

**Futures Exchange And Contract Authorization  
Standards And Procedures In Selected Countries**

**Commodity Futures Trading Commission  
Office of International Affairs  
3 August 1999**

## EXECUTIVE SUMMARY

The following tables summarize the results of a review of the statutes and regulations of ten (10) jurisdictions in nine (9) countries<sup>1</sup> regarding (1) the authorization of exchanges, (2) the amendment of exchange rules, (3) the admission of contracts to trading on an exchange, and (4) the amendment of admitted contracts.<sup>2</sup>

Information regarding the actual practice of the respective market regulators, including information about applicable time periods for regulatory review and action, is included where available.

The legislative and regulatory schemes described in the attached tables may be administered with varying degrees of formality; the legislative and regulatory provisions, taken alone, may not provide an accurate picture of the actual practice in a given jurisdiction. This makes direct comparisons between the laws and regulations of the United States and other jurisdictions difficult. Any assessment of a legislative and regulatory regime should also take account of the broader legal tradition and legal culture of the country in question.<sup>3</sup>

Information regarding authorization of foreign exchanges, screen-based trading systems, and related contracts is not included in the following tables.

### **1. Do other countries require exchanges to be authorized or recognized?**<sup>4</sup>

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<sup>1</sup> Australia, France, Germany, Italy, Canada (Ontario, Québec), Singapore, Spain, Switzerland, and the United Kingdom.

<sup>2</sup> Materials reviewed include the results of a survey of the participants in the London Commodity Futures Market Conference (June 1997); an unpublished IOSCO Survey on Screen-Based Trading (1999); International Regulation of Derivative Markets, Products and Financial Intermediaries, IOSCO (1997); CFTC Regulation of Over-The-Counter Derivatives Survey (1999); and statutes, regulations, exchange rules and other information available from foreign regulators and exchanges.

<sup>3</sup> For example, in the United Kingdom, the investment services industry historically has been regulated pursuant to codes of conduct and has distinguished between (i) wholesale markets and professional market participants and (ii) non-wholesale markets and non-professional market participants. Wholesale markets and professional market participants are generally subject to a less stringent regime in the United Kingdom than non-wholesale markets and non-professional market participants. Additionally, the market regulator and the exchanges in the UK remain in close communication through periodic meetings, and the UK exchanges must file an annual regulatory plan that, among other things, addresses trading and product changes, and the resources, systems and expertise dedicated by the exchange to the effectuation of that regulatory plan. A bill to reform the regulation of the financial services industry and to provide more powers to the Financial Services Authority, the single regulator of all financial services and markets in the UK, is now pending before the British House of Commons. In Germany, the market regulator historically has a close relationship with the exchange; the market regulator is a non-voting participant in the meetings of the Exchange Council, an assembly of representatives of exchange members and investors which (i) functions like a supervisory board of a German corporation, (ii) establishes the exchange's policies, and (iii) oversees the management of the exchange.

<sup>4</sup> Note that (a) some jurisdictions distinguish between securities exchanges and futures exchanges in their legislative regime (Australia, Singapore, Spain and Ontario), (b) some jurisdictions distinguish between financial futures exchanges and commodity futures exchanges (Singapore and Spain) and (c) Germany distinguishes between securities exchanges (on which securities and financial derivatives are traded) and commodity exchanges (on which commodities and commodity derivatives are traded). Additionally, note that (a) some jurisdictions include futures and other financial instruments within the definition of securities in their legislative regime (France, Italy, Québec,

**Yes. (See Table 1)**

All ten jurisdictions require that exchanges be formally authorized or recognized by a regulatory authority. Initial authorization includes a review of the exchange's operating rules. Ordinarily, there is no time limit in connection with the authorization process.

Most countries allocate jurisdiction over exchanges to an instrumentality of the central government. Two countries with federal systems (Canada and Germany) allocate jurisdiction over exchanges to the state (that is, province and *land*) governments.<sup>5</sup> Countries in the European Union are subject to the requirements of European community law.

**2. Do other countries require prior regulatory review (resulting in an approval or a failure to object after notice) of amendments to exchange rules?**

**Generally, yes. (See Table 2)**

**Countries having formal regulatory review procedures resulting in an approval or a failure to object:**

Nine (9) jurisdictions have a formal procedure for the review of amendments to exchange rules by the market regulator. Pursuant to these procedures, the market regulator either positively expresses a specific approval of the amendment (France, Germany, Italy, Ontario, Singapore,<sup>6</sup> Spain, and Switzerland) or declines to object to or to disallow the proposed amendment after notice (Australia, Québec,<sup>7</sup> and Singapore<sup>8</sup>). Formal time frames for approval or for objection range from five (5) to thirty (30) days. However, in practice, actual review times may be longer or shorter depending on the circumstances and, in some cases, the exchange rule amendments are submitted to the market regulator informally in advance.

**Country requiring informal regulatory approval:**

The United Kingdom observes an informal procedure pursuant to which an exchange discusses proposed exchange rule amendments informally with the market regulator in advance of adoption in acknowledgement of the market regulator's statutory authority to

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Switzerland, and the United Kingdom) (but, note that the United Kingdom legislation defines "investments," and the French and Italian legislation defines "financial instruments," rather than "securities"), and (b) Ontario includes financial futures and other financial instruments within the definition of commodities in its legislative regime. Note that the European Union excludes commodity exchanges from the scope of its Investment Services Directive. Due regard must be given to the definition of terms in each respective legislative regime and to the categories of instruments, interests or exchanges that are within the ambit of the legislative regime.

<sup>5</sup> Note that (a) no review of the federal laws of Canada was undertaken since the provinces of Canada have the primary competence regarding exchanges and (b) the legislation of only two Canadian provinces (Ontario and Québec) was reviewed. With regard to Germany, only the federal legislation (and not the state [*lander*] legislation) was reviewed.

<sup>6</sup> With respect to commodity exchange rules.

<sup>7</sup> Approval or failure to object within 30 days. The CVMQ generally issues a formal approval of an amendment to the exchange rules within a time period agreed upon with the exchange pursuant to statute.

<sup>8</sup> With respect to financial futures exchange rules.

ensure proper trading in proper markets on the exchange. The giving of a prior, formal notice of the amendment, however, is not required; instead, the exchange is required by statute to give notice of the amendment to the market regulator within 7 days subsequent to its adoption.

**3. Do other countries require prior regulatory review (resulting in approval or a failure to object after notice) of the conditions, terms and specifications of proposed new contracts?**

**Generally, yes.** Three countries require specific approval. Two countries have a pure objection procedure. Two countries have a combined approval/objection procedure. One country has an informal review procedure. Two countries allocate the review function to the exchange management. **(See Table 3)**

**Countries having formal regulatory review procedures resulting in an approval or a failure to object:**

Seven (7) jurisdictions have a formal procedure for the review of proposed new contracts by the market regulator prior to the listing of the contract for trading on an exchange. Pursuant to these procedures, the market regulator either positively expresses a specific approval of the contract (Ontario, Singapore, and Spain); declines to object to the proposed contract terms after notice (Australia,<sup>9</sup> France); or may either specifically approve, or fail to object to, the proposed contract terms after notice (Italy<sup>10</sup> and Québec<sup>11</sup>). Formal time frames for approval or for objection range from five (5) to thirty (30) days. However, in practice, actual review times may be longer or shorter depending on the circumstances and, in some cases, the contract terms are submitted to the market regulator informally in advance.

**Country requiring informal regulatory approval:**

The United Kingdom observes an informal procedure pursuant to which an exchange submits the contract terms to the market regulator for review prior to the admission of a contract for trading in acknowledgement of the market regulator's statutory authority to ensure proper trading in proper markets on the exchange. However, the giving of a prior, formal notice of the admission of a contract to trading, is not required; instead, pursuant to the Notification Regulations, the exchange gives notice of the admission of a contract to the market regulator within 7 days subsequent to its admission.

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<sup>9</sup> Except with respect to individual share futures for which general listing rules may be adopted. Australia may review some of its requirements with respect to other contracts as a result of its on-going regulatory reform.

<sup>10</sup> Consent or failure to object within 30 days after notice.

<sup>11</sup> Approval or failure to object within 30 days after notice. The CVMQ generally issues a formal approval of contract terms as part of the incorporation of the contract terms into the exchange rules.

### **Countries permitting exchange listing of new contracts without prior regulatory approval:**

In Germany and Switzerland, the management of an exchange has the responsibility and authority to admit contracts to trading pursuant to standard conditions (Germany) or broad statutory criteria (Switzerland).

In Germany, exchanges are statutorily required to adopt standard conditions for options and futures trading on the exchange. These standard conditions are adopted by the Board of Management of the exchange pursuant to the exchange rules. The standard conditions, and any amendments thereto, further must be approved by the Exchange Council. Admission of a new contract requires an amendment to the standard conditions. The market regulator is a non-voting participant in the meetings of the Exchange Council and, through this participation, remains informed of new contracts proposed for trading on the exchange and of the corresponding amendments to the standard conditions. Pursuant to the Eurex exchange rules, admission of a specific option or futures contract is not permitted unless the maintenance of orderly options and futures trading and adequate performance of any market-making function can be anticipated.

Switzerland requires admission criteria to be set out in the exchange rules. The exchange rules must be approved by the market regulator. The exchange management is then directed to admit a contract for trading only if the maintenance of orderly options and futures trading and the adequate performance of any market-making function can be anticipated.

### **Admission criteria:**

In nine (9) jurisdictions, some statement of the criteria applied to the admission of a contract for trading is set out either in statutes, regulations, exchange rules, or other published guidelines adopted by the market regulator. While it is difficult to categorize the practice in this area, six (6) jurisdictions (Australia, Italy, Ontario, Singapore,<sup>12</sup> Spain, and the United Kingdom) set out relatively detailed criteria with respect to all or specified kinds of contracts, *e.g.*, commodity contracts that require delivery of the underlying. Three (3) jurisdictions (France, Germany, and Switzerland) set out more broadly stated criteria.

## **4. Do other countries require regulatory approval of contract amendments?**

### **Generally, yes. (See Table 4)**

Generally, the requirements, procedures and criteria applied to the initial approval of a contract for trading are also applied with respect to the approval of a contract amendment.

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<sup>12</sup> Singapore has an articulated standard with respect to the approval of commodity contracts. With respect to financial futures contracts, the Monetary Authority of Singapore can apply such criteria as it sees fit to its determination whether to approve the contract.

## 5. International Harmonization.

### **Exchange authorization:**

The International Organization of Securities Commissions (“IOSCO”) has addressed the authorization of exchanges in its *Objectives and Principles of Securities Regulation*, IOSCO (September 1998) (“Core Principles”). Principle 25 states, for example: “The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.” Other matters relevant to exchange authorization include: Operator Competence, Operator Oversight, Admission of Products to Trading, Admission of Participants to the Trading System, Provision of Trading Information, Routing of Orders, Trade Execution, Post Trade Reporting and Publication, Supervision of System and Participants by the Operator, and Trading Disruptions. Core Principles, § 13.3.

### **Contract Authorization:**

The Core Principles also address the admission of products to trading on an exchange. “The regulator should, as a minimum requirement, be informed of the types of securities and products to be traded on the trading system. The regulator should approve the rules governing the trading of the product. The proper design of the terms and conditions attaching to a product reduces the susceptibility of the product to market abuses, including manipulation. Consideration of product design principles and trading conditions is a critical aspect of ensuring a fair, orderly, efficient, transparent and liquid market.” Core Principles, § 13.3.

In October 1997, regulatory authorities from 16 jurisdictions (Australia, Brazil, Canada [through the Canadian Grain Commission], France, Germany, Hong Kong, Hungary, Italy, Japan, Korea, Malaysia, Netherlands, Singapore, South Africa, United Kingdom, and the United States) which supervise existing or planned physical delivery commodity markets, issued a communiqué at the conclusion of the Tokyo Commodity Futures Markets Regulators’ Conference establishing internationally recognized standards of best practice for the design and review of commodity contracts. While not prescribing what type of market authority should be responsible for contract design and review or the process by which contracts should be designed or approved, the adherents to the Tokyo Communiqué agreed that the following matters should be taken into account as matters of best practice in the design and review of commodity contracts: accountability, economic utility, correlation with the cash market, settlement and deliverability reliability, responsiveness and transparency. Tokyo Communiqué, at p. 6.

Subsequently, IOSCO concluded that: “Many of the issues in the design of commodity contracts are generic to all derivative contracts. Accordingly, the basic tenets of the Design Guidance [in the Tokyo Communiqué] are equally useful to all types of exchange-traded derivatives contracts. Nonetheless, market authorities may need to place different emphasis on specific issues (such as delivery characteristics or cash settlement terms) depending on the nature of the underlying reference commodity and differences in the cash market.” Report on

the *Application of the Tokyo Communiqué to Exchange-Traded Financial Derivatives Contracts*, IOSCO (September 1998), at p. 14.

