question is not relevant to the Riksbank's oversight activities because no sanctions may be levied and because no authority may be exercised. However, the main rule in Swedish tort legislation is that the employer is liable for damage caused by employees when exercising their duties, what is known as vicarious liability (Chapter 3, Section 1, law of torts¹⁴).</p> <p>For Finansinspektionen, however, the question is relevant and, as</p>
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¹⁴ Swedish Tort Liability Act (SFS 1972:207)

	<p>mentioned above, what is fundamental in Sweden is that the employer is responsible for the service being provided, but in certain cases, there is also a personal responsibility. These cases are as follows:</p> <ol style="list-style-type: none"> 1) If an employee is suspected on good grounds of committing a crime in the course of duty, he must be charged by the authority pursuant to Section 22 of the Public Employment Act (LOA)¹⁵. 2) In terms of disciplinary law, the liability applies to cases where an employee wilfully or due to negligence has disregarded his/her employment responsibilities and the action is not regarded as minor (misconduct of duty). The sanction could be a warning or salary deduction. <p>The disciplinary responsibility is regulated in Sections 14-19 of LOA and Section 13 of the Employment Ordinance.¹⁶</p>
<p>Key conclusions for Responsibility B</p>	<p>Both the Riksbank and Finansinspektionen have a statutory right to obtain the information they require from the FMIs that are overseen or that are under supervision. The authorities' entitlement to request information is relatively comprehensive.</p> <p>Should the FMIs fail to comply with laws and regulations, Finansinspektionen is equipped with tools for intervention. This may take the form of remarks, warnings and orders, and, as a final course of action, revocation of a licence. A decision regarding a remark or warning may be accompanied by a penalty fee. However, PFMI's may only form the foundation for imposing a sanction if they are incorporated into Swedish legislation. Should they lack support in Swedish legislation, statements by Finansinspektionen may only be regarded as recommendations to FMIs. However, Swedish legislation and PFMI's overlap to a large extent.</p> <p>On the other hand, the Riksbank may not issue regulations or decide on sanctions when demanding that action be taken. What the Riksbank may do is to urge FMIs to rectify deficiencies and to apply moral suasion, which entails the Riksbank communicating its views publicly and directly to the FMIs, providing the motives for its views and expecting the FMIs to adapt to them. These efforts encompass public statements, speeches and publications as well as dialogue and meetings with the FMIs. If a deficiency is identified in an FMI, the deficiency is described in the annual <i>Financial Infrastructure</i> report. The Riksbank may also issue a recommendation to the FMI and its participants in the <i>Financial Stability Report</i>.</p> <p>Both the Riksbank and Finansinspektionen have processes incorporated into the operational planning, which are used for assessing the resources that will be required to execute the duties encompassed by their responsibilities. When overseeing and supervising FMIs, it is not possible to engage in in-depth analyses of all areas; however, the two authorities both apply a risk-based working approach to be able to prioritise the analyses that have to be made.</p> <p>When it comes to resources, however, the Internal Audit Department's</p>

¹⁵ (1994:260) Public Employment Act

¹⁶ Employment Ordinance (1994:373)

	<p>assessment is that the resources may be insufficient and/or prioritised wrongly. This applies both to planned activities and to unexpected events that may take up time for the staff working with oversight/supervision.</p>
<p>Assessment of Responsibility B</p>	<p>Broadly Observed</p>
<p>Recommendations and comments</p>	<p>The Internal Audit Department's assessment is that the resources may be insufficient and it therefore recommends that the authorities review whether the resources for the oversight and supervision of the FMI are sufficient and are being assigned the right priority, in terms of both planned activities and unexpected events.</p> <p>We recommend that the review be conducted in the form of an analysis of needs and preparedness, to determine whether the resources are sufficient for the authorities to be able to efficiently execute their respective duties.</p> <p>To gain even more in-depth insight into the FMI and thus greater oversight and supervision, one proposal is that the authorities assign more resources to regular on-site visits and audits, similar to the IT audit recently implemented for Euroclear Sweden.</p> <p>On the whole, this leads to the rating in this area being downgraded to "Broadly Observed".</p>

Disclosure of policies with respect to FMIs

Central banks, market regulators, and other relevant authorities should clearly define and disclose their regulatory, supervisory, and oversight policies with respect to FMIs.

Key consideration 1

Authorities should clearly define their policies with respect to FMIs, which include the authorities' objectives, roles, and regulations.

Q.C.1.1: What are each authority's policies with respect to FMIs, including its objectives, roles and regulations? Are they clearly defined?

The Riksbank and Finansinspektionen both use the PFMI in their oversight and supervision of FMIs.

The Riksbank oversees the FMIs in order to execute its statutory task of promoting a safe and efficient payments system. More specifically, its oversight is designed to identify and analyse sources of systemic risks and efficiency losses in the FMIs and also act to reduce these in various ways.

There is no unique definition describing exactly what is included in the oversight of financial infrastructure. The Riksbank interprets its assignment as follows: The oversight of FMIs is a function of the Riksbank which aims to promote the overall goal of safety and efficiency of the payment system by monitoring existing and planned FMIs, assessing these on basis of applicable standards and, if necessary, bringing about change.

In concrete terms, oversight activities entail overseeing and analysing FMIs and any changes in them. The Riksbank also analyses areas that are closely associated with FMIs and that are important to their function, efficiency and stability. One example of such an area is the use of various payment instruments and their linkage to efficiency and stability in the payment market. Another example is the management of transactions that occur outside the FMIs. The work on overseeing the financial infrastructure is defined in *The Riksbank's oversight of the financial infrastructure* report.

Finansinspektionen's activities are governed on the basis of an appropriation directive¹⁷ and by legislation in the financial field. Finansinspektionen's supervision of FMIs is governed by existing financial legislation. Finansinspektionen also has certain rights to issue regulations. The appropriation directive, ordinance, legislation and regulations are public.