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<i>Country<sup>1</sup> and Existing Futures Exchanges</i>	<i>Table 1 - Exchange Authorization</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
<i>Australia/ Sydney Futures Exchange (SFE)<sup>2</sup></i>	Yes, authorization of a futures exchange is required from the Treasurer. <sup>3</sup>	The exchange organizer must submit an application for approval as a futures exchange to the Australian Securities and Investments Commission (“ASIC”). The ASIC reviews the application and advises the Treasurer concerning the suitability of the applicant and the application. The Treasurer makes the final decision whether or not to grant the application. <sup>4</sup> The ASIC also coordinates with the Reserve Bank of Australia on applications relating to an exchange for money market instruments, such as government bonds, that may affect domestic payment and settlement systems. <sup>5</sup>	The applicant must satisfy a number of criteria to be authorized as a futures exchange. Approval will only be given where the body’s business rules make satisfactory provision:  (a) for the admission of licensed members;  (b) for the qualifications for membership, including the standards of training and experience;  (c) for the manner in which members are to conduct their business of dealing in futures contracts so as to ensure efficiency, honesty and fair practice in relation to such dealing;  (d) for the exclusion from membership of persons who are not of good character and high business integrity;  (e) for the expulsion, suspension or disciplining of a member for conduct inconsistent with just and equitable principles in the transaction of business or for a contravention of the body’s rules or of the law;  (f) for the inspection and audit of accounting records required to be kept under the Corporations Law;

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			<p>(g) with respect to the classes of futures contracts that may be dealt in by members;</p> <p>(h) ensuring that members deal in futures contracts on the exchange in accordance with the rules of the exchange;</p> <p>(i) for the equitable and expeditious settlement of claims and disputes;</p> <p>(h) generally, for carrying on the business of the proposed futures exchange with due regard for the interest and protection of the public; and</p> <p>(i) for money in the body's fidelity fund to make the payments out of the fund.<sup>6</sup></p> <p>ASIC requires applications to include comprehensive documentation of all regulatory aspects of any proposed market. ASIC will review those aspects which fall within its direct competence, but will require an applicant to provide independent expert review of other critical areas, <i>e.g.</i>, an independent review of the computer systems, back-up, integrity, <i>etc.</i><sup>7</sup></p>

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<p><i>France/ ParisBourse, SBF, SA<sup>8</sup> [formerly Marché à Terme International de France (MATIF) and Marché des Options Negotiables de Paris (MONEP)]</i></p>	<p>Yes, authorization is required by a Decree of the Minister for Economic Affairs and Finance on the recommendation of the <i>Conseil des Marchés Financiers</i> (“CMF”), a self-regulatory organization, after consulting the <i>Commission des Opérations de Bourse</i> (“COB”) and the <i>Banque de France</i>.<sup>9</sup></p>	<p>The undertaking that will operate the exchange as a regulated market must submit to the CMF an application (<i>dossier</i>) which includes the following items: (a) its articles of incorporation (statutes), (b) its internal rules regarding mandatory duties imposed on exchange personnel (<i>e.g.</i>, regarding trading for their own account and conflicts of interest), (c) the exchange rules; (d) the identity of shareholders owning directly or indirectly 10% or more of the undertaking and the actual percentage owned by them; (e) a description of the human resources and the technical and financial means available to the exchange to accomplish its intended activities; (f) the resumé of the principal directors and officers of the exchange, and (g) if the exchange will operate a clearing house, the rules governing the functioning of the clearing house. The CMF may also order the applicant to submit such further related information as the CMF deems useful.<sup>10</sup></p> <p>The CMF must approve the proposed rules within three months of the submission of a complete application or, if applicable, the submission of such related information as the CMF has demanded. The CMF then makes a recommendation to the Minister of Economic Affairs and Finance regarding the recognition</p>	<p>To be recognized as a regulated market, a market for financial instruments<sup>13</sup> must ensure regular trading. The rules enacted by the market undertaking must <i>inter alia</i> include membership requirements and listing requirements, rules regarding the organization of trading, rules regarding the conditions under which trading in one or more financial instruments may be halted, and rules for the recording and publicizing of trades.<sup>14</sup></p> <p>As directed by the FAM, the CMF has published General Regulations that specifically address the general organizational and operating principles that regulated markets must observe and the conditions under which the CMF proposes to recognize or to revoke the recognition of regulated markets in financial instruments pursuant to FAM. The General Regulations also address the execution, reporting and publicizing of transactions in financial instruments traded on those markets.<sup>15</sup></p> <p>The CMF assures that the rules submitted with an application for recognition as a regulated market comply with its General Regulations and that the undertaking has the means to manage the proposed market.<sup>16</sup></p> <p>An exchange must also submit to the COB for</p>

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		of the exchange and informs the COB and the <i>Banque de France</i> of such recommendation so that each can give a formal opinion to the Minister concerning the application. <sup>11</sup> Thereafter, the Minister makes the formal decision whether or not to recognize the exchange as a regulated market. Once the exchange has been recognized as a regulated market, and before commencing operations, the exchange must notify the CMF of the successful implementation of the plans outlined in its application regarding the management of the exchange. <sup>12</sup>	approval a risk disclosure document to be delivered to customers prior to trading on the exchange.
<p><i>Germany/ Eurex Deutschland (formerly Deutsche Terminbörse) (located in the State of Hesse)</i></p> <p><i>[see also Switzerland regarding Eurex Zürich]</i></p>	<p>Yes, the formation of an exchange requires the approval of the competent Exchange Supervisory Authority of the German federal state (“<i>land</i>”) in which the exchange is located.<sup>17</sup></p>	<p>An exchange must request approval to operate from the Exchange Supervisory Authority of the respective state (“<i>land</i>”). The Exchange Supervisory Authority approves the exchange rules as part of the authorization process. The Exchange Supervisory Authority may also require the inclusion of specific provisions in the exchange rules to the extent necessary for the fulfillment of the statutory duties of the exchange or the Exchange Supervisory Authority.<sup>18</sup> Upon approval of a new exchange, the Exchange Supervisory Authority appoints a provisional Exchange Council (see the column titled <i>What legal standard is applicable?</i>) for a maximum period of one year.<sup>19</sup></p>	<p>An exchange will be approved only when it meets the requirements set out in the Exchange Act. Among such requirements are the obligation to establish and operate a Trading Supervisory Office (the exchange’s market surveillance department) and to adopt rules concerning the organization and the management of the exchange and rules concerning the publication of prices.<sup>20</sup></p> <p>Applicants have no specific right to approval of an exchange. However, the Exchange Supervisory Authority is under an obligation to treat applicants in a non-discriminatory manner.<sup>21</sup></p> <p>While the legal standard for the determination of</p>

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<i>Hannover Commodity Exchange (WTB) (located in the State of Lower Saxony)</i>			<p>applications for the approval of an exchange are not set out specifically in the Exchange Act, the Exchange Act does provide that the Exchange Supervisory Authority will supervise the exchange in accordance with the provisions of the Exchange Act. The Exchange Act contains specific provisions regarding the organization of the management of the Exchange, including the election of an Exchange Council, an assembly of representatives of market members and investors.<sup>22</sup> The Exchange Council functions like a Supervisory Board and is responsible for (i) the adoption of the exchange rules, (ii) the appointment and removal of the members of the Board of Management of the exchange (in agreement with the Exchange Supervisory Authority) (iii) the supervision of the Board of Management, (iv) the adoption of rules of procedure for the Board of Management, and (v) the adoption of Conditions for Transactions on the exchange.<sup>23</sup> The Board of Management is responsible for the day to day management of the exchange.<sup>24</sup> The Trading Supervisory Office is an independent body of the exchange; it conducts market surveillance under the sole supervision of the Exchange Supervisory Authority. The Board of Management of the Exchange may instruct the Trading Supervisory Office to conduct investigations within its scope of duties.<sup>25</sup> Note that</p>

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			<p>the Exchange Supervisory Authority exercises control over the persons appointed to the Board of Management of the exchange because it must be consulted with respect to, and must agree with, the persons nominated to the Board of Management by the Exchange Council.</p> <p>The exchange rules must ensure that the exchange is able to fulfill its duties with due consideration for the interests of the public and the trading participants. The exchange rules must include provisions regarding (i) the scope of business of the exchange, (ii) the organization of the exchange, and (iii) the publication of prices and official quotations as well as the respective turnover. The exchange rules may contain provisions regarding settlement of exchange transactions. The Exchange Supervisory Authority evaluates an application for approval as an exchange with regard to the statutory requirements set out in the Exchange Act.</p>
<i>Italy/ Italian Government Securities Market (MIF)</i>	<p>Yes, authorization is required by the <i>Commissione nazionale per la società e la borsa</i> (“Consob”).<sup>26</sup></p> <p>Where authorization is</p>	<p>The exchange must submit all relevant rules, including operational rules, to Consob.<sup>28</sup></p>	<p>Before authorizing a regulated market, Consob must verify that: (a) the market rules comply with EU law and provide for transparency, orderly trading and investor protection, (b) the company managing the regulated market is an incorporated company; (c) the company has a minimum net capital of at least 10 billion lira or 25 billion lira if the management</p>

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<i>Italian Derivatives Market (IDEM)</i>	sought for an exchange for (I) the wholesale trading of private and public sector bonds other than government securities normally dealt in on the money market and (ii) financial derivatives based on government securities, Consob authorizes the exchange in agreement with the Bank of Italy. <sup>27</sup>		<p>company carries out clearing and settlement operations; (d) the management of the company satisfies the integrity and experience requirements set by law, and (e) the stockholders satisfy the integrity and suitability requirements set by law.<sup>29</sup></p> <p>Market rules must sufficiently describe the operation of any electronic trading system and permit a complete analysis of the system as contemplated by the IOSCO 1990 Principles.<sup>30</sup> The rules of the exchange must establish: (a) the conditions and procedures for the admission, exclusion and suspension of market participants and financial instruments<sup>31</sup> to and from trading, (b) the conditions and procedures for the conduct of trading and any obligations of market participants, (c) the procedures for ascertaining, publishing and distributing prices; and (d) the types of contracts admitted and the methods for determining the minimum amounts which may be traded.<sup>32</sup></p> <p>Note that all Italian exchanges are electronic.</p>
<i>Province of Ontario, Canada<sup>33</sup>/ Toronto Futures</i>	Yes, authorization to carry on business as a commodity futures exchange is required from the Ontario	Under a Memorandum of Understanding between the OSC and the commodity futures exchange, a protocol is set out with respect to the filing by the exchange and the review and approval by the OSC of by-laws, rules,	Upon application by or on behalf of a company wishing to carry on business in Ontario as a commodity futures exchange, the OSC grants registration to that person or company where it is satisfied that to do so would not be prejudicial to the

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<i>Exchange (TFE)</i>	Securities Commission ("OSC"). <sup>34</sup>	<p>regulations, policy statements, and amendments thereto. The protocol sets out the timing and the specific factors considered in the review.<sup>35</sup></p> <p>The OSC may not refuse to grant registration to a commodity futures exchange without giving the applicant an opportunity to be heard.<sup>36</sup></p>	<p>public interest and in making its decision takes into account whether: (a) the clearing and other arrangements made and the financial condition of the commodity futures exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of the contracts entered into on such commodity futures exchange will be met; (b) the rules and regulations applicable to exchange members and clearing house members are in the public interest and are actively enforced, (c) floor trading practices are fair and properly supervised, (d) adequate measures have been taken to prevent manipulation and excessive speculation, (e) adequate provision has been made to record and publish details of trading including volume and open interest, and (f) the commodity futures exchange has satisfied or can satisfy all other conditions prescribed under the regulations for the conduct of the business of a commodity futures exchange.<sup>37</sup></p> <p>The OSC may, where it appears to be in the public interest, make any decision, (a) with respect to the manner in which any commodity futures exchange in Ontario or its clearing house carries on business, (b) with respect to any by-law rule or regulation of any such commodity futures exchange or clearing house, or (c) with respect to trading on or through</p>

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			the facilities of any commodity futures exchange or with respect to any contract traded on any such commodity futures exchange including the setting of levels of margin, daily price limits, daily trading limits and position limits. <sup>38</sup>
<i>Province of Québec, Canada/  Montréal Exchange (ME)</i>	Yes, to carry on business in Québec, a stock exchange must be recognized by the Québec Securities Commission (“CVMQ”) as a self-regulatory organization. In no case may a professional association regulate transactions in securities by its members unless it is recognized by the CVMQ as a self-regulatory organization. <sup>39</sup>	To be recognized as a self-regulatory organization, an exchange must file an application with the CVMQ, together with such documents and information as the CVMQ may require. <sup>40</sup>	The Québec Securities Act specifies that the constituting documents, by laws and operating rules of an exchange must provide for: (a) unrestricted membership for every person who fulfills the conditions of admission, (b) equal access to services for every member, (c) the disciplining of members or their representatives for breach of the by-laws or operating rules of the exchange or contravention of the Québec Securities Act. <sup>41</sup> The recognition of the exchange is at the discretion of the CVMQ. When the CVMQ has established that the constituting documents, bylaws and operating rules of an exchange are in conformity with the Securities Act it recognizes the exchange if it considers that its financial resources and administrative structure are adequate to its objects. <sup>42</sup>
<i>Singapore/  Singapore Commodity Exchange (SICOM)</i>	<u>[Financial] Futures Exchange</u>  No person may establish or maintain a futures exchange in Singapore	<u>[Financial] Futures Exchange</u>  The applicant must submit an application in the prescribed form, accompanied by certified copies of its business rules, its Memorandum	<u>[Financial] Futures Exchange</u>  The MAS may, in writing, approve a body corporate as a futures exchange if it is satisfied that: (a) the business rules of the body corporate make

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<i>Singapore International Monetary Exchange Ltd. (SIMEX)</i>	that has not been approved by the Monetary Authority of Singapore (“MAS”). <sup>43</sup>	and Articles of Association and an application fee of \$2,000. <sup>45</sup>  The MAS may not refuse to approve a person’s application for approval as an exchange without giving the applicant an opportunity to be heard. <sup>46</sup>	satisfactory provision (i) for the exclusion from membership of persons who are not of good character and high business integrity, (ii) for the expulsion, suspension or disciplining of members for conduct inconsistent with just and equitable principles in the transaction of business or for a contravention of the business rules of the proposed futures exchange, (iii) with respect to the terms and conditions under which futures contracts may be made in the futures market of the proposed futures exchange, or with respect to the classes of futures contracts that may be made by members, (iv) with respect to the clearing and other arrangements made and the financial condition of the proposed futures exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of futures contracts entered into on that futures exchange will be met, (v) that floor trading practices are fair and properly supervised, (vi) that adequate provision has been made to prevent manipulation and excessive speculation, (vii) that adequate provision has been made to record and publish details of trading; (viii) with respect to the establishment of a compensation fund, or other scheme or system accepted by the MAS, which would compensate customers who suffer pecuniary loss through the defalcation of a member, or any of its directors or employees, in

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<i>Country<sup>1</sup> and Existing Futures Exchanges</i>	<i>Table 1 - Exchange Authorization</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
	<p><u>Commodity Futures Exchange</u></p> <p>Yes, a body corporate operating a commodity futures exchange in Singapore must obtain the approval of the Singapore Trade Development Board (“STDB”).<sup>44</sup></p>	<p><u>Commodity Futures Exchange</u></p> <p>The applicant must apply in the prescribed form and manner to the STDB. The STDB may not refuse approval without giving the applicant an opportunity to be heard.<sup>47</sup></p>	<p>respect of any money or other property that was entrusted to or received by a member, or a director or employee, for or on behalf of any person or by reason that the member was trustee of the money or other property, (ix) generally for carrying on the business of the proposed futures exchange with due regard to the interests and protection of the public; and (b) the interests of the public will be served by approving the application.<sup>48</sup></p> <p><u>Commodity Futures Exchange</u></p> <p>The STDB will approve an application for authorization as a commodity futures exchange provided that: (a) the applicant is a body corporate, (b) its business rules make satisfactory provision for the matters referred to in Section 6 of the CFA, <i>e.g.</i>, for the exclusion from membership of persons who are not of good character and high business integrity, with respect to the terms and conditions under which commodity futures contracts may be made in the commodity futures market or with respect to the classes of commodity contracts that may be made by members, <i>etc.</i>, and (c) the interest of the public will be served by granting the application.<sup>49</sup></p>