Key consideration 2

Authorities should publicly disclose their relevant policies with respect to the regulation, oversight and supervision of FMIs.

Q.C.2.1: How are the relevant policies disclosed?

The Riksbank's policy in respect of the oversight of the FMIs is published on www.riksbank.se. An updated summary is also available in the annual *Financial Infrastructure Report*.

Finansinspektionen's policies are regulated in appropriation directives and the instruction ordinance in the financial field. (Also refer to the answer to Q.C.1.1). The appropriation directive, instruction ordinance, legislation and regulations are public.

¹⁷The Financial Supervisory Authority Instructions, Ordinance (2009:93).

<p>Key conclusions for Responsibility C</p>	<p>The oversight and supervision of FMI by both the Riksbank and Finansinspektionen are described in policy documents and in laws and ordinances.</p> <p>The Riksbank's activities are described in <i>The Riksbank's oversight of the financial infrastructure</i> report. This is published on the Riksbank's website.</p> <p>Finansinspektionen's supervision is governed on the basis of appropriation directives and instruction ordinances, and by legislation in the financial field, all of which are public documents.</p>
<p>Assessment of Responsibility C</p>	<p>Observed</p>
<p>Recommendations and comments</p>	

Responsibility D: Application of the principles for FMIs

Central banks, market regulators and other relevant authorities should adopt the CPSS-IOSCO Principles for Financial Market Infrastructures and apply them consistently.

Key consideration 1

Authorities should adopt the CPSS-IOSCO Principles for financial market infrastructures.

Q.D.1.1: How and to what extent have the relevant authorities adopted the principles?

Both the Riksbank and Finansinspektionen use the PFMI in their work to oversee and supervise FMIs.

However, the Riksbank may have to impose more stringent requirements than those imposed in the PFMI due to the Swedish market's specific characteristics. The PFMI is a minimum requirement, according to the Riksbank.

In addition to using the PFMI, the Riksbank takes into consideration prevailing legislation and also best practice on the market. When the Riksbank adapts the requirements to Swedish circumstances, the reasons for doing this are explained in the analysis and assessment of individual FMIs. In cases where the PFMI are fulfilled but not the Riksbank's more stringent requirements, the Riksbank provides information on this in the assessment.

According to the Riksbank, the FMIs are assessed on the basis of the PFMI at least every third year, or more frequently if there are reasons for doing so, for example, if the FMI's services have undergone major changes. It is the FMIs themselves that perform the assessments, by means of self-assessments. These self-assessments are used by the Riksbank as a foundation for its own assessment of appropriate areas of improvement for enhancing the reliability and efficiency of the financial system.

For Finansinspektionen, the PFMI must be incorporated in Swedish law for it to be able to directly intervene with support of the principles. If there is no legal support for a principle in Sweden, Finansinspektionen could have cause to bring this to the attention of the legislator with a view to a possible amendment of the law.

Finansinspektionen states that it uses the PFMI in several ways in its supervisory activities. The principles may, if deemed appropriate, be used as guidance in cases where legislation is lacking or where it fails to give sufficient guidance. This is normally not the case, because Swedish legislation already regulates the FMIs. The PFMI are also used for assessing the FMIs and, aided by the principles, Finansinspektionen makes a comparison with international conditions.

For central counterparties, the PFMI have been implemented in Ordinance (EU) No 648/2012 EMIR. For payment systems, there is a general framework within existing legislation for how these are regulated, in which the use of the PFMI is permissible. Finansinspektionen has thus chosen to use the principles in the supervision of payment systems. CSDs and securities settlement systems are regulated in accordance with national legislation, which

	<p>constitutes a general framework for such regulation and permits the use of the PFMI in supervisory activities.</p> <p>Work on the formulation of an ordinance for CSDs is under way at EU level. When this has been completed and implemented, this ordinance and the associated technical standards will replace existing national regulations.</p>
<p>Key consideration 2</p> <p>Authorities should ensure that these principles are, at a minimum, applied to all systemically important payment systems, CSDs, SSSs, CCPs, and TRs.</p>	<p><i>Q.D.2.1: To which systemically important payment systems, CSDs, SSSs, CCPs and TRs do authorities apply the principles? Are there systemically important FMIs to which the relevant authorities do not apply the principles?</i></p> <p>The Riksbank and Finansinspektionen apply the PFMI to all critical FMIs in Sweden.</p> <p>The Riksbank applies the principles to all FMIs that are assessed as critical for financial stability, meaning those that after a decision by the Executive Board fulfil the six criteria stated under Q.A.1.1. <i>These systems are specified in question Q.A.2.1 above.</i></p> <p>However, Finansinspektionen would like to point out that because there are no trade repositories (TRs) in Sweden, no such TRs are included in the assessment.</p> <hr/> <p><i>Q.D.2.2: How do the authorities disclose to which FMIs they apply or do not apply the principles? How does each relevant authority justify its decision to apply or not to apply the principles to specific FMIs?</i></p> <p>The Riksbank applies the PFMI to all FMIs overseen by the Riksbank and expects them to comply with the principles.</p> <p>The PFMI focus on FMIs, such as payment systems, CSDs, securities settlement systems, central counterparties and trade repositories. Those that exist in Sweden are under Finansinspektionen's supervision, with the exception of RIX.</p> <p>When the Riksbank has made a decision to oversee a new system, the decision is public, because the minutes from the Executive Board are made public. The FMIs that are overseen are also published on www.riksbank.se and in the annual <i>Financial Infrastructure Report</i>.</p> <p>Information about FMIs that have applied for or received permits from Finansinspektionen is available in the authority's records and thus also in the daily list of records that is published on the authority's website. The Finansinspektionen's company register is also available on the authority's website. However, there is no special publication due to the permit granted to a specific company. One of the reasons for this is that Finansinspektionen has about 4,000 companies under its supervision.</p>
<p>Key consideration 3</p> <p>Authorities should apply these principles</p>	<p><i>Q.D.3.1: How do authorities apply these principles consistently within the relevant jurisdictions, including to public sector-owned or -operated FMIs, and across jurisdictions, including across borders?</i></p> <p>Finansinspektionen's point of departure is that all FMIs, with the</p>

consistently within and across jurisdictions, including across borders, and to each type of FMI covered by the principles.

exception of RIX, are legal entities established in Sweden with permits from and under the supervision of Finansinspektionen. National or EU legislation is applied for all FMIs (with the exception of RIX). Accordingly, all FMIs receive equal treatment.

To ensure equal treatment in application of the PFMI for all FMIs, the Riksbank's aim is that all self-assessments are to be implemented at the same time. In connection with the self-assessments, the Riksbank reviews all interpretations of the PFMI and any problems that arise during the interpretation and assessment of the respective FMIs. The purpose of this is to be as consistent as possible in the interpretation and assessment of the FMIs regardless of whether they are private or public-sector entities.

The Riksbank and Finansinspektionen can compare the results of their own application of the PFMI on the FMIs and on themselves with the views/conclusions that the IMF have forwarded/arrived at in the FSAP for the Swedish financial sector. The most recent FSAP was performed in 2011.

Since Euroclear Sweden is a subsidiary of Euroclear SA/NV (ESA), the Riksbank is included in an oversight collaboration headed by the Central Bank of Belgium. Both central banks and supervisory authorities from the countries in which the Euroclear group conducts its operations are members of this collaboration, the purpose of which is to discuss matters of joint Euroclear group interest.

Although there is no cross-border oversight of the Swedish FMIs, a college has been formed for the central counterparty, NASDAQ OMX Clearing. The college has been established in accordance with the EU Ordinance EMIR, which imposes requirements in line with the PFMI (and to some extent even more stringent requirements than EMIR).

Q.D.3.2: If an authority is an owner and operator of FMIs as well as the overseer of private sector FMIs, how does it consider and address possible conflicts of interest?

The Riksbank oversees, is the owner, operator/administrator, and participates in RIX. Within the Riksbank, however, the oversight of RIX is separated from its operation, since it is divided into different departments. The Financial Infrastructure Division is aware of the problems that could arise, but is simultaneously obligated to treat all overseen FMIs equally. If conflicts of interest arise between the departments, a bilateral dialogue is initiated, primarily between head of departments. If the heads of departments fail to reach agreement, a conflict management process is described in the instruction for the Riksbank. According to this instruction, a potential conflict of interest between the departments would be discussed in the management team. Should the lack of unity also persist there, the head of staff is required to escalate the matter to the Management Team at the Riksbank. In addition to this, each head of department is empowered to escalate a matter to the Executive Board following consultation with the Governor (Instruction for the Riksbank, Section 15).

Finansinspektionen does not own any system.

	<p><i>Q.D.3.3: If an FMI does not observe all applicable principles, how do authorities ensure that the FMI takes appropriate and timely action to remedy its deficiencies?</i></p> <p>If the Riksbank discovers a deficiency in an FMI in relation to the requirements in the PFMI (or the more stringent requirements that the Riksbank may impose), the Riksbank works in accordance with a three-stage preparation process. The deficiency that has been defined and its importance in respect of financial stability determine how high up in the organisation the matter is to be escalated. If the deficiency is of minor importance, it is addressed at the division level. If the deficiency is regarded as so serious that it would result in a lower grade in accordance with the PFMI, the matter is addressed at department level. The Executive Board is informed and, subsequently, the head of department decides on what is to be communicated to the FMI.</p> <p>Thereafter, the FMI is required to get back to the Riksbank with a proposal concerning how the deficiency is to be rectified and a time schedule for this. The Riksbank follows up the efforts to rectify the deficiency either at bilateral meetings and/or during the regular quarterly meetings. If the action plan and time schedule are not adhered to, the process is restarted and there may then be a reason to escalate the matter to the Executive Board or, in extreme cases to the Financial Stability Council.</p> <p>For Finansinspektionen to be able to intervene directly with support of the PFMI, the PFMI must be incorporated in Swedish law. However, the PFMI are regarded as best practice, guidelines to be “complied with or explained”. Finansinspektionen would clearly express its opinion in an effort to urge the FMI to take necessary actions in order to comply with the guidelines of the principles and would engage in close dialogue with all FMIs about this.</p> <p>(Refer also to the answer to B 1.5.)</p>
<p>Key conclusions for Responsibility D</p>	<p>The Riksbank and Finansinspektionen both use the PFMI in the oversight and supervision of the FMIs. The principles are applied to all Swedish FMIs that are under the Riksbank’s oversight and Finansinspektionen’s supervision.</p> <p>The Riksbank and Finansinspektionen both use the PFMI consistently for all FMIs, regardless of whether they are private or public sector entities.</p> <p>Although there is no cross-border oversight of the Swedish FMIs, for the central counterparty NASDAQ OMX Clearing a college has been established in accordance with the EU Regulation EMIR, which imposes requirements in line with the PFMI. For Euroclear Sweden, which is a subsidiary of Euroclear SA/NV (ESA), an oversight collaboration is in place, headed by the Central Bank of Belgium.</p> <p>The Riksbank oversees, is the owner, operator/administrator, and participates in RIX. Within the Riksbank, however, the oversight of RIX is separated from its operation, since it is divided into different departments. The Riksbank division responsible for oversight activities is obligated to treat all overseen FMIs equally. If heads of departments</p>