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	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
<p><i>Spain/</i></p> <p><i>Spanish Financial Futures Market (MEFF RV)</i></p> <p><i>Spanish Options Exchange (MEFF RF)</i></p> <p><i>Citrus Fruit and Commodity Market of Valencia</i></p>	<p>Yes, the creation of an official futures exchange or an official commodities (citrus) exchange requires the authorization of the Minister of Economy and Finance upon a proposal from the Comisión Nacional del Mercado de Valores (“CNMV”), which must send a positive report and collect all the documents required to that end.<sup>50</sup></p>	<p>The CNMV will consider making a proposal to the Minister of Economy and Finance to approve an official futures exchange or an official commodity (citrus) exchange upon application by organizers of the proposed exchange. Such applicant must submit to the CNMV, (which collects all required documents and must send a positive report to the Minister), an explanatory memorandum, proposed statutes (articles of incorporation) for the exchange management company (and the statutes of its parent company if it is to be a wholly-owned subsidiary), and the proposed regulations of the exchange. The explanatory memorandum must include, at minimum, a discussion of the justification for the project and its viability, the identity of the organizers, the anticipated availability of material and human resources, and the level of commitments of the organizers and the market members.<sup>51</sup></p> <p>In the case of the authorization of a commodities (citrus) exchange, in addition to the requirements with respect to a financial derivative exchange, the application for authorization must also include the opinion/position of the Minister of Agriculture, Fishing and Foodstuffs (regarding the adequacy</p>	<p>The Minister of Economy and Finance, and the CNMV, with its express consent (of the Minister of Economy and Finance), can establish rules binding on exchanges to protect the interests of investors, to bring about the proper functioning and transparency of exchanges, and to assure observance of the Law Governing the Stock Markets.<sup>55</sup></p> <p>The rules of the exchange must address the following matters: (i) membership on the exchange, (ii) customer relations, (iii) trading rules, (iv) clearing rules, (v) margin requirements, (vi) commissions, and (vii) disciplinary matters. The terms and conditions of contracts approved for trading on the exchange are deemed to be annexed to the rules of the exchange.<sup>56</sup></p> <p>In addition to the requirements with respect to a financial derivatives exchange, a citrus exchange must regulate: (a) the form and content of contracts among the exchange, the market members and the operators of the cash market to assure the deliverability of the underlying, (b) systems and methods for the collection and distribution of information about eventualities of all kinds that might affect citrus products, as well as the price of citrus products in the national and foreign cash markets, (c) systems and procedures to control the</p>

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	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
		<p>of the operating model of the proposed exchange regarding the objectives and rules of both Spanish national and European Union agriculture policy), the Counsel for Agriculture, Fishing and Foodstuffs of the Autonomous Region of Valencia (regarding the provision of information to the CNMV regarding crop production, price levels in the cash market, and such other information as may be of interest to the regular functioning of the exchange), such other Autonomous Regions as the CNMV deems necessary (regarding the same matters), and the Director of Inspection, Control and Normalization of Foreign Trade, of the Directorate General of Foreign Trade, of the Ministry of Commerce and Tourism (regarding the viability and adequacy of procedures guaranteeing the quality of the deliverable supply of citrus products with respect to contracts that contemplate settlement by delivery).<sup>52</sup></p> <p>At the time of its authorization, a citrus exchange management company must have own funds (capital) in the amount of 1,000 million pesetas. The own funds of the exchange, after authorization, may not fall below two-thirds of that amount.<sup>53</sup></p>	<p>quality of the products which are the subject of contracts whose completion requires effective delivery of the underlying citrus products, as well as sufficient points of delivery of such products, (d) the limits on the open interest held by both market members and their clients, and the criteria used to fix the limits on open interest, with the objective that there be available, in all cases, a supply of the underlying product in the cash market sufficient to allow the liquidation of all contracts that require an effective delivery of the underlying, (e) the exceptional measures that the exchange may adopt in the event climatic conditions gravely affect citrus products or cause, in whatever circumstances, a significant diminution in the level of citrus products available in the cash market, and (f) agreed procedures for the collaboration between all public authorities that must approve the authorization of the exchange, the National Weather Institute, and such other entities as the CNMV may determine.</p> <p>Regulation of the matters addressed above are to be attached as an annex to the exchange rules and must take into account the obligations of agencies and entities to remit information to the CNMV and others regarding their respective administration of the functions delegated to them pursuant to the Royal Decree. These agreed procedures for inter-</p>

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	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
		Once the authorization is granted, the exchange cannot commence operations until the exchange is registered in the Official Register of exchanges. This registration must be accomplished within three months of the formation (constitution) of the exchange management company. <sup>54</sup>	agency cooperation and any amendments thereto, as well as any decisions incident to their fulfillment, will be binding on the exchange management company, the market members, and their clients. <sup>57</sup>
<i>Switzerland/ Eurex Zürich AG (formerly Swiss Options and Financial Futures Exchange AG)  [see also Germany regarding Eurex Deutschland]</i>	Yes, authorization to operate an exchange is required from the Federal Banking Commission. <sup>58</sup>	The organizers of a stock exchange must submit an application for authorization to the Federal Banking Commission.  A stock exchange must submit its regulations and any amendments thereof to the Federal Banking Commission for approval. <sup>59</sup>	Authorization of an exchange shall be granted if: (a) the stock exchange through regulations and its organizational structure ensures compliance with the provisions of SESTA; (b) the stock exchange and its senior officials are able to show that they have the necessary professional knowledge and give an assurance of proper business conduct; and (c) the governing bodies of the exchange meet the minimum requirements specified by the Federal Council (by ordinance). <sup>60</sup> The stock exchange must issue regulations that organize the market so as to achieve efficiency and transparency. <sup>61</sup> The stock exchange must undertake to ensure that it has an organizational structure in respect of its operations, administration and, especially with regard to its self-regulatory functions stipulated by the legislator, supervision that is appropriate to its activities. <sup>62</sup> In deciding on the approval of stock exchange regulations, the Federal Banking Commission verifies in particular whether the regulations: (a)

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	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
			ensure transparency and equality of treatment for investors, and (b) guarantee the proper functioning of securities markets. <sup>63</sup>
<i>United Kingdom/ International Petroleum Exchange (IPE)  London International Financial Futures &amp; Options Exchange (LIFFE) (LIFFE includes what was formerly the London Commodity Exchange and the London Traded Options Exchange)  London Metal</i>	Yes, recognition as an exchange must be obtained from the Secretary of State. <sup>64</sup>	Any body corporate or unincorporated association may apply to the Secretary of State for an order declaring it to be a recognized investment exchange for the purposes of the FS Act. Any such application (a) shall be made in such manner as the Secretary of State may direct; and (b) shall be accompanied by such information as the Secretary of State may reasonably require for the purpose of determining the application. At any time after receiving the application and before determining it the Secretary of State may require the applicant to furnish additional information. The directions and requirements given or imposed may be different as between two different applications. Any information to be furnished to the Secretary of State shall, if required by the Secretary of State, be verified in such manner as the Secretary of State so directs. Every application shall be accompanied by (a) a copy of the applicant's rules, (b) a copy of any guidance issued by the applicant which is intended to have continuing effect and is issued in writing or other legible	An investment exchange must meet the following requirements for recognition:  <u>Financial Resources.</u> The Exchange must have financial resources sufficient for the proper performance of its functions.  <u>Safeguards for Investors.</u> The rules and practice of the exchange must ensure that business conducted by means of its facilities is conducted in an orderly manner and so as to afford proper protection to investors. The exchange must: (a) limit dealings on the exchange to investments in which there is a proper market; and (b) where relevant, require issuers of investments dealt in on the exchange to comply with such obligations as will, so far as possible, afford to persons dealing in the investments proper information for determining their current value. <sup>66</sup> The exchange must either have its own arrangements for ensuring the performance of transactions effected on the exchange or ensure their performance by means of services provided under the clearing arrangements made by it with a recognized clearing house. The

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	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
<p><i>Exchange (LME)</i></p> <p><i>OM London Exchange (OM London) (formerly the London Securities and Derivatives Exchange)</i></p>		<p>form, and (c) particulars of any arrangements which the applicant has made or proposes to make for the provision of clearing services. The Secretary of State, may, on an application duly made and after being furnished with all such information as he may require in connection with the application, make or refuse to make an order (a “recognition order”) declaring the applicant to be a recognized investment exchange for the purposes of the FS Act. The Secretary of State may make a recognition order if it appears to him from the information furnished by the exchange, and having regard to any other information in his possession, that the requirements in the FS Act are satisfied. Where the Secretary of State refuses an application for a recognition order he shall give the applicant a written notice to that effect stating the reasons for the refusal. A recognition order shall state the date on which it takes effect.<sup>65</sup></p>	<p>exchange must either itself have or secure the provision on its behalf of satisfactory arrangements for recording the transactions effected on the exchange.</p> <p><u>Monitoring and Enforcement.</u> The exchange must have adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules and any clearing arrangements made by it. The arrangements for monitoring may make provision for that function to be performed on behalf of the exchange (and without affecting its responsibility) by any other body or person who is able and willing to perform it.</p> <p><u>Investigation of Complaints.</u> The exchange must have effective arrangements for the investigation of complaints in respect of business transacted by means of its facilities.</p> <p><u>Promotion and Maintenance of Standards.</u> The exchange must be able to promote and maintain high standards of integrity and fair dealing in the carrying on of investment business and to cooperate, by sharing of information and otherwise, with the Secretary of State and any other authority, body or person having responsibility for the supervision or regulation of investment business or other financial</p>

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			<p>services.<sup>67</sup></p> <p><u>Default Rules.</u> An exchange must have default rules, which, in the event of a member of the exchange appearing to be unable to meet his obligations in respect of one or more market contracts, enable action to be taken in respect of unsettled market contracts to which he is a party. The default rules must meet the requirements set out in Schedule 21 of the Companies Act 1989.</p> <p>Before a recognition order is made in respect of an investment exchange, the Secretary of State must be satisfied that the rules and any guidance furnished with the application for the order, together with any arrangements of which particulars are furnished with the application, do not have, and are not intended to have, to any significant extent, the effect of restricting, distorting or preventing competition or, if they have or are intended or likely to have that effect to any significant extent, that the effect is not greater than is necessary for the protection of investors.<sup>68</sup></p>

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<sup>1</sup> Note that the provisions of European Union law are applicable in all member states of the European Union (France, Germany, Italy, Spain and the United Kingdom being covered in these tables). Pursuant to the Investment Services Directive (Directive No. 93/22, Official Journal L 141, 11/6/93 pp. 27 -146), as amended (the "ISD"), the member states of the European Union became obligated to transpose into their national law specific rules regarding the authorization and operation of an exchange (that is, a regulated market) in a member state. Pursuant to the ISD, the home state of an exchange is the member state in which the body that operates the exchange has its registered office, or if under its national law, it has no registered office, in the member state in which its head office is located. Each exchange must be authorized by its home member state (the "Exchange Member State"). Each member state must submit to the other member states and to the European Commission (the primary executive institution of the European Union) a list of the exchanges for which it is the home Exchange Member State and which must comply with its regulations, together with the relevant rules of procedure and operation of those exchanges. A similar submission must be made in respect of each change to such list or rules. The European Commission then publishes annually a list of all exchanges authorized in the European Union. Note that the foregoing rules do not apply to commodity exchanges, however. Authorization of commodity exchanges is excluded from the scope of the ISD. (Arts. 15 [1], 16, ISD).

Each Exchange Member State must ensure that an investment firm authorized to execute orders other than for own account, or to deal in instruments covered by the ISD for own account, in another member state ("Non-Exchange Member State") can, either directly or indirectly, become a member of or have access to the exchanges in the Exchange Member State where similar services are provided and also become members of or have access to the clearing and settlement systems which are provided for the members of such exchanges there (Art. 15 [1], ISD). Membership of or access to an exchange is conditional upon the investment firm's (of the Non-Exchange Member State) compliance with the capital adequacy requirements under the Capital Adequacy Directive (Directive No. 93/6, Official Journal L 141, 11/6/93 pp. 1 -26), as amended ("CAD"). Such an investment firm's home state (that is, the Non-Exchange Member State) supervises the investment firm's compliance with the CAD. Access to an exchange, admission to membership thereof, and continued access or membership are subject to the investment firm's compliance with the rules relating to transactions on the exchange, with the professional standards imposed on staff operating on or in conjunction with the exchange, and with the rules and procedures for clearing and settlement. The detailed arrangements for implementing these rules and procedures may be adapted as appropriate, *inter alia*, to ensure fulfillment of the ensuing obligations (*e.g.*, with respect to clearing and settlement) of the investment firms of the Non-Exchange Member State. (Art. 15 [2], ISD).

An Exchange Member State must offer authorized investment firms from Non-Exchange Member States the choice of becoming members of or having access to its exchanges either (a) directly, by setting up branches in the Exchange Member State or (b) indirectly, by setting up subsidiaries in the Exchange Member State or by acquiring firms in the Exchange Member State that are already members of its exchanges or have access thereto. (Art. 15 [3], ISD). Where an exchange operates in an Exchange Member State without any requirement for a physical presence (*e.g.*, a screen-based system) the investment firms from Non-Exchange Member States may become members of or have access to it on the same basis without having to be established (that is, without having to set up a branch) in the Exchange Member State. In order to enable investment firms from a Non-Exchange Member State to become members of or have access to the exchanges of the Exchange Member State, a Non-Exchange Member State must allow the exchanges of the Exchange Member State to provide appropriate facilities (*e.g.*, screens or order-routing systems) within the Non-Exchange Member State. (Art. 15 [4], ISD).