	<p>fail to reach agreement on a matter involving RIX, a conflict management process is described in the instruction for the Riksbank.</p> <p>Finansinspektionen owns no system.</p> <p>If the Riksbank discovers a deficiency in an FMI in relation to the requirements in the PFMI (or the more stringent requirements that the Riksbank may impose), the Riksbank works in accordance with a three-stage preparation process.</p> <p>Finansinspektionen uses the PFMI in its supervisory activities. To be able to intervene directly with support of the PFMI, the PFMI must be incorporated in Swedish law. However, the PFMI are regarded as best practice, guidelines to be “complied with or explained”.</p>
Assessment of Responsibility D	Observed
Recommendations and comments	

<p>Responsibility E: Cooperation with other authorities</p> <p>Central banks, market regulators, and other relevant authorities should cooperate with each other, both domestically and internationally, as appropriate, in promoting the safety and efficiency of FMIs.</p>	
<p>Key consideration 1</p> <p>Relevant authorities should cooperate with each other, both domestically and internationally, to foster efficient and effective communication and consultation in order to support each other in fulfilling their respective mandates with respect to FMIs. Such cooperation needs to be effective in normal circumstances and should be adequately flexible to facilitate effective communication, consultation, or coordination, as appropriate, during periods of market stress, crisis situations, and the potential</p>	<p><i>Q.E. 1.1: For which FMIs is there cooperation among authorities and what authorities are involved?</i></p> <p>The Riksbank and Finansinspektionen have a joint agreement on cooperation and information sharing that enables efficient handling of the FMIs that the two authorities oversee/supervise. For example, close cooperation has been pursued in the work on the FMIs’ self-assessments in accordance with the PFMI, joint quarterly meetings and cooperation in the “Forum for the Riksbank’s and Finansinspektionen’s cooperation concerning financial infrastructure”. This applies to:</p> <ul style="list-style-type: none"> • Euroclear Sweden • NASDAQ OMX Clearing • Bankgirot <p>For NASDAQ OMX Clearing, a college has been established within the framework of EMIR, whose members include oversight authorities and central banks in the relevant countries. The college has been tasked with providing opinions on the authorisation procedure for NASDAQ OMX Clearing but also conducts continuous supervisory duties, such as information sharing, coordination of supervisory examinations and establishing contingency plans for crisis situations. In addition to the Riksbank and Finansinspektionen, the college includes the following authorities; ESMA, PRA¹⁸, FCA¹⁹, Finanstilsynet (Norway), Finanssivalvonta (Finland), Finanstilsynet (Denmark) and ECB.</p> <p>The authorities also participate in cross-border cooperation for the</p>

¹⁸ Prudential Regulation Authority, UK. PRA is part of the Bank of England.

¹⁹ Financial Conduct Authority, UK. FCA is part of the Bank of England.

recovery, wind-down, or resolution of an FMI.

oversight and supervision of the Euroclear group, in which Euroclear Sweden is a member. This is an oversight and supervision collaboration between central banks and supervisory authorities in those countries where the Euroclear group provides services. This collaboration is defined in a memorandum of understanding between the supervisory authorities and central banks. The idea is that the collaboration will provide each authority with an opportunity to pursue effective supervision/oversight and to capitalise on the collective expertise jointly possessed by the authorities.

In addition to this, the Riksbank has provided information on its cooperation with other authorities in respect of the following foreign FMIs:

- CLS, central banks in those countries whose currencies participate in CLS are engaged in oversight cooperation (since SEK is settled in CLS, the Riksbank participates in this oversight cooperation).
- EuroCCP, oversight cooperation between central banks and supervisory authorities in Sweden, Finland, Denmark and the Netherlands (plus Iceland, which however, is not active in this cooperation). A college has also been established under EMIR, which is headed by the Dutch Central Bank.
- SWIFT, oversight cooperation among central banks in the G10 countries, in which the Riksbank is participating.
- SwapClear, oversight cooperation among central banks in those countries whose currencies, to a sufficiently large extent, are cleared in SwapClear. The Riksbank is a member of this oversight cooperation.
- Euroclear ESA, see above.

There is also a dormant MoU (signed and ready) pertaining to the Swiss central counterparty, SIX x-clear.

Q.E.1.2: How does the cooperation among authorities, both domestically and internationally, foster efficient and effective communication and consultation in order to support each other in fulfilling their respective mandates with respect to FMIs in normal circumstances?

The Riksbank and Finansinspektionen cooperate in the continuous oversight and supervision of the Swedish FMIs (joint quarterly meetings with the FMIs and joint assessments) and have established a cooperation forum, "Forum for the Riksbank's and Finansinspektionen's cooperation concerning financial infrastructure". In most cases, the Riksbank and Finansinspektionen's agreement on cooperation and information sharing for efficient management of the FMIs leads to their cooperation becoming more efficient. Cooperation between the Riksbank and Finansinspektionen has been additionally formalised in the following accord: *Agreement between the Government Offices (the Ministry of Finance), the Riksbank, Finansinspektionen and the National Debt Office regarding cooperation in the fields of financial stability and crisis management.*

On an international level, the authorities have established MoUs and protocols governing effective mutual communication. The oversight/supervision of the foreign FMIs is headed by the authorities