In order to enable investors to assess at any time the terms of a transaction they are considering and to verify afterwards the conditions under which it has been carried out, the competent authority designated in the Exchange Member State (which may be a public authority, a body recognized by national law or a body recognized by public authorities expressly empowered for that purpose by national law) must take measures to provide investors with the information specified in the directive (relating generally to prices and trading volume). The competent authority determines the form in which and the precise time within which such

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information is to be provided, as well as the means by which it is to be made available, having regard to the nature, size and needs of the exchange and of the investors operating on that market. (Art. 21, ISD).

Note that the definitions in this summary are used for convenience, that the provisions of the ISD apply to all member states reciprocally, and that a member state may be an Exchange Member State with respect to the exchanges it has authorized and a Non-Exchange Member State with respect to exchanges authorized by other member states.

Lastly, note that the provisions of the ISD regarding exchange authorization, and membership in or access to an exchange, do not determine the laws, regulations, rules of conduct, or other requirements imposed in the general good that may be applicable to the relationship between an investment firm and its customer.

<sup>2</sup> Note that the Australian Stock Exchange has made an offer to merge with the Sydney Futures Exchange. However, the Sydney Futures Exchange has not yet responded to this offer.

<sup>3</sup> Sections 1123, 1126, Australia Corporations Law (“ACL”). The Australian legislative scheme allows two types of futures markets: (i) a futures exchange, a public market to which retail participants have access, and (ii) an exempt futures market, a market confined to qualified participants. *See* Responses to Question 1.c., Survey of Requirements Imposed by Market Authorities on the Terms and Conditions of Commodity Contracts, London Commodity Futures Market Conference, London, June 1997 (“London Survey”). Both types of markets are subject to the authorization requirement. *See* CFTC Regulation of Over-The-Counter Derivatives Transactions Survey 1999 (“OTC Survey”), at p. 11. Four types of futures contracts are regulated under the Australian Corporation Law (a) an eligible commodity agreement, a contract over a commodity which is capable of delivery on settlement (*e.g.*, a physical commodity), (b) an adjustment agreement (contract for differences), an agreement based on an underlying thing that is not capable of delivery (*e.g.*, an index), (c) a futures option, an option on an eligible commodity agreement or an adjustment agreement, and (d) an eligible-exchange traded option. OTC Survey, at p. 1. Note also that Australia distinguishes between securities exchanges and futures exchanges within the regime set out in the ACL (Chapter 7 governing securities and Chapter 8 governing the futures industry). The current regime governing the approval and regulation of new markets in Australia is being reviewed. Proposals for a complete re-writing of the applicable legislation are well advanced. The principal changes under the proposed legislation include: (a) the removal of distinctions between securities markets and futures markets, (b) the removal of distinctions between exchange and non-exchange markets, (c) the clear articulation of regulatory standards that market operators must meet continuously, and (d) the creation of a separate regime for the regulation of clearing and settlement facilities. *See* FSA Discussion Paper on *Developments in Trading Patterns – Cross-Border Markets and Market Consolidation: A Discussion Starter*.

<sup>4</sup> Responses to Question 1.b., London Survey.

<sup>5</sup> Responses to Question 7, Screen-Based Derivatives Trading: IOSCO Survey 1999 (“IOSCO Survey”).

<sup>6</sup> Responses to Question 1.c., London Survey, citing § 1126 (2), ACL. Also note that in considering applications for exempt futures markets, the ASIC considers the need for (a) commercial certainty, (b) investor protection, and (c) the conduct of fair, orderly, or efficient markets. Responses to Question 1.c., London Survey.

<sup>7</sup> Responses to Question 8, IOSCO Survey.

<sup>8</sup> Both financial futures and commodity futures are traded on this exchange.

<sup>9</sup> Art. 41, Financial Activity Modernization Act 96-597 of 2 July 1996 (“FAM”).

<sup>10</sup> Art. 4-1-1, General Regulations of the CMF.

<sup>11</sup> Art. 4-1-2, General Regulations of the CMF.

<sup>12</sup> Art. 4-1-3, General Regulations of the CMF.

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<sup>13</sup> “Financial instruments” include shares and other securities, debt securities, units or shares in collective investment undertakings, and financial futures. Art. 1, FAM. “Financial futures” include financial futures and forward contracts involving any bills, securities, indices or currencies, including equivalent cash-settled instruments; forward interest-rate agreements; swaps; commodities futures and forwards; and options to acquire or dispose of other financial instruments. Art. 3, FAM.

<sup>14</sup> Art. 42 (I), FAM.

<sup>15</sup> Art. 32, FAM; Art. 4, General Regulations of the CMF.

<sup>16</sup> Art. 4-1-2, General Regulations of the CMF.

<sup>17</sup> Section 1, Exchange Act (Börsengesetz) of 17 July 1996 (“Exchange Act”). For example, the Eurex Deutschland exchange is located in the state of Hesse and is supervised by the Hessian Exchange Supervisory Authority. See the Hessian Exchange Supervisory Authority homepage, <http://www.boersenaufsicht.de/engli.htm> (“Hessian Homepage”). Note that the Exchange Act governs both securities exchanges and commodity exchanges. A securities exchange is an exchange on which securities, financial derivatives, foreign currencies or units of account are traded. Section 1 (5), Exchange Act. A commodity exchange is an exchange on which commodities, precious metals or commodity derivatives are traded. Section 1 (6), Exchange Act. Securities are shares, certificates representing shares, bonds, participation certificates, warrants and other securities comparable to shares or bonds. Section 2 (1), Securities Trading Act (Wertpapierhandelsgesetz). Financial derivatives are (a) forward transactions in the form of a firm transaction or options transactions whose price directly or indirectly depends on (i) the exchange or market price of securities, (ii) the exchange or market price of money-market instruments, or (iii) interest rates or other returns, or (b) forward exchange transactions which are effected on an organized market (foreign exchange futures transactions), foreign exchange option transactions, currency swap transactions, foreign exchange swap option transactions, or foreign exchange futures option transactions. Section 2 (2), Securities Trading Act. Commodity derivatives are derivatives relating to the exchange or market price of goods or precious metals. Section 2 (2) 1. d), Securities Trading Act. The Exchange Act includes certain provisions applicable to commodity exchanges only.

<sup>18</sup> Section 4 (4), Exchange Act.

<sup>19</sup> Section 3 (5), Exchange Act.

<sup>20</sup> Sections 1, 1b, and 4, Exchange Act. See also Responses to Question 1.c., London Survey.

<sup>21</sup> Sections 1, 1b, and 4, Exchange Act. See also Responses to Question 1.c., London Survey.

<sup>22</sup> Section 3 (1), Exchange Act.

<sup>23</sup> Section 3 (2), Exchange Act.

<sup>24</sup> Section 3c, Exchange Act.

<sup>25</sup> Section 1b, Exchange Act.

<sup>26</sup> Art. 63, Legislative Decree 58 of 24 February 1998 (“Testo Unico”), superseding Art. 48, Legislative Decree 415 of 23 July 1996 (“ISD Decree”). Note that the Minister of the Treasury has jurisdiction and authority (i) after consulting Consob, to adopt regulations establishing the integrity and experience requirements for persons performing administrative, managerial or control functions in an exchange management company, (ii) after consulting Consob, to adopt regulations establishing integrity and experience requirements for persons participating in the capital of an exchange management company, and (iii) after consulting the Bank of Italy and Consob, to specify the characteristics of wholesale trading of financial instruments with a view to the application of the provisions of the Testo Unico. Arts. 61 (3), (5) and (10), Testo Unico.

<sup>27</sup> Art. 63 (3), Testo Unico.

<sup>28</sup> Responses to Question 8, IOSCO Survey.

<sup>29</sup> Responses to Question 1.a., London Survey. Responses to Question 9, IOSCO Survey. Arts. 61-63, Testo Unico, superseding Arts. 46-48, ISD Decree.

<sup>30</sup> Response to Question 8, IOSCO Survey.

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<sup>31</sup> “Financial instruments” means (a) shares and other securities representing equity capital negotiable on the capital market; (b) bonds, government securities and other debt securities negotiable on the capital market; (c) units in collective investment undertakings; (d) securities normally dealt in on the money market; (e) any other security normally dealt in giving the right to acquire the instruments referred to above and related indices; (f) futures contracts on financial instruments, interest rates, foreign currencies, commodities and related indices, including contracts where execution involves the payment of differential amounts in cash; (g) swaps on interest rates, foreign currencies, commodities and stock indices (equity swaps), including contracts where execution involves the payment of differential amounts in cash; (i) options to acquire or dispose of instruments referred to above and related indices, as well as options on foreign currencies, interest rates, commodities and related indices, including contracts where execution involves the payment of differential amounts in cash; and (j) combinations of the contracts and securities referred to above. Art. 1 (1), Testo Unico, superseding Art. 1 (1), ISD Decree.

<sup>32</sup> Art. 62, Testo Unico, superseding Art. 47, ISD Decree.

<sup>33</sup> Note that pursuant to a Memorandum of Agreement dated 15 March 1999, the Alberta Stock Exchange (“ASE”), the Montreal Exchange (“ME”), the Toronto Stock Exchange (“TSE”) and the Vancouver Stock Exchange (“VSE”) agreed jointly to carry out a restructuring program designed to restructure the trading facilities and services which they provide. As of the earliest possible date, each exchange will exclusively provide trading facilities and services in a single market sector as follows (a) the ME, all exchange traded derivative products, comprising (without limitation) any type of option and futures contracts, including options and futures on index participation units, (b) the TSE, all senior securities, other than exchange-traded derivatives products, including (without limitation) stocks, rights, convertible debentures, trust and limited partnership units, warrants, bonds and mutual fund securities and other products commonly traded on the cash market, including index participation units (senior securities means all securities that qualify for listing on the TSE), (c) the ASE/VSE, all junior securities, other than exchange-traded derivatives products, being defined as the securities of all other issuers, including (without limitation) stocks, rights, convertible debentures, trusts and limited partnership units, warrants, bonds, mutual fund securities and other products commonly traded on the cash market, including junior securities under participation units. Instruments currently issued on the ME that do not qualify for listing on the TSE will be transferred to the ASE/VSE. Note that the primary physical commodity exchange in Canada is the Winnipeg Commodity Exchange. The Winnipeg Commodity Exchange is currently regulated pursuant to Canadian federal law, but regulatory authority will soon pass to the Province of Manitoba, specifically, to the Manitoba Securities Commission. Note that Canada and its provinces are in the process of reviewing their securities and futures laws and that the organization of the supervision of exchanges may change.

<sup>34</sup> Section 19.(1), Commodity Futures Act (Ontario). “Commodity” under the Commodity Futures Act means, whether in the original or a processed state, any agricultural product, forest product, product of the sea, mineral, metal, hydrocarbon fuel, currency or precious stone or other gem, and any goods, article, service, right or interest, or class thereof, designated as a commodity under the regulations adopted pursuant to the act. Section 1, Commodity Futures Act (Ontario). “Commodities” under the regulations adopted pursuant to the Ontario Commodity Futures Act are defined to include (a) US Ginnie Maes, (b) treasury bills, bonds and other evidences of indebtedness of the government of any country or of a political subdivision thereof, (c) commercial paper of companies incorporated in the USA rated A-1 by the S & P and P-1 by Moody’s, (d) equity securities deliverable under a contract providing for the future delivery of equity securities traded on a commodity futures exchange registered by the OSC under the CFA, (e) interests that are cash values deliverable under futures contracts traded on a commodity futures exchange, the amounts of which are determined with reference to (i) indices of rates of interest, (ii) indices of prices or values, pertaining to any commodities, goods, articles, services, rights or interests or any combination thereof, (iii) a rate of interest, or (iv) an average of quotations for a rate of interest for a series of rates of interest, and (f) interests that are cash values deliverable under contracts traded on a commodity futures exchange, the amounts of which are determined with reference to values of commodities. Section 2, Commodity Futures Act Regulations. Note also that Ontario maintains a separate regime for securities exchanges. *See* Securities Act (Ontario) and the regulations thereunder. “Securities” under the Securities Act (Ontario) include, among other instruments, equities and equity options. Section 1 (1), Securities Act (Ontario).

<sup>35</sup> Responses to Question 1, IOSCO Survey.

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<sup>36</sup> Section 19.(3), Commodity Futures Act (Ontario).

<sup>37</sup> Section 19.(2), Commodity Futures Act (Ontario). *See also* Responses to Question 9, IOSCO Survey.

<sup>38</sup> Section 20.(2), Commodity Futures Act (Ontario).

<sup>39</sup> Section 169, Québec Securities Act. The Québec Securities Act applies to the following forms of investment (a) any security recognized as such in the trade, more particularly, a share, bond, capital stock of an incorporated entity, subscription right or option to purchase, (b) an instrument, other than a bond, evidencing a loan of money, (c) a deposit of money, whether or not evidenced by a certificate, except a deposit received by the government of Québec, the government of Canada, or one of their departments or agencies, (d) an option or a negotiable futures contract pertaining to securities, or a Treasury bond futures contract, (e) an option on a commodity futures contract or financial instrument futures contract, (f) a share in an investment club, (g) an investment contract, (h) any option negotiable on an organized market, and (i) any form of investment determined by regulation. Section 1, Québec Securities Act.

<sup>40</sup> Section I.A.1.c., International Regulation of Derivative Markets, Products and Financial Intermediaries, IOSCO (1997) (“Collated Summary”).

<sup>41</sup> Section 175, Québec Securities Act.

<sup>42</sup> Section 174, Québec Securities Act. Section I.A.1.c., Collated Summary.

<sup>43</sup> Sections 3, 4 (2), Futures Trading Act.

<sup>44</sup> Responses to Questions 1.a. and 1.b., London Survey, citing Sections 4 and 5 of the Singapore Commodity Futures Act.

<sup>45</sup> Responses to Question 8, IOSCO Survey.

<sup>46</sup> Section 4(3), Futures Trading Act.

<sup>47</sup> Section 5, Commodity Futures Act.

<sup>48</sup> Section 4(2), Futures Trading Act. *See also* Responses to Question 9, IOSCO Survey.

<sup>49</sup> Responses to Question 1.c., London Survey, citing Sections 6 and 7 of the Commodity Futures Act.

<sup>50</sup> Arts. 2 (1.), 21, Royal Decree 1814/1991 of 20 December 1991 on the Regulation of Official Futures and Options Exchanges (“Royal Decree”).

<sup>51</sup> Art. 2 (1.), Royal Decree.

<sup>52</sup> Art 21, Royal Decree.

<sup>53</sup> Art. 25 (1.), Royal Decree.

<sup>54</sup> Art. 2 (2.), Royal Decree.

<sup>55</sup> Art. 3 (3.), Royal Decree.

<sup>56</sup> Art. 3 (2.), Royal Decree.

<sup>57</sup> Art. 22, Royal Decree.

<sup>58</sup> Under Swiss law, a “stock exchange” is any organization which is set up for the purpose of securities trading and which enables the simultaneous exchange of offers of securities among a number of securities dealers as well as execution of transactions. Art. 2, ¶ b, Federal Act on Stock Exchanges and Securities Trading of 24 March 1995 (“SESTA”). “Securities” means standardized certificates that are suitable for mass trading, rights not represented by a certificate with similar functions (book-entry securities) and derivatives. Art. 2, SESTA. Derivatives are defined as financial contracts whose price is derived from: (a) assets such as shares, bonds, commodities, precious metals, and (b) reference values such as currencies, interest rates and indices. Art. 5, Ordinance on Stock Exchanges and Securities Trading of 2 December 1996 (“SESTO”). The Swiss Federal Council (the executive branch of the Swiss federal government) may subject organizations which are similar to exchanges, in whole or in part, to SESTA or may exempt certain exchanges or similar organizations from the application of SESTA whenever justified by the objectives of such act. Art. 3, ¶ 4, SESTA. The Swiss Federal Council has delegated the Federal Banking Commission authority to decide whether institutions which are similar to stock exchanges shall be subjected to the provisions of SESTA in whole or in part. Art. 16, SESTO.

<sup>59</sup> Art. 4, ¶ 2, SESTA.

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<sup>60</sup> Art. 3, ¶ 2, SESTA.

<sup>61</sup> Arts. 1, 5 ¶ 1, SESTA.

<sup>62</sup> Arts. 4 ¶ 1 and 6, SESTA, and Arts. 8 and 11, SESTO.

<sup>63</sup> Art. 13 ¶ 1, SESTO.

<sup>64</sup> Recognition as an exchange exempts the exchange from the requirement to obtain an authorization to carry on investment business in the United Kingdom as respects anything done in its capacity as such. Sections 3, 36-37 Financial Services Act of 1986, as amended ("FS Act"). *See also* Responses to Question 1.a., London Survey. Investments in the United Kingdom include shares, debentures, government and public securities, certificates representing share, units in collective investment schemes, futures (with respect to commodities or any other property of any kind, but excluding contracts made for investment purposes), contracts for differences, and long term insurance contracts. Schedule I, Part I, FS Act. Activities constituting investment business include dealing in securities, arranging deals in investments, managing investments, and investment advice. Schedule I, Part II, FS Act. Note that a bill entitled *Financial Services and Markets Bill* was filed in the British House of Commons on 17 June 1999. If adopted, this bill would largely supercede the FS Act.

<sup>65</sup> Section 37, FS Act.

<sup>66</sup> In the case of securities to which the official listing rules apply, compliance by the stock exchange with the official listing rules are deemed to be compliance with the above requirements. Schedule 4, Section 2 (3), FS Act.

<sup>67</sup> Schedule 4, Sections 1-5, FS Act.

<sup>68</sup> Section 119, FS Act.

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<u>Country</u>	<i>Table 2 - Exchange Rule Amendment</i>		
	<i>Is approval required? If so, by whom?</i>	<i>What is the procedure for obtaining approval?</i>	<i>What legal standard is applicable?</i>
<i>Australia</i>	Yes, the Treasurer can disallow a proposed rule amendment to the exchange rules. <sup>1</sup>	<p>To obtain authorization for a new rule (after the approval/review of the initial exchange rules) or a rule amendment (<i>both considered a rule amendment for purposes of this table</i>), the exchange must submit an application in the first instance to the ASIC. The ASIC reviews the application and the rule amendment and advises the Treasurer concerning the application. The Treasurer makes the final decision whether or not to grant the application to amend the business rules.<sup>2</sup></p> <p>The exchange typically submits proposed rule amendments to the ASIC for prior review. Once agreement is reached between the ASIC and the exchange, the exchange provides a formal notification of the proposed amendment to the ASIC and the Treasurer (which has the formal decision-making responsibility). The Treasurer has 28 days from the date the ASIC formally receives the proposed amendment to disallow the amendment.<sup>3</sup></p>	<p>The criteria that are applied with respect to the consideration of the initial business rules are also applied in the consideration of rule amendments.</p> <p><i>See Table 1.</i></p>
<i>France</i>	Yes, authorization is required by a Decree of the Minister for Economic Affairs and Finance on the recommendation of the	Material amendments to exchange rules must be notified to the CMF, the COB and the <i>Banque de France</i> . The CMF decides on the compatibility of the amendments with the recognition granted under Article 41 of the FAM, informs the COB and the <i>Banque de</i>	<p>The criteria that are applied with respect to the consideration of the initial business rules are also applied in the consideration of rule amendments.</p> <p><i>See Table 1.</i></p>

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<u>Country</u>	<i>Table 2 - Exchange Rule Amendment</i>		
	<i>Is approval required? If so, by whom?</i>	<i>What is the procedure for obtaining approval?</i>	<i>What legal standard is applicable?</i>
	CMF after consulting the COB and the <i>Banque de France</i> . <sup>4</sup>	<i>France</i> of its decision and refers any incompatibility to the Minister for Economic Affairs and Finance. In the event of disagreement regarding the decision of the CMF, the COB or the <i>Banque de France</i> may appeal to the Minister for Economic Affairs and Finance within 15 days of the notification of the CMF's decision. <sup>5</sup> The CMF makes a decision concerning the proposed rule amendment within one month of its submission or, if applicable, the submission of such related information as the CMF has demanded. <sup>6</sup> Decisions of the CMF approving exchange rule amendments are published in its Official Bulletin along with the rule amendments that have been approved. <sup>7</sup>	
<i>Germany</i>	Yes, amendments to the exchange rules are subject to approval by the Exchange Supervisory Authority. <sup>8</sup>	The Exchange Supervisory Authority and the exchange's representatives co-ordinate the respective rules and regulations before new legal provisions are drafted or existing provisions are amended in order to facilitate effective implementation of the respective rules and regulations. <sup>9</sup>	The criteria that are applied with respect to the consideration of the initial business rules are also applied in the consideration of rule amendments. The Exchange Supervisory Authority reviews the rule amendments to ensure that they are in keeping with the higher provisions of exchange law. <sup>10</sup>  <i>See Table 1.</i>

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<u>Country</u>	<i>Table 2 - Exchange Rule Amendment</i>		
	<i>Is approval required? If so, by whom?</i>	<i>What is the procedure for obtaining approval?</i>	<i>What legal standard is applicable?</i>
<i>Italy</i>	Yes, Consob must approve amendments to the exchange rules. <sup>11</sup>	The exchange must submit all rule amendments to Consob. <sup>12</sup>	The criteria that are applied with respect to the consideration of the initial business rules are also applied in the consideration of rule amendments.  <i>See Table 1.</i>
<i>Province of Ontario, Canada</i>	Yes, amendments to the exchange rules must be filed with the OSC. <sup>13</sup>	Every commodity futures exchange in Ontario and its clearing house must file with the OSC all by-laws, rules, regulations and policies as soon as practicable and in any event within 5 days of the date on which the by-law, rule, regulation or policy is approved by the board of directors of the commodity futures exchange or its clearing house and prior to its approval by the membership of the commodity futures exchange or clearing house. <sup>14</sup>  By memorandum of understanding ( <i>see</i> Table 1), only bylaws, policies, rules, procedures, <i>etc.</i> , that are identified as in the public interest require approval by the OSC. By-laws, policies, rules, procedures, <i>etc.</i> , that are identified as non-public interest are published, but do not need formal approval. <sup>15</sup>	The criteria that are applied with respect to the consideration of the initial business rules are also applied in the consideration of rule amendments.  <i>See Table 1.</i>
<i>Province of Québec, Canada</i>	Yes, amendments must be submitted to the CVMQ for approval. <sup>16</sup> An amendment to an exchange rule is deemed	After an exchange has been recognized, every draft amendment to its constituting documents, by-laws or operating rules must be submitted to the CVMQ for approval. <sup>18</sup>	The criteria that are applied with respect to the consideration of the initial business rules are also applied in the consideration of rule amendments. The CVMQ may at any time in its discretion determine to suspend, in the manner it deems

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<u>Country</u>	<i>Table 2 - Exchange Rule Amendment</i>		
	<i>Is approval required? If so, by whom?</i>	<i>What is the procedure for obtaining approval?</i>	<i>What legal standard is applicable?</i>
	approved 30 days after its submission to the CVMQ (or after the lapse of such other period as the CMVQ and the exchange agree) unless the CVMQ advises the exchange that it is calling a public hearing to receive observations regarding the soundness of the proposed amendment. <sup>17</sup>		appropriate, the application of an internal rule or an operating rule of an exchange. <sup>19</sup>  The CVMQ may also order an exchange to modify its constituting documents, its internal rules, or its operating rules to the extent necessary to cause such documents to conform to applicable law or regulations. <sup>20</sup>
<i>Singapore</i>	<u>Futures Exchange</u>  Notice of a proposed amendment to the business rules of a futures exchange must be given to the MAS; the MAS has a right to disallow the amendment within 28 days after the receipt of the notice of the proposed amendment. <sup>21</sup>	<u>Futures Exchange</u>  Where an amendment is made by way of rescission, substitution, alteration or addition to the business rules of a futures exchange or clearing house, the exchange or clearing house, as the case may be, shall forthwith forward written notice thereof to the MAS giving the text of the amendment, the date on which it was made, and an explanation of the purpose of the amendment. If the required notice is not given within 10 days after the making of the amendment, the amendment ceases to have force and effect. The MAS, may, within 28 days after the receipt of the notice of the	<u>Futures Exchange</u>  The criteria that are applied with respect to the consideration of the initial business rules are also applied in the consideration of rule amendments.  <i>See Table 1.</i>  The MAS also has the power on its own motion, by notice in writing to the futures exchange, to alter or supplement the business rules of a futures exchange if it considers such action is necessary for the protection of traders or to ensure fair dealing in the market. <sup>23</sup>

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<u>Country</u>	<i>Table 2 - Exchange Rule Amendment</i>		
	<i>Is approval required? If so, by whom?</i>	<i>What is the procedure for obtaining approval?</i>	<i>What legal standard is applicable?</i>
	<p><u>Commodity Futures Exchange</u></p> <p>The business rules of a commodity futures exchange and any amendments to these rules require the approval of the Board of Directors of the exchange and by the STDB.</p>	<p><u>Commodity Futures Exchange</u></p> <p>A proposed amendment to the business rules of an exchange is first considered by the relevant Committee of the exchange, and is subsequently approved by the exchange's Board of Directors. Thereafter, the STDB's approval of the proposed rule amendment must be obtained.</p>	<p><u>Commodity Futures Exchange</u></p> <p>The criteria that are applied with respect to the approval of the initial business rules are also applied in the consideration of rule amendments.</p>
<i>Spain</i>	<p>An amendment to the rules of an official futures exchange or an official commodities (citrus) exchange requires the authorization of the Minister of Economy and Finance upon a proposal from the CNMV.<sup>24</sup></p>	<p>The CNMV will consider making a proposal to the Minister of Economy and Finance to approve an amendment to the rules of an official futures exchange or an official commodity (citrus) exchange upon application by the exchange management. Applicants must submit the proposed amendment and an explanatory memorandum to the CNMV, which must collect all the documents required and send a positive report to the Minister.<sup>25</sup></p>	<p>An amendment to an exchange rule must comply with the requirements applicable to the approval of the initial exchange rules.<sup>27</sup></p>

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<u>Country</u>	<i>Table 2 - Exchange Rule Amendment</i>		
	<i>Is approval required? If so, by whom?</i>	<i>What is the procedure for obtaining approval?</i>	<i>What legal standard is applicable?</i>
		No authorization is required for modifications to comply with legal rules or regulations, or judicial or administrative orders, and for other modifications for which authorization is deemed unnecessary by the CNMV, after previous consultation with the exchange, due to their minor relevance. But, any such amendment must be notified to the CNMV within two working days of its adoption. <sup>26</sup>	
<i>Switzerland</i>	Yes, approval of amendments to exchange regulations is required by the Federal Banking Commission. <sup>28</sup>	A stock exchange must submit any amendments of its regulations to the Federal Banking Commission for approval. <sup>29</sup>	The criteria that are applied with respect to the consideration of the initial business rules are also applied in the consideration of rule amendments.  <i>See Table 1.</i>
<i>United Kingdom</i>	No. No prior approval of exchange rule amendments is required, except as explained below. However, the exchange must give notice to the Secretary of State of any amendment, revocation or addition to (i) an exchange rule or (ii) to a guidance which is intended to have continuing effect issued by the exchange in	Notice of an amendment, revocation or addition to (i) an exchange rule or (ii) to a guidance (as indicated) must be given to the Secretary of State within 7 days of its adoption. <sup>31</sup>	The criteria that are applied with respect to the consideration of the initial business rules are also applied in the consideration of rule amendments.  <i>See Table 1.</i>

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<u>Country</u>	<i>Table 2 - Exchange Rule Amendment</i>		
	<i>Is approval required? If so, by whom?</i>	<i>What is the procedure for obtaining approval?</i>	<i>What legal standard is applicable?</i>
	written form. An exchange is required to give at least 14 days notice to the Secretary of State of any proposal to amend, renew, revoke or add to its default rules. <sup>30</sup>		

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- <sup>1</sup> Responses to Question 8, IOSCO Survey.
- <sup>2</sup> Responses to Question 4.g., London Survey.
- <sup>3</sup> Response to Question 4.d., London Survey. Section 1136 (1) - (6), ACL.
- <sup>4</sup> Art. 41, FAM.
- <sup>5</sup> Art. 42 (I), FAM; Art. 4-1-4, General Regulations of the CMF.
- <sup>6</sup> Art. 4-1-4, General Regulations of the CMF.
- <sup>7</sup> Art. 4-1-6, General Regulations of the CMF.
- <sup>8</sup> See 1998 Annual Report of the Hessian Exchange Supervisory Authority (“Hessian Annual Report”), section titled *Approval of Amendments to the Exchanges’ Rules and Regulations*, at <http://www.boersenaufsicht.de/jb981.htm> at p. 6.
- <sup>9</sup> See Hessian Annual Report, section titled *Approval of Amendments to the Exchanges’ Rules and Regulations*, at p. 6.
- <sup>10</sup> See Hessian Annual Report, section titled *Approval of Amendments to the Exchanges’ Rules and Regulations*, at p. 6.
- <sup>11</sup> Art. 63 (2), Testo Unico, superceding Art. 48 (2), ISD Decree.
- <sup>12</sup> Responses to Question 8, IOSCO Survey.
- <sup>13</sup> Sections 20.(1), 20.(2), Commodity Futures Act (Ontario).
- <sup>14</sup> Section 20.(1), Commodity Futures Act (Ontario).
- <sup>15</sup> Responses to Question 8, IOSCO Survey.
- <sup>16</sup> Section I.A.1.c., Collated Summary.
- <sup>17</sup> Section 178, Québec Securities Act.
- <sup>18</sup> Section I.A.1.c., Collated Summary.
- <sup>19</sup> Section 179, Québec Securities Act.
- <sup>20</sup> Section 180, Québec Securities Act.
- <sup>21</sup> See Sections 6, Futures Trading Act.
- <sup>22</sup> Section 6, Futures Trading Act. See also Responses to Question 8, IOSCO Survey.
- <sup>23</sup> Sections 6 (4), Futures Trading Act. See also Responses to Question 9, IOSCO Survey.
- <sup>24</sup> Arts. 4 (1.), 2 (1.), 21 Royal Decree.
- <sup>25</sup> Arts. 4 (1.), 2 (1.), Royal Decree.
- <sup>26</sup> Arts. 4 (2.), Royal Decree.
- <sup>27</sup> See Arts. 2, 3, 4, 21, 22, Royal Decree.
- <sup>28</sup> Art. 4, ¶ 2, SESTA.
- <sup>29</sup> Art. 4, ¶ 2, SESTA.
- <sup>30</sup> Arts. 41 (5), (7), FS Act.
- <sup>31</sup> Art. 41 (5), FS Act.