	<p>responsible in the home jurisdiction of the particular FMI and complies with guidelines for cooperation in accordance with the PFMI. The international information sharing provides the authorities concerned with a broader and deeper understanding of the FMI as a whole.</p> <p><i>Q.E.1.3: How does the cooperation among authorities facilitate the effective communication, consultation or coordination, as appropriate, during periods of market stress, crisis situations and the potential recovery, wind-down or resolution of an FMI?</i></p> <p>The oversight cooperation in respect of the foreign FMIs includes contact lists prepared for various types of crisis situations, as well as guidelines for how communication in such a crisis should be managed.</p> <p>For the cooperation among the Swedish authorities in the event of a crisis, a memorandum of understanding has been drafted: <i>Agreement between the Government Offices (Ministry of Finance), Sveriges Riksbank, Finansinspektionen and the Swedish National Debt Office regarding cooperation in the fields of financial stability and crisis management</i>. Particularly in the event of a crisis, the Riksbank and Finansinspektionen are required to cooperate with the Ministry of Finance and the National Debt Office. The fact that this cooperation has been established, assures effective management in the scenarios described above.</p> <p>At present, there are no frameworks/laws in respect of what is known as recovery and resolution of the entities that own and operate FMIs. This is currently managed within the framework of prevailing bankruptcy legislation, although this is not exactly adapted to FMIs. The Riksbank requested such a framework in the <i>Financial infrastructure 2013</i> report and the European Commission is currently working to formulate a draft “recovery and resolution” directive for non-banks, which include some types FMIs. Due to the lack of a regulatory framework adapted to FMIs in this area, it is not possible to know which authority in Sweden has resolution responsibility. A risk resulting from this is that it might not be possible to make a resolution or complete a recovery in an efficient manner, which could have negative consequences for the financial system (the financial markets and other financial actors) and, in the end, result in higher socio-economic costs.</p> <p>However, central counterparties in EMIR are subject to requirements to have recovery plans²⁰. There is also an obligation for the authorities to cooperate in the event of a crisis, in accordance with EMIR.</p> <p>For the Euroclear group, a memorandum of understanding is in place that defines the cooperation and provides a framework to the supervisory authorities and central banks for the supervision/oversight of Euroclear ESA, in which matters of joint interest are addressed.</p>
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<p>Key consideration 2</p> <p>If an authority has identified an actual or</p>	<p><i>Q.E.2.1: Which FMIs in the authorities’ jurisdiction provide cross-border or multicurrency services? How do authorities identify an actual or proposed operation of a cross-border or multicurrency FMI in their jurisdiction?</i></p>
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²⁰ Recovery plans. (Translator’s note: Not relevant)

proposed operation of a cross-border or multicurrency FMI in its jurisdiction, the authority should, as soon as it is practicable, inform other relevant authorities that may have an interest in the FMI's observance of the CPSS-IOSCO Principles for Financial Market Infrastructures.

The following Swedish FMIs provide clearing in several currencies:

- NASDAQ OMX Clearing provides clearing in SEK, EUR, NOK, DKK, GBP
- Bankgirot provides clearing in SEK and EUR
- Euroclear Sweden provides clearing and settlement in SEK and EUR

NASDAQ OMX Clearing is subject to EMIR requirements concerning cross-border operations and the provision of services in foreign currency. Such services are identified by the authorities within the framework of the college.

When it comes to Bankgirot and Euroclear Sweden, the authorities receive information about cross-border services and clearing in foreign currency at quarterly meetings or by being informed of this in advance by e-mail or telephone.

Foreign currencies account for a very small portion of total clearing or settlement at Bankgirot and Euroclear Sweden. The Riksbank and Finansinspektionen have therefore concluded that foreign currencies are not of material importance in respect of the settlement performed by these FMIs.

(Also see answer to question E 6.2 above).

Q.E.2.2: What criteria do authorities use to determine whether other relevant authorities should be notified?

NASDAQ OMX Clearing is subject to EMIR regulations, which specify the authorities that are to be part of the college of central counterparties (EMIR article 18). In respect of crisis situations, there are regulations (EMIR article 24) in which the competent authority or any another authority, shall without any unnecessary delay inform ESMA, the college, the ESCB members concerned and the other relevant authorities about crisis situations that affect NASDAQ OMX Clearing, including developments in the financial market that could have an adverse impact on the market's liquidity and the stability of the financial system in one of the Member States in which the central counterparty or one of its clearing members is established. In addition, there is a general regulation (EMIR article 84) regarding information sharing, in which it is stipulated that competent authorities, ESMA and other relevant authorities must, without unnecessary delay, provide each other with the information required for them to be able to perform their duties.

When granting permits, Finansinspektionen investigates whether the FMI has ensured that it fulfils the requirements applying in the country in which it provides cross-border services.

Q.E.2.3: How and when are notifications provided to other relevant authorities?

For central counterparties, this is regulated in EMIR. Otherwise, these notifications are provided in connection with the granting of permits on the basis of the circumstances prevailing in the particular case. In

	<p>respect of oversight and supervision of other types of FMIs, there is no established process for such notification according to the Riksbank and Finansinspektionen. However, foreign currencies currently account for a very small portion of the total settlement of Swedish FMIs.</p> <p>The Riksbank is also of the opinion that it is transparent in its assessments of the deficiencies that have been identified in the overseen FMIs (in cases where they do not fully satisfy the PFMI requirements). These assessments are published in the <i>Financial Infrastructure Report</i> and the report is available to other authorities, which are one of the target groups for the report.</p>
<p>Key consideration 3</p> <p>Cooperation may take a variety of forms. The form, degree of formalisation and intensity of cooperation should promote the efficiency and effectiveness of the cooperation, and should be appropriate to the nature and scope of each authority's responsibility for the supervision or oversight of the FMI and commensurate with the FMI's systemic importance in the cooperating authorities' various jurisdictions. Cooperative arrangements should be managed to ensure the efficiency and effectiveness of the cooperation with respect to the number of authorities participating in such arrangements.</p>	<p><i>Q.E.3.1: What are the forms of cooperation for each FMI identified under Key consideration 3?</i></p> <p>NASDAQ OMX Clearing: The Riksbank and Finansinspektionen hold joint quarterly meetings, and the authorities have also cooperated on the work surrounding the self-assessment of this FMI according to the PFMI and in other assessments. Other forms of cooperation take place in the college. The college for NASDAQ OMX Clearing is regulated in an EU regulation that stipulates that the Riksbank and Finansinspektionen must participate in the college as long as the Riksbank and FI satisfy the criteria for participation.</p> <p>Euroclear Sweden: The Riksbank and Finansinspektionen hold joint quarterly meetings, and the authorities have also cooperated on the work surrounding the self-assessment of this FMI according to the PFMI and in other assessments. European cooperation concerning the Euroclear group also takes place, which is led by the Central Bank of Belgium.</p> <p>Bankgirot: The Riksbank and Finansinspektionen hold joint quarterly meetings, and the authorities have also cooperated on the work surrounding the self-assessment of this FMI according to the PFMI and in other assessments.</p> <p>Others: The oversight cooperation is regulated in MoUs or other agreements (EuroCCP²¹, SwapClear, SWIFT and CLS) and, to a great extent, involves a continuous exchange of information at teleconferences and meetings, as well as an exchange of information in times of crisis (with related contact lists).</p> <p><i>Q.E.3.2: How are the forms of cooperation appropriate to the nature and scope of each authority's responsibility for the supervision or oversight of the FMI?</i></p> <p>The cooperative formats for oversight and supervision are generally regulated according to MoUs (or other similar agreements). Cooperation is largely based on information sharing (both in normal times and in crises). The authority responsible for oversight/supervision has a coordinating role. MoUs are written in such a way that they work on the basis of the mandates that each individual authority has and thus</p>