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<i>Country</i>	<i>Table 3 - Contract Authorization</i>		
	<i>What is required for contract authorization? (e.g., no requirements, specific approval, notice with right to object, etc.)</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
<i>Australia</i>	<p>Contract terms and specifications form part of the business rules of a futures exchange in Australia. Approval of the terms and specifications of the initial futures contracts traded on the exchange occurs as a part of the process of authorizing the exchange.<sup>1</sup></p> <p>Under the business rules of the Sydney Futures Exchange (“SFE”) (agreed with the ASIC and approved by the Treasurer) for SFE’s trading of Individual Share Futures, SFE may begin trading in new</p>	<p>The procedure to amend the business rules of an exchange is set out in Table 2.</p>	<p>There are no express standards or requirements in the ACL relating to the approval process for futures contracts. However, a futures exchange is under a general obligation to ensure a fair and orderly market.<sup>3</sup></p> <p>The ASIC has developed internal evaluation criteria to assess a futures contract to determine whether to recommend the approval/disallowance of the corresponding changes to the business rules of the futures exchange to the Treasurer.<sup>4</sup></p> <p>Before recommending a commodity contract to the Treasurer, the ASIC utilizes contract market designation criteria similar to those utilized by the CFTC in addition to ASIC’s usual criteria. The ASIC considers, among other things, whether (a) the contract would be used primarily for the purpose of hedging or performing the function of price discovery, (b) there would be adequate supply of the physical commodity to satisfy any short position and to minimize the possibility of manipulation occurring, (c) delivery points and</p>

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<i>Country</i>	<i>Table 3 - Contract Authorization</i>		
	<i>What is required for contract authorization? (e.g., no requirements, specific approval, notice with right to object, etc.)</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
	<p>Individual Share Futures contracts that meet the approved parameters of the business rules, without seeking an amendment of those business rules.<sup>2</sup></p> <p>The admission of other kinds of new contracts to trading on the exchange requires an amendment to the business rules and is subject to a disallowance by the Treasurer as described in Table 2.</p>		<p>quality differentials have been selected on a basis which would minimize the risk of manipulation without detracting from the appeal of the contract to potential users, and (d) ‘Approved Warehouses’ and testing and appraisal organizations can demonstrate their independence from other market participants. The ACIS also considers whether or not there are appropriate procedures in place to monitor the quantity of commodity available, the price in the cash market and trades in the futures market.</p> <p>The ASIC does not expressly determine the ‘economic utility’ of a commodity contract, as such, but in developing commodity contracts the SFE conducts considerable research into the relevant industry. The results of this research are provided to the ASIC through the approval/disallowance process and include (a) research obtained from members and industry participants to determine whether products are required; (b) analysis of the cash market to determine the potential for a futures contract (indicators include changes to pricing structures or</p>

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<i>Country</i>	<i>Table 3 - Contract Authorization</i>		
	<i>What is required for contract authorization? (e.g., no requirements, specific approval, notice with right to object, etc.)</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
			<p>regulation of pricing which may introduce price risk); (c) who is bearing the increased risk and whether it is an appropriate place for that risk; (d) whether there is a large number of potential participants with a diversity of motivation to trade; (e) nature of production and consumption of the commodity; (f) statistical data of historical price and production patterns; (g) price volatility patterns; (h) profiles of the participants in the industry, e.g., large government monopoly involvement, substantial amounts of vertical integration in the industry, or a large degree of market concentration suggest inappropriate conditions; (i) an emerging active OTC market with multiple buyers and sellers; (j) transparency in the underlying physical market, especially if it will be a cash-settled contract; and (k) the nature/structure of cash market channels and communication of information. This analysis is provided to ASIC during the approval/disallowance process. The ASIC also considers whether there are any regulatory objections to the form and content of the contract.<sup>5</sup></p>

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<i>Country</i>	<i>Table 3 - Contract Authorization</i>		
	<i>What is required for contract authorization? (e.g., no requirements, specific approval, notice with right to object, etc.)</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
			<p>Commodity contracts traded on the SFE have detailed specifications for deliverable quality. The specifications balance having a contract that is useful for hedging purposes with ensuring that the deliverable quality of the commodity is designed with enough flexibility in parameter so that the contract is not amenable to manipulation. In designing the contract specifications, the SFE undertakes research, in consultation with exchange members and industry bodies, to assess what specifications might achieve this balance. Historical information regarding production and consumption is taken into account, the ability to conform with quality standards by alternative methods, e.g., by mixing different grains together to conform with specifications for wheat contracts, and a number of other factors are considered. The results of the exchange's research are provided to the ASIC as part of the approval/disallowance process. Testing procedures are also incorporated in any rules to ensure an independent and reputable testing organization is involved in assessing whether commodities submitted are of deliverable standards. The SFE has agreements with</p>

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<i>Country</i>	<i>Table 3 - Contract Authorization</i>		
	<i>What is required for contract authorization? (e.g., no requirements, specific approval, notice with right to object, etc.)</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
			<p>independent testing authorities that provide the expertise for the relevant tests and certification procedures.<sup>6</sup></p> <p>Regarding the evaluation of new financial futures contracts, the ASIC initially considers the new contract against the matters which are required to be contained in the business rules by Section 1126 of the ACL. In addition, the ASIC also considers whether any of the rules for the new contract contravene any other provision of Chapter 8 of the ACL (which governs the futures industry).</p> <p>ASIC is also increasingly looking at the relationship between the futures contract and the effect of the trading and supervision of the underlying commodity or security relevant to the futures contract to ensure that there are appropriate measures to lessen potential for manipulation of the futures contract.</p> <p>It is anticipated that, in the near future, as part of a new project, ASIC will look at setting standards which ASIC will apply to the review of exchange</p>

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			<p>rules. This would include the approach for new contracts which are introduced into the business rules of an exchange. This project will be undertaken with input from the relevant Australian exchanges.</p> <p>Regarding the criteria applied to an evaluation of new contracts for financial futures in Australia, many of the matters considered for commodities are also considered: (a) research, if available, (b) effect and operation of the underlying market on the financial derivative, (c) likely trading participation in the market, including any competitive markets, (d) nature of the underlying financial product, particularly if the derivative contract is not cash settled, (e) volatility in the underlying financial product market, (f) nature and structure of the underlying market, (g) transparency in the underlying market, and (h) supervision in the underlying financial market.</p>
<i>France</i>	The decision to admit a financial instrument to trading on a regulated market is made by the	When an exchange wants to trade a new contract, it must submit an application ( <i>dossier</i> ) to the COB setting out the characteristics of the new contract together	The exchange rules fix the conditions for admission of financial instruments with a fixed term to trading on the exchange, subject to the COB's right to object. <sup>14</sup> COB Regulation 96-01 provides that the

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	<p>exchange, subject to a right of opposition by the COB.<sup>7</sup> The decision to remove a financial instrument from trading in a regulated market is also made by the exchange, subject to a right of opposition by the COB.<sup>8</sup></p>	<p>with the information document that will be annexed to the risk disclosure document of the exchange. Formally, the COB must notify its opposition to the admission of a financial instrument for trading on the exchange within 5 days following the receipt of notice of the application for admission from the exchange. However, since the COB could oppose the admission to trading for lack of information, the exchanges typically submit information informally to the COB for review and approval prior to submitting a formal dossier regarding the admission of the instrument to trading.<sup>9</sup></p> <p>The express consent of the issuer of the financial instrument and of the underlying financial instrument, if any, is required to list a financial instrument on a regulated market. Such consent is not required with regard to futures on currencies or public debt securities, or, under conditions specified by the CMF, on options and warrants on indices or more than one security.<sup>10</sup></p>	<p>COB shall oppose the admission of a financial instrument to trading on a regulated market if the COB deems that the admission to trading would involve risks that are not consistent with the interests of investors and market integrity. The COB may oppose removal of financial instruments from trading for the same reasons.<sup>15</sup></p> <p>The exchange rules must set out the means by which the exchange will assure the settlement and clearing of trades. The exchange rules must set out, with respect to options and futures on goods and foodstuffs, that the contract terms, and particularly the delivery terms, take into account the characteristics of the underlying cash market.<sup>16</sup> The exchange cannot delegate the responsibility to determine whether to admit a financial instrument to trading on the exchange except with the consent of the CMF. Such delegation may only be made to a company controlled directly by the exchange or by a company or economic interest group controlled jointly by the exchange and one or more other exchanges.<sup>17</sup></p>

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		<p>When an exchange anticipates admitting a financial instrument consisting of or relating to one or more underlying instruments, the exchange must verify that the person submitting the financial instrument for admission to trading on the exchange (which may be the exchange itself) has informed each of the issuers of the underlying instruments. The issuer of the underlying instrument can oppose the admission of such a derivative financial instrument within three days of its receipt of notice of the application for admission. If it does not object within this time period, it is deemed to have approved the admission of the instrument. The issuer may be informed of the proposed financial instrument by letter, telecopy or telegram and can indicate his opposition to the admission of the instrument in the same manner. The above rules do not apply when the underlying financial instrument is currency, public debt instruments, a financial instrument with a fixed term, an index, or a basket of at least four financial instruments none of which represents</p>	

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		<p>50% of the instrument's value.<sup>11</sup></p> <p>At the request of one or more investment service providers or of a trade association of investment service providers, the CMF, after consulting the <i>Banque de France</i> and the COB, may approve standard contracts for transactions in financial instruments.<sup>12</sup></p> <p>Individual decisions of the CMF may be appealed to the judicial courts.<sup>13</sup></p>	
<i>Germany</i>	<p>There is no requirement that an option or futures contract be approved by the Exchange Supervisory Authority. However, to be traded on an exchange, options and futures contracts must be admitted to trading by the exchange's Board of Management in</p>	<p>The exchange rules governing the admission of contracts to trading on an exchange must be approved by the Exchange Supervisory Authority.<sup>20</sup> The Exchange Supervisory Authority may demand the insertion of specific provisions into the exchange rules to the extent necessary to fulfill the statutory duties incumbent on the exchange or the Exchange Supervisory Authority.<sup>21</sup></p> <p>The Exchange Rules for Eurex Deutschland and Eurex Zürich provide that the Board of</p>	<p>The exchange is statutorily directed to adopt standard conditions for options and futures trading on the exchange.<sup>27</sup></p> <p>The admission of an equity-based option or futures contract to trading on an exchange may be granted only if the aggregate amount of the underlying securities amounts to a par value of at least ten million Deutsche Marks.<sup>28</sup></p> <p>Options and futures with respect to equities in German domestic companies may be admitted to an</p>

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	<p>accordance with the exchange rules and the Conditions for Transactions adopted by the Exchange Council.<sup>18</sup> Because the admission of a new contract requires the amendment of the Conditions for Transactions, which are adopted by the Exchange Council, the Exchange Council effectively must also consent to the listing of the new contract. Note that the Exchange Supervisory Authority has the right to participate, on a non-voting basis, in the meetings of the Exchange Council and, in this manner, remains</p>	<p>Management of the respective Eurex Exchange shall determine which options and futures contracts shall be admitted to trading at such exchanges.<sup>22</sup></p> <p>The Board of Management of an exchange is statutorily directed to consider the opinions of representatives of the business sectors involved prior to the admission of commodity options or futures to the exchange.<sup>23</sup></p> <p>Resolutions of the respective Board of Management concerning the admission of options and futures contracts to trading on Eurex Deutschland or Eurex Zürich must be published.<sup>24</sup></p> <p>For a futures or options contract to be admitted to trading on Eurex, the contract must be admitted by the respective Board of Management of both Eurex Deutschland and Eurex Zürich as trading on one exchange constitutes trading on the other.<sup>25</sup></p>	<p>exchange only with the consent of the company. At the request of the company, the option or future must be withdrawn from trading on the exchange no later than one year from the exchange's receipt of the company's request.<sup>29</sup></p> <p>The Exchange Rules for Eurex Deutschland and Eurex Zürich provide that admission of a specific option or futures contract is not permitted unless the maintenance of orderly options and futures trading and adequate performance of any market-making function can be anticipated. The underlying value is the reference point for the product.<sup>30</sup></p>

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	<p>informed about the contracts being considered for admission to trading on the exchange.<sup>19</sup></p> <p>Within the framework of its overall supervisory tasks, the Exchange Supervisory Authority can take measures (e.g., prohibit trading) if it finds out, for example, that a particular contract is open to possible manipulation.</p>	<p>Eurex Deutschland and Eurex Zürich are subject to supervision by both the German and Swiss market regulators, to the extent of their respective jurisdiction.<sup>26</sup></p>	
<i>Italy</i>	<p>The exchange rules set out the conditions and procedures for the admission, exclusion and suspension of financial instruments to and from trading on the exchange.<sup>31</sup> Consob</p>	<p>Consob expects the exchange to present to and discuss with Consob new contracts that are proposed to be admitted to trading on the exchange to assist Consob in the fulfillment of its duty to ensure the transparency of the market, orderly trading and the protection of investors.<sup>33</sup> Consob can compel such cooperation by its control over an exchange's</p>	<p>As part of the process of authorizing a regulated market, Consob must determine that the exchange rules comply with EU law and are likely to ensure the transparency of the market, orderly trading and the protection of investors.<sup>36</sup> Consob requires exchanges to put contract admission criteria in their exchange rules to satisfy this statutory requirement.</p>

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	<p>must determine that the exchange rules are likely to ensure the transparency of the market, orderly trading and the protection of investors.<sup>32</sup></p>	<p>internal rules.</p> <p>For example, pursuant to the exchange rules of the Borsa Italiana (“Italian Exchange”) with respect to the Derivatives Market (IDEM), the exchange is required to give Consob advance notice of all the contractual features (described in the column entitled “<i>What legal standard is applicable?</i>”) and may establish trading in the contract only after it has received Consob’s explicit consent or 30 days have passed from the notification to Consob without Consob raising any objection.<sup>34</sup></p> <p>The same requirement is included in the Rules of the Italian Government Securities Derivatives Market operated by Mercato Italiano dei Futures su Titoli di Stato, S.p.A (“MIF”), a subsidiary of the Italian Exchange.<sup>35</sup></p>	<p>As an example, Consob has formally approved the Italian Exchange Rules governing the regulated markets operated by the Italian Exchange and the Government Market Rules governing the Government Securities Derivatives Market operated by MIF.<sup>37</sup> Pursuant to the Italian Exchange Rules, the Italian Exchange operates (a) a stock exchange divided into the following markets (i) an electronic stock market for officially listed shares, convertible bonds, warrants, pre-emptive rights and certificates representing shares of closed end securities and real estate mutual funds (MTA), (ii) an electronic bond and government securities market for the trading of sales contracts having as their objects bonds other than convertible bonds on government securities (MOT), and (iii) an electronic traditional options market for the trading of traditional options upon shares, convertible bonds and warrants listed on the stock exchange and preemptive rights traded thereon (MPR), (b) the <i>Mercato Ristretto</i> for sales contracts having as their object shares, convertible bonds, warrants, and pre-emptive rights not admitted to official listing on the exchange; and (b) the Derivatives Market</p>

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			<p>(IDEM) for the trading of futures and options contracts whose underlying assets are financial instruments, interest rates, foreign currencies, goods or related indices.</p> <p>The Italian Exchange Rules set out the requirements to list an instrument on each of these regulated markets. With respect to the Derivatives Market, after defining the kinds of contracts admissible to trading on the market, the Italian Exchange Rules state that the asset underlying a derivative instrument must meet requirements concerning liquidity, continuity of trading, availability or accessibility of all the relevant information, and availability of “official” or, at any rate, “significant” prices.<sup>38</sup> In specifying the features of contracts, the Italian Exchange must make explicit reference to (a) the underlying asset, (b) the face value, (c) the settlement procedure, (d) the settlement price, (e) the maturities traded, (f) the day and time of the end of trading, (g) the maturity date, (h) the structure of the exercise prices, (i) the type of right and the time limits and procedures for exercising it, and (j) the settlement procedure for the contracts deriving from the</p>

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			<p>exercise of options.<sup>39</sup> The Italian Exchange is directed to adopt Instructions (which have now been adopted) to establish the contractual features of each tradable derivative financial instrument tradable on the Derivatives Market. The Italian Exchange is also to determine the method of calculation and dissemination when the underlying asset is an index and is required to determine the settlement price of contracts in such a way as to ensure it is based on a significant volume of trading in the underlying asset.<sup>40</sup></p> <p>The Government Market Rules set out corollary/analogous rules governing the admission of futures and option contracts based on government securities and interest rates traded on the Government Securities Derivatives Market.<sup>41</sup></p> <p>Consob issues guidelines on contract design with which the exchange must comply when considering the admission of a contract to trading on the exchange. The guidelines are calculated to ensure the transparency of the market, orderly trading and investor protection.<sup>42</sup></p>

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<i>Province of Ontario, Canada</i>	Specific approval of the contract specifications by the OSC is required to list commodity related contracts on a commodity futures exchange in Ontario. <sup>43</sup>	It is a condition of the acceptance of the form of a contract that the commodity futures exchange file with the OSC copies of all current contract terms and conditions. All current contract terms and conditions must be made available to all registrants under the Commodity Futures Act through an agent in Ontario designated by the commodity futures exchange unless the OSC by order modifies such requirement. <sup>44</sup>  The OSC will not refuse to accept a form of contract without giving the applicant an opportunity to be heard. <sup>45</sup>	Upon application by or on behalf of a commodity futures exchange registered by the OSC, and the filing of a copy of all terms and conditions of a contract that is proposed to be traded in Ontario, the OSC shall accept the contract where it is satisfied that to do so would not be prejudicial to the public interest and in making its decision shall take into account whether (a) more than occasional use is made or expected to be made of the contract for hedging purposes, (b) with respect to a commodity futures contract, each term or condition is in conformity with normal commercial practices or if not, there is a reasonable justification therefor, (c) with respect to a commodity futures contract, satisfactory levels of margin, daily price limits, trading limits and position limits have been imposed by the exchange, (d) with respect to a commodity futures option, the form of the commodity futures contract that is the subject of the option has been accepted, and (e) with respect to a commodity futures option, performance on exercise of the option is reasonably assured by established rules and procedures that are actively enforced. <sup>46</sup>

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<i>Province of Québec, Canada</i>	<p>New contracts must be filed with the CVMQ for approval. The exchange can issue the contract for trading if the CVMQ approves the contract or does not object to the terms and specifications of the contract within 10 days of its filing.<sup>47</sup></p> <p>However, because the contract specifications form part of the exchange rules in Québec, to issue a new contract, the exchange must also follow the procedure to amend its exchange rules to include the terms and specifications of the new contract.</p>	<p>Only contracts appearing on a schedule determined by the CVMQ may be traded on a futures exchange in Québec.<sup>48</sup></p> <p>We are advised that, as a practical matter, the Montréal Exchange discusses the terms and specifications of futures contracts with the CVMQ informally in advance of making a formal request for approval of the contract, and that, after the contract terms and specifications are filed with the CVMQ, the CVMQ issues a formal approval of the contract to the exchange.</p>	<p>An option or a negotiable futures contract pertaining to securities, a Treasury bond futures contract, an option on a commodity futures contract or financial instrument futures contract or any option negotiable on an organized market may only be issued by persons (e.g., an exchange, clearing house, or a body considered by the CVMQ to be of the same nature) qualified by the CVMQ in accordance with its regulations. The issuing person (the exchange or clearinghouse) must also prepare and submit to the CVMQ for approval a disclosure document to be delivered to the customer prior to trading.<sup>49</sup></p> <p>Note that Section 6801 of the Rules of the Montréal Exchange states: “No futures contract shall be traded on The Montréal Exchange unless it has standardized terms and is issued by the appropriate Clearing House in cooperation with the Exchange.”</p> <p>Note that Section 6601 of the Rules of the Montréal Exchange states: “No option contract shall be called for trading on the Exchange unless they be guaranteed by a Clearing Corporation designated</p>

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	See Table 2.		<p>by the Exchange and have terms in respect of:</p> <ul style="list-style-type: none"> <li>• the qualifications and specifications of the underlying interest;</li> <li>• the number of units of the underlying interest which constitutes one contract;</li> <li>• the expiration date;</li> <li>• the exercise price;</li> <li>• the introduction of puts and call options;</li> <li>• the expiration procedure (<i>i.e.</i>, “American” or “European “ style).”</li> </ul> <p>Products must meet certain requirements to qualify as underlying interests.</p>

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<i>Singapore</i>	<p><u>[Financial] Futures Exchange</u></p> <p>Specific approval of contract specifications by the MAS is required to list a futures contract on a futures exchange in Singapore.<sup>50</sup></p> <p><u>Commodity Futures Exchange</u></p> <p>Specific approval of the contract specifications by the STDB is required to list a commodity futures contract on a commodity exchange in Singapore.<sup>51</sup></p>	<p><u>[Financial] Futures Exchange</u></p> <p>Before a new contract can be listed, an exchange is required to provide to the MAS details and specifications regarding the proposed contract to permit the MAS to assess the prudential and regulatory concerns raised by the proposed contract.</p> <p><u>Commodity Futures Exchange</u></p> <p>The rules of a commodity futures exchange must set up a contracts committee for each designated commodity and set out requirements/standards that must be met for a commodity futures contract to be approved for trading on the exchange. The organization of the committee and the requirements/standards are then approved by the STDB along with the other rules of the exchange.<sup>52</sup></p> <p>In practice, the exchange's contract committee</p>	<p><u>[Financial]Futures Exchange</u></p> <p>The MAS grants approval for the listing of a futures contract on a futures exchange subject to such conditions as the MAS thinks fit.<sup>54</sup></p> <p><u>Commodity Futures Exchange</u></p> <p>The STDB designates by order the commodities within the ambit of the Commodity Futures Act. Once having done so, futures contracts relating to such commodity must be approved by the STDB prior to the commencement of trading in the contract.<sup>55</sup></p> <p>The primary requirement for a commodity futures contract is that it must serve a risk management /price discovery need, the commodity should be sufficiently freely traded in the cash market, and</p>

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		consults with other members of the exchange to formulate the contract terms and specifications; the exchange then consults with the STDB prior to STDB's issuance of a designation order for the commodity (see the response under the column entitled " <i>What legal standard is applicable?</i> ") and the proposed contract is approved at the time of the issuance of the designation order. <sup>53</sup>	there should be sufficient support for the usage of the contract from the physical market users. <sup>56</sup>
<i>Spain</i>	Unless the Minister of Economy and Finance asserts jurisdiction for reasons of economic policy, the CNMV is given jurisdiction to approve the conditions of contracts traded on an exchange upon an application by the exchange management company. The Minister can decide on its jurisdiction, within ten working days after	Upon an application for contract approval, notice must be given to and an opinion /position obtained from: (i) in the case of equity-based or index-based contracts, the exchange on which the underlying subject of the proposed futures or options contract is traded; (ii) in the case of money market, foreign exchange and public debt, the Bank of Spain; or (iii) in the case of commodity-based contracts, the Ministry of Agriculture, as well as the agencies and entities that must opine with respect to the authorization of a citrus exchange (as described in Table 1), and the CNMV if the Finance Minister has asserted jurisdiction for reasons of economic policy. <sup>58</sup>	A proposed contract must include clear provisions regarding the following matters: (a) a complete description of the asset upon which the future or option is based; (b) the nominal value; (c) the expiry dates that will be quoted from time to time, (d) the manner of price quotation; (e) the minimum and maximum price fluctuation; (f) the minimum margin requirements; (g) the manner of fixing the clearing price; (h) the members with access to settlement and clearing; (i) in the case of options, the criteria for issuance of new series; (j) the limits on open positions of members and clients; (k) the first and last day of negotiation; (l) the final date of clearing; (m) the rules on clearing at expiration, with rules on fixing the value of deliverables in the

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	<p>submission by the CNMV of a proposed contract or its amendment.<sup>57</sup></p>	<p>The regulations of both MEF Renta Fija and MEF Renta Variable provide that contracts that may be traded and registered on the exchange and their characteristics, established in the general conditions of each contract, must receive the mandatory authorization of the pertinent authorities. The general conditions of each contract are included as an appendix to the exchange regulations. In the case of contracts whose underlying security is an index, the general conditions must include rules regarding the composition and calculation of the index. The denominations of contracts are established in their general conditions.<sup>59</sup> The general conditions of the contracts must also contain the conditions under which new series of a contract may be introduced for trading.<sup>60</sup></p> <p>In the case of contracts whose underlying security is a listed stock or stocks, the exchange must give notice, informing the issuer, of the Spanish futures exchange's</p>	<p>appropriate case; and (n) the rules on margin deposit requirements.<sup>63</sup></p> <p>Contracts can be traded whose settlement must be completed through: (i) the effective delivery, at the agreed price, of the security or of the financial instrument to which the contract refers, or of another instrument that is financially equivalent, as set out in the general conditions of the contract, or (ii) a settlement for differences, with the obligated party paying the value that results from the difference between the initial agreed upon price and the liquidation price, determined in accordance with the general conditions of the contract.<sup>64</sup></p> <p>Regarding citrus products, in addition to the requirements with respect to financial derivative instruments, approval of a citrus-related contract requires formal contractual arrangements between the exchange management company and market members, on the one hand, and the cash market operators and citrus wholesalers and warehouse operators, on the other hand, with the objective of guaranteeing that, at the expiration of contracts</p>

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		<p>intention of initiating negotiation and booking of contracts, whose underlying are its listed shares.<sup>61</sup></p> <p>All decisions adopted with respect to a commodity contract approval must be formalized in writing and made available to the public at the seat (head office) of the exchange management company and will be binding on the exchange, the market members, and their clients.<sup>62</sup></p>	<p>requiring physical delivery, all open positions of both, sellers and buyers, can be liquidated by the delivery of citrus products of the quality and quantity agreed in the contract.<sup>65</sup> The general conditions of citrus-related products are also deemed annexed to the rules of the citrus exchange and must take into account the binding of the contracting parties to the decisions that, in respect of the inspection and control of the quality of the underlying citrus products, are adopted by the responsible agencies and entities in execution of the procedures for the collaboration agreed upon and included in the exchange rules (as part of the exchange authorization process described in Table 1).<sup>66</sup></p>
<i>Switzerland</i>	<p>The Swiss Federal Banking Commission does not approve contracts individually. The Federal Banking Commission grants an authorization to the stock exchange after an</p>	<p>The stock exchange must submit the exchange regulations and any amendments thereof to the Federal Banking Commission for approval.<sup>69</sup> The regulations must include provisions regarding the admission of securities. The regulations must contain provisions relating to the negotiability of securities and must set out information that will be furnished to investors</p>	<p>The Board of Management of the respective Eurex Exchanges determines which options and futures contracts shall be admitted to trading at such exchanges. Admission of a specific option or futures contract is not permitted unless the maintenance of orderly options and futures trading and adequate performance of any market-making function can be anticipated.<sup>74</sup></p>