²¹ The Riksbank and Finansinspektionen are members of the EMIR college for EuroCCP and thus have access to all relevant information in respect of oversight and supervision.

	<p>they do not conflict with the authorities' role and responsibilities. The cooperation in the form of exchanges of information, both at national and international level, is designed to contribute to more efficient and smoothly functioning oversight and supervision of FMIs. For NASDAQ OMX Clearing and EuroCCP, the cooperation occurs under more regulated forms, in accordance with the stipulations of EMIR. (Also see answer to question 3.1 above).</p> <p><i>Q.E.3.3: How does the management of cooperative arrangements promote the efficiency and effectiveness of the cooperation, including with respect to the number of authorities participating in such arrangements?</i></p> <p>The purposes of MoUs include providing regulations for efficient communication and information sharing between the authorities. The oversight/supervision is led by the responsible authorities in the home jurisdiction of the various FMIs and complies with the guidelines for cooperation according to the PFMI. The responsible authorities have a coordinating role involving, in purely practical terms, setting rules for meetings and ensuring that agendas and meeting documentation are distributed in advance, and that all authorities are given an opportunity to provide their views, etc. The reason for having a strict structure for cooperation and information sharing is to ensure efficient cooperation.</p> <p>With respect to the number of authorities that participate, this is usually based on some form of criteria, such as volume size for SwapClear, G10 for SWIFT, all central banks whose currencies are settled in CLS for the said organisation, and so forth.</p>
<p>Key consideration 4</p> <p>For an FMI where cooperative arrangements are appropriate, at least one authority should accept responsibility for establishing efficient and effective cooperation among all relevant authorities. In international cooperative arrangements where no other authority accepts this responsibility, the presumption is the authority or authorities with primary responsibility in the FMI's home jurisdiction should accept this responsibility.</p>	<p><i>Q.E.4.1: For each FMI identified under key consideration 1 where cooperative arrangements are appropriate, which authority or authorities have accepted responsibility for establishing efficient and effective cooperation among all relevant authorities?</i></p> <p>As mentioned earlier, the Riksbank and Finansinspektionen cooperate with authorities at both a national and international level in various types of cooperative bodies.</p> <ul style="list-style-type: none"> • NASDAQ OMX Clearing: Finansinspektionen is the competent authority whose task is to maintain and manage the college under EMIR. • RIX: The Riksbank alone. • Euroclear Sweden: The Riksbank oversees, Finansinspektionen has supervisory responsibility. The Central Bank of Belgium is the authority responsible for the parent company, Euroclear SA/NV. The Riksbank and Finansinspektionen participate in European oversight cooperation for matters of joint interest. • Bankgirot: The Riksbank oversees, Finansinspektionen has supervisory responsibility. • CLS: The Federal Reserve Bank of New York is the responsible authority, the Riksbank participates in international oversight cooperation. • EuroCCP: The Dutch Central Bank is the competent authority in the college under EMIR, the Riksbank and Finansinspektionen participate in the college.

	<ul style="list-style-type: none"> • SWIFT: The Central Bank of Belgium is the responsible authority, the Riksbank participates in international oversight cooperation. • SwapClear: The Bank of England is the responsible authority, the Riksbank participates in international oversight cooperation. <p>The Riksbank and Finansinspektionen have different, sometimes overlapping roles to play, in respect of FMIs. The overall cooperation among the authorities is guided by the framework provided by a joint agreement. That part of the agreement that deals with the financial infrastructure focuses primarily on exchanges of information and efficient management of FMIs, in order to define the two authorities' responsibilities and roles. Another reason for this is to be able to compare and find areas of cooperation in respect of FMIs and thus reduce the total work load, and also to enhance the efficiency of the authorities' cooperation.</p> <p><i>Q.E.4.2: What are the duties of this authority or these authorities with respect to the cooperation?</i></p> <p>When it comes to foreign FMIs, the responsible authority in the company's home jurisdiction is the body that coordinates the collaboration, accounts for meetings and informs other authorities about, for example, changes in the system, oversight activities and oversight decisions. In relation to the Swedish FMIs (apart from RIX), Finansinspektionen and the Riksbank cooperate with each other. To summarise, the Riksbank conducts its oversight of FMIs and Finansinspektionen conducts its supervision of FMIs in order to contribute to and work for a stable and well-functioning financial system and to promote consumer protection in the financial system.</p>
<p>Key consideration 5</p> <p>At least one authority should ensure that the FMI is periodically assessed against the principles and should, in developing these assessments, consult with other authorities that conduct the supervision or oversight of the FMI and for which the FMI is systemically important.</p>	<p><i>Q.E.5.1: Which relevant authority ensures that the FMI is periodically assessed against the principles?</i></p> <p>Both the Riksbank and Finansinspektionen are tasked with ensuring that NASDAQ OMX Clearing, Euroclear Sweden and Bankgirot are assessed in relation to the PFMI. When it comes to RIX, the Riksbank alone is responsible for ensuring that the system is assessed in relation to the PFMI.</p> <p>For the foreign FMIs, the responsible authority in the FMI's home jurisdiction is responsible for ensuring that the FMI is assessed in relation to the PFMI:</p> <p>(The same authorities as in the answer to Q.E.4.1).</p> <p><i>Q.E.5.2: How does this authority consult on and share assessments with other relevant authorities that conduct the supervision or oversight of the FMI and for which the FMI is systemically important?</i></p> <p>The responsible authority ensures that FMIs are assessed on the basis of the PFMI and notifies the results of the assessment, or sends the complete assessment to the other authorities in the oversight cooperation. At a meeting with the other authorities, the responsible</p>