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	<p>examination of its regulations which must indicate the types of contracts that may be traded on the exchange and the trading rules.<sup>67</sup></p> <p>The exchange regulates the admission of contracts to trading on the exchange within the parameters specified in such exchange regulations.<sup>68</sup></p> <p>The Federal Banking Commission has the power to intervene at any time against contracts, contract specifications, or trading rules which are contrary to the legal purpose of the exchange.</p>	<p>in order to enable them to form an opinion about the characteristics of the securities. The stock exchange must take into account internationally recognized standards.<sup>70</sup></p> <p>All resolutions of the Boards of Management of Eurex Deutschland and Eurex Zürich regarding the admission of options and futures contracts must be published.<sup>71</sup></p> <p>For a futures or options contract to be admitted to trading on Eurex, the contract must be admitted by the respective Board of Management of both Eurex Deutschland and Eurex Zürich as trading on one exchange constitutes trading on the other.<sup>72</sup></p> <p>Eurex Deutschland and Eurex Zürich are subject to supervision by both the German and Swiss market authorities, to the extent of their respective jurisdiction.<sup>73</sup></p>	

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<i>Country</i>	<i>Table 3 - Contract Authorization</i>		
	<i>What is required for contract authorization? (e.g., no requirements, specific approval, notice with right to object, etc.)</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
<i>United Kingdom</i>	<p>There are no specific requirements regarding contract authorization. However, the FS Act requires that the rules and practices of the exchange must ensure that business conducted by means of its facilities is conducted in an orderly market and so as to afford proper protection to investors. The exchange must limit dealings on the exchange to investments in which there is a proper market.<sup>75</sup> While there is no specific legal requirement that new contracts be notified to the Financial Services Authority (“FS Authority”) (as the</p>	<p>The Notification Regulations provide that an investment exchange shall notify the FS Authority of any changes in the type of investments dealt in on the exchange, including full details of any contracts traded. All new contracts and relevant rules are notified to the FS Authority within 7 days of commencement. In practice, novel contracts are discussed with the FS Authority before admission of the contract to trading on the exchange so as to satisfy the FS Authority that the exchange will meet its continuing statutory obligations.<sup>78</sup></p> <p>Note that certain of the exchanges in the United Kingdom (e.g., the International Petroleum Exchange and the London Metal Exchange) include the terms and specifications of contracts traded on the exchange in the exchange rules. To the extent the introduction of a new contract requires an amendment to the exchange rules, the exchange must give notice of the amendment to the Secretary of State within 7 days of its adoption.<sup>79</sup> See</p>	<p>The FS Authority requires that the rules and practices of the exchange must ensure that business conducted by means of its facilities is conducted in an orderly market and so as to afford proper protection to investors. The exchange must limit dealings on the exchange to investments in which there is a proper market.<sup>80</sup> The terms, conditions, and specifications of a futures contract must be such as to cause the exchange to comply with these statutory requirements.</p> <p>The Guidance on Proper Markets in Relation to On-Exchange Derivatives (April 1993) provides that, with respect to a market for a given contract, there should be a sufficient range of participants in the market as to bring adequate opposing forces of supply and demand to the market. Further, for proper market purposes, the specifications and terms of derivative contracts established under derivative exchange rules should be sufficiently precise as to provide for an understandable relationship between the derivative and the corresponding underlying markets. The Guidance does not suggest that there will be complete price</p>

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<i>Country</i>	<i>Table 3 - Contract Authorization</i>		
	<i>What is required for contract authorization? (e.g., no requirements, specific approval, notice with right to object, etc.)</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
	designated agency of Her Majesty's Treasury), the FS Authority has issued Guidances as to what constitutes Proper Markets and Proper Trading under the Act. <sup>76</sup> Consequently, in practice, the exchanges do inform the FS Authority of the terms of proposed contracts and accept comments from the FS Authority concerning the proposed terms. <sup>77</sup>	Table 2.	congruence since there are inherent basis differentials between the majority of derivatives and their respective underlying markets. But, there should be an understandable relationship between the price of the derivative and the price of the underlying and there generally should be convergence between these prices as the derivative moves to expiry. The Guidance further provides that procedures must be in place for determining a value of a contract at regular intervals (as a minimum, once every business day) and that such value should reasonably reflect the prevailing supply/demand forces relevant to the contract. <sup>81</sup>

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<sup>1</sup> To authorize an exchange, the Treasurer must be satisfied that the business rules of the exchange make satisfactory provision with respect to the classes of futures contracts that may be dealt in by the members. Section 1126 (2) (ix), ACL.

<sup>2</sup> See Responses to Question 8, IOSCO Survey.

<sup>3</sup> Section 1137, ACL; see also Responses to Question 4.a., London Survey.

<sup>4</sup> See Responses to Question 5.a., London Survey.

<sup>5</sup> Response to Question 5.a., London Survey.

<sup>6</sup> Response to Question 5.d., London Survey.

<sup>7</sup> Art. 42, II (1.), FAM.

<sup>8</sup> Art. 42, II (3.), FAM.

<sup>9</sup> Response to Question 4.d., London Survey. Response to Question 8.b., IOSCO Survey.

<sup>10</sup> Art. 41, II (1.), FAM.

<sup>11</sup> Art. 4-1-42 General Regulations of the CMF.

<sup>12</sup> Art. 37, FAM.

<sup>13</sup> Art. 39, FAM.

<sup>14</sup> Art. 4-1-37, General Regulations of the CMF.

<sup>15</sup> Response to Question 3.b, London Survey.

<sup>16</sup> Art. 4-1-37, General Regulations of the CMF.

<sup>17</sup> Art. 4-1-39, General Regulations of the CMF.

<sup>18</sup> Section 50, Exchange Act.

<sup>19</sup> Hessian Annual Report, section titled *Duties of the Hessian Exchange Supervisory Authority*, at p. 2.

<sup>20</sup> Section 4(4), Exchange Act.

<sup>21</sup> See Hessian Homepage.

<sup>22</sup> Section 4.1, Exchange Rules for Eurex Deutschland and Eurex Zürich (January 1, 1999) ("Eurex Exchange Rules"). See also Section 2.1.2.2 (6.), Eurex Exchange Rules.

<sup>23</sup> Section 50 (3), Exchange Act.

<sup>24</sup> Rule 4.1, Eurex Exchange Rules.

<sup>25</sup> See Hessian Annual Report, section titled *Participation in Exchange Projects*, at p. 7.

<sup>26</sup> Section 1.3, Eurex Exchange Rules.

<sup>27</sup> Section 50 (2), Exchange Act. See Conditions for Trading at Eurex Deutschland and Eurex Zürich.

<sup>28</sup> Section 50 (4), Exchange Act.

<sup>29</sup> Section 50 (5), Exchange Act.

<sup>30</sup> Rule 4.1, Eurex Exchange Rules.

<sup>31</sup> Art. 62 (2) (a), Testo Unico, superceding Art. 47 (1) (a), ISD Decree.

<sup>32</sup> Arts. 62-63, Testo Unico, superceding Arts. 47-48, ISD Decree.

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- <sup>33</sup> Response to Question 4.c., London Survey.
- <sup>34</sup> Art. 4.5.2.3, Rules of the Markets Organized and Managed by the Italian Exchange (“Italian Exchange Rules”) regarding the Stock Market, the Mercato Ristretto, and the Derivatives Market operated by the Italian Exchange.
- <sup>35</sup> Arts. 2.2.4, Rules of the Italian Government Securities Derivatives Markets (“Government Market Rules”).
- <sup>36</sup> Art. 63 (1) (b), Testo Unico, superceding Art. 48 (1) (b), ISD Decree.
- <sup>37</sup> Consob Resolution n. 11764 of 22 December 1998 regarding the Italian Exchange Rules, and Consob Resolution n. 11748 of 16 December 1998 (in agreement with the Bank of Italy) regarding the Government Market Rules.
- <sup>38</sup> Art. 4.5.1.4, Italian Rules.
- <sup>39</sup> Art. 4.5.2.1, Italian Rules.
- <sup>40</sup> Art. 4.5.2.2, Italian Rules.
- <sup>41</sup> Art. 2.1, 2.2, Government Market Rules.
- <sup>42</sup> *See* Responses to Questions 1.a., 3.a., 4.a., London Survey.
- <sup>43</sup> Responses to Question 8, IOSCO Survey. Note the broad definition of commodities under the Commodity Futures Act (Ontario) set out in the notes to Table 1.
- <sup>44</sup> Section 37.(1), Commodity Futures Act.
- <sup>45</sup> Section 36.(2), Commodity Futures Act.
- <sup>46</sup> Section 36.(1), Commodity Futures Act. *See also* Responses to Question 9, IOSCO Survey.
- <sup>47</sup> Section 67, Québec Securities Act. Section 71.1 of the Québec Regulations concerning securities. This provision is concerned primarily with the review of the disclosure document (prospectus) that is prepared in connection with the futures contract.
- <sup>48</sup> Section 1.4, Québec Regulations concerning securities.
- <sup>49</sup> Section 67, Québec Securities Act. *See also* Sections 71, 71.1 and 72, Québec Regulations concerning securities.
- <sup>50</sup> Section 5 (2), Futures Trading Act. *See also* Responses to Question 8, IOSCO Survey.
- <sup>51</sup> Responses to Question 3.b., London Survey.
- <sup>52</sup> Responses to Question 4.a, 4.b., 4.c., and 4.d., London Survey.
- <sup>53</sup> Responses to Question 3.b., 4.e., London Survey.
- <sup>54</sup> Section 5, Futures Trading Act. *See also* Responses to Question 8, IOSCO Survey.
- <sup>55</sup> Responses to Question 3.b., London Survey.
- <sup>56</sup> Response to Question 5.a., 5.c., London Survey.
- <sup>57</sup> Art. 5 (1.), Royal Decree.
- <sup>58</sup> Art. 5 (2.), Royal Decree. Responses to Question 8, IOSCO Survey. *See also* Art. 23, Royal Decree.
- <sup>59</sup> Art. 32, Market Regulations of MEFF Renta Fija; Art. 32, Market Regulations of MEFF Renta Variable.
- <sup>60</sup> Art. 33, Market Regulations of MEFF Renta Fija; Art. 33, Market Regulations of MEFF Renta Variable.
- <sup>61</sup> Art. 32 (1), Market Regulations of MEFF Renta Fija; Art. 32 (1), Market Regulations of MEFF Renta Variable
- <sup>62</sup> Art. 23 (3.), Royal Decree.
- <sup>63</sup> Art. 5 (3.), Royal Decree.
- <sup>64</sup> Art. 5 (4.), Royal Decree.

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<sup>65</sup> Art. 23 (2.), Royal Decree.

<sup>66</sup> Art. 23 (3.), 22 (f), Royal Decree.

<sup>67</sup> Art. 1, SESTA.

<sup>68</sup> Art. 8, ¶s 1, 4, SESTA.

<sup>69</sup> Art. 4, ¶2, SESTA.

<sup>70</sup> Art. 8, ¶s 1 - 4, SESTA.

<sup>71</sup> Section 4.1, Eurex Exchange Rules.

<sup>72</sup> See Hessian Annual Report, section titled *Participation in Exchange Projects*, at p. 7.

<sup>73</sup> Section 1.3, Eurex Exchange Rules.

<sup>74</sup> Section 4.1, Eurex Exchange Rules. See also Section 2.1.2.2 (6.), Eurex Exchange Rules.

<sup>75</sup> Schedule 4, FS Act. See also Responses to Question 4.a., London Survey.

<sup>76</sup> Guidance No. 1/93 on Proper Trades in Relation to On-Exchange Derivatives; and Guidance No. 2/93 on Proper Markets in Relation to On-Exchange Derivatives.

<sup>77</sup> See Responses to Question 4.a., London Survey.

<sup>78</sup> Responses to Question 4.d., London Survey.

<sup>79</sup> Art. 41 (5), FSA.

<sup>80</sup> Schedule 4, FS Act. See also Responses to Question 4.a., London Survey.

<sup>81</sup> Paragraphs 8-11, Guidance on Proper Markets in Relation to On-Exchange Derivatives (April 1993)

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<i>Country</i>	<i>Table 4 – Contract Amendment</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
<i>Australia</i>	Yes, the Treasurer can disallow a proposed contract amendment. <sup>1</sup>	<p>To amend a futures contract, the exchange must submit in the first instance to the ASIC an application for a modification of its business rules to reflect the proposed amendment. The ASIC reviews the application and the proposed amendment and advises the Treasurer concerning the amendment. The Treasurer makes the final decision whether or not to disallow the amendment to the business rules and thereby disallow the amendments to the contract.<sup>2</sup></p> <p>With respect to Individual Share Futures traded on the SFE, a set of parameters for suitable underlying stocks (<i>e.g.</i>, size, liquidity) are included in the SFE business rules. Changes to SFE contract specifications that would not meet those parameters would need an amendment of the SFE's business rules, pursuant to the procedures specified above, and would be subject to disallowance by the Treasurer. Changes to SFE contract specifications that meet the parameters in the SFE business rules would not require an amendment, and would not be subject to disallowance by the Treasurer.</p>	<p>The criteria that are applied with respect to the approval of the initial contracts are also applied in the consideration of contract amendments.</p> <p><i>See Table 3.</i></p>

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<i>Country</i>	<i>Table 4 – Contract Amendment</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
		The exchange typically submits proposed rule amendments to the ASIC for review. Once agreement is reached between the ASIC and the exchange, the exchange provides a formal notification of the proposed amendment to the ASIC and the Treasurer (which has the formal decision-making responsibility). The Treasurer has 28 days from the date the ASIC receives the proposed amendment to disallow the amendment. <sup>3</sup>	
<i>France</i>	Yes, a material amendment to the terms of a financial instrument requires the approval of the exchange and is subject to a right of opposition by the COB. <sup>4</sup>	<p>Approvals of amendments to contracts are handled pursuant to the same procedures as those applicable to the admission of a contract to trading on the exchange.<sup>5</sup></p> <p>When an exchange wants to amend a contract listed on the exchange, it must submit an application (<i>dossier</i>) to the COB setting out the proposed amendments together with a modified information document, if necessary, that will be annexed