	<p>authority usually provides information on any deficiencies that have arisen in the assessment and the grading. This exchange of information and its scope are governed, inter alia, in EMIR and also in Chapter 23, Sections 5-6a of the Securities Market Act.</p> <p>For supplementary information, see Q E.7.1.</p>
<p>Key consideration 6</p> <p>When assessing an FMI's payment and settlement arrangements and its related liquidity risk-management procedures in any currency for which the FMI's settlements are systemically important against the principles, the authority or authorities with primary responsibility with respect to the FMI should consider the views of the central banks of issue. If a central bank of issue is required under its responsibilities to conduct its own assessment of these arrangements and procedures, the central bank should consider the views of the authority or authorities with primary responsibility with respect to the FMI.</p>	<p><i>Q.E.6.1: For which currency (or currencies) do the authority or authorities with primary regulation, supervision or oversight responsibility assess the FMI's payment and settlement arrangements and the related liquidity risk management procedures?</i></p> <p>See answer to question 2.1.</p> <p><i>Q.E.6.2: When assessing an FMI's payment and settlement systems and its related liquidity risk management procedures in any currency for which the FMI's settlements are systemically important, how do the authority or authorities with primary regulation, supervision or oversight responsibility with respect to the FMI consider the views of the central bank(s) of issue?</i></p> <p>For the Swedish FMIs:</p> <p>For NASDAQ OMX Clearing, the Riksbank and Finansinspektionen familiarise themselves with the views of the central banks that are part of the college according to EMIR. For the other Swedish FMIs, Bankgirot and Euroclear Sweden, no process is currently in place to take into account the views of other central banks. The reason for this is that foreign currencies currently account for a small portion of total settlement by these FMIs according to the Riksbank and Finansinspektionen. (See the answer to question Q.E.2.1 for the currencies that are cleared/settled). Both of the authorities are of the opinion that foreign currencies are not of material importance in respect of the settlement performed by these FMIs.</p> <p>For the foreign FMIs:</p> <p>For EuroCCP, CLS and SwapClear, which all clear/settle amounts in SEK, oversight cooperation has been established among the relevant central banks (see the answer to question Q.E.1.1). Within the framework of these collaborations, the Riksbank may (if there is reason to do so) provide its views on the liquidity risk associated with SEK to the responsible authority that is managing the oversight cooperation.</p> <p>For EuroCCP, the responsible authority in the Netherlands (the Dutch Central Bank) familiarises itself with the Riksbank's and Finansinspektionen's views within the framework of the college, according to EMIR.</p> <p><i>Q.E.6.3: When conducting its own assessment of the payment and settlement arrangements and liquidity risk management procedures of an FMI, how does the central bank of issue consider the views of the authority or authorities with primary responsibility with respect to the FMI?</i></p>

	<p>The Riksbank and Finansinspektionen currently do not conduct their own appraisals or assessments of the foreign FMIs and no foreign authorities conduct their own appraisals or assessments of the Swedish FMIs.</p>
<p>Key consideration 7</p> <p>Relevant authorities should provide advance notification, where practicable and otherwise as soon as possible thereafter, regarding pending material regulatory changes and adverse events with respect to the FMI that may significantly affect another authority's regulatory, supervisory, or oversight interests.</p>	<p><i>Q.E.7.1: How do relevant authorities provide advance notification, where practicable and otherwise as soon as possible thereafter, regarding pending material regulatory changes and adverse events with respect to an FMI that may significantly affect the respective regulatory, supervisory or oversight interests of another domestic or foreign authority?</i></p> <p>With respect to the college for NASDAQ OMX Clearing, regulations are in place concerning both a general exchange of information and an exchange of information in crisis situations in EMIR (articles 18, 24 and 84). The written agreement for colleges includes additional detailed information on when and how exchanges of information should occur (items 5, 6, 8, 10 and 11 in <i>Written agreement for the establishment and functioning of the college of NASDAQ OMX Clearing AB</i>, which addresses exchanges of information).</p> <p>In the MoU concerning Euroclear, it is established that exchanges of information are to pertain to information that is relevant for the coordination and cooperation among the authorities in respect of oversight and supervision of the joint services provided by the parent company to all central securities depositories in the group. For serious events in the form of the bankruptcy of members of a settlement system, information is provided according to the finality directive²².</p> <p>In the other types of oversight cooperation, the authorities are able to inform each other in various ways, either at meetings (usually start with a roundtable of questions), via e-mail or at teleconferences.</p> <p>In connection with major changes that could have consequences for another authority (both within and without the established oversight cooperation), the Riksbank would inform the relevant authority, via, for example, e-mail or telephone or at a meeting.</p> <p><i>Q.E.7.2: Where appropriate, how does the authority consider the views of such authorities in connection with such regulatory actions taken with respect to the FMI?</i></p> <p>An exchange of information occurs nationally and internationally, which takes into account the views and opinions of other authorities to the extent possible. In cases where oversight cooperation is in place, information is provided at such a meeting. There are also MoUs.</p>
<p>Key consideration 8</p> <p>Relevant authorities should</p>	<p><i>Q.E.8.1: If the authority regulates, supervises or oversees a TR that maintains data pertaining to other jurisdictions, how does such an authority coordinate with other authorities who have a material interest</i></p>

²² European Parliament's and the Council's directives 98/26/EC of 19 May 1998 on settlement finality in payment and securities settlement systems.

<p>coordinate to ensure timely access to trade data recorded in a TR.</p>	<p><i>in the trade data consistent with their responsibilities, to ensure that they have timely and appropriate access to trade data in the TR?</i></p> <p>N/A</p>
<p>Key consideration 9</p> <p>Each authority maintains its discretion to discourage the use of an FMI or the provision of services to such an FMI if, in the authority’s judgment, the FMI is not prudently designed or managed or the principles are not adequately observed. An authority exercising such discretion should provide a clear rationale for the action taken both to the FMI and to the authority or authorities with primary responsibility for the supervision or oversight of the FMI.</p>	<p><i>Q.E.9.1: Has the authority exercised discretion to discourage the use of an FMI, or the provision of services to an FMI, on the grounds that it is not prudently designed or managed, or the principles are not adequately observed?</i></p> <p>No.</p>
	<p><i>Q.E.9.2: If so, did the authority provide a clear rationale to the FMI and to the authority or authorities with primary responsibility for the supervision or oversight of the FMI?</i></p> <p>N/A</p>
<p>Key consideration 10</p> <p>Cooperative arrangements between authorities in no way prejudice the statutory or legal or other powers of each participating authority, nor do these arrangements constrain in any way an authority’s powers to fulfil its statutory or legislative mandate or its discretion to act in accordance with those powers.</p> <p><i>(There are no questions with respect to this key consideration.)</i></p>	<p>When drafting MoUs and other agreements, national law is always taken into account. As a result, MoUs never take precedence ahead of national law. MoUs are also entered into in the form of statements of will, which means that they are not legally binding. In respect of the college for NASDAQ OMX Clearing, this is regulated in EMIR, which is directly applicable in Sweden. Although EMIR has no impact on the Riksbank Act, certain changes in Swedish legislation have been made pursuant to EMIR.</p>
<p>Key conclusions for Responsibility E</p>	<p>The Riksbank and Finansinspektionen have a joint agreement on cooperation and information sharing that enables efficient handling of the FMIs that the two authorities oversee/supervise.</p> <p>With regard to NASDAQ OMX Clearing, cross-border cooperation is</p>

	<p>conducted in the form of a college within the scope of EMIR, which includes supervisory authorities and central banks from the relevant countries, as well as ESMA. The authorities also participate in cross-border cooperation for the oversight of the Euroclear group, in which Euroclear Sweden is a member. For Euroclear, there is a memorandum of understanding that defines the cooperation and framework for the supervision/oversight that occurs among the supervisory authorities and central banks, within which matters of joint importance are addressed. This cooperation is led by the Central Bank of Belgium.</p> <p>The oversight cooperation in respect of the foreign FMIs includes contact lists prepared for various types of crisis situations, as well as guidelines for how communication in such a crisis should be managed. For the cooperation among the Swedish authorities in the event of a crisis, a memorandum of understanding has been drafted: <i>Agreement between the Government Offices (Ministry of Finance), The Riksbank, Finansinspektionen (the Swedish financial supervisory authority) and the Swedish National Debt Office for the cooperation in the fields of financial stability and crisis management.</i></p> <p>At present, there are no frameworks/laws in respect of what is known as recovery and resolution of FMIs. For central counterparties, however, a requirement to have recovery plans is included in EMIR.</p> <p>For the Swedish FMIs (NASDAQ OMX clearing, Euroclear Sweden, Bankgirot), where cooperation between the Riksbank and Finansinspektionen occurs, there are forms of cooperation by means of joint quarterly meetings, joint self-assessments according to the PFMIs and in other assessments. Other forms of cooperation take place in the college. Other types of cooperation are regulated in MoUs or other similar agreements.</p> <p>For all FMIs for which cooperation occurs, both Swedish and international, there are responsible authorities which have principal responsibility for cooperation concerning a certain FMI. The authority that has principal responsibility for an FMI is also the one that is responsible for ensuring that this FMI is regularly assessed according to the PFMIs. The responsible authority notifies the results of the assessment to the other authorities in the oversight cooperation.</p> <p>For NASDAQ OMX Clearing, the Riksbank and Finansinspektionen familiarise themselves with the views of the central banks that are part of the college according to EMIR.</p> <p>For the foreign FMIs (CLS, SwapClear, EuroCCP and SWIFT), which clear and/or settle in SEK, or provide financial messaging services, there is established oversight cooperation between the relevant central banks. Within the framework of these collaborations, the Riksbank may provide its views if there is reason to do so. For EuroCCP the Riksbank and Finansinspektionen familiarise themselves with the views of the central banks that are part of the EMIR college.</p>
Assessment of Responsibility E	Observed

<p>■ Recommendations and comments</p>	<p>At present, there are no frameworks/laws in respect of what is known as recovery and resolution of FMIs. The Riksbank requested such a framework in the <i>Financial infrastructure 2013</i> report and efforts are under way in the EU, to formulate a draft “recovery and resolution” directive for non-banks, which include FMIs. Due to the lack of a regulatory framework adapted to FMIs in this area, it is not possible to know which authority in Sweden has resolution responsibility. A risk resulting from this is that it might not be possible to make a resolution or complete a reconstruction in an efficient manner, which could have negative consequences for the financial system.</p> <p>The lack of such a framework does not impact the grading of the authorities in Responsibility E, since Responsibility E does not demand that a framework exists but instead focuses on good cooperation and efficient communication between the authorities. However, a recommendation would be that the authorities continue to oversee this important matter.</p>
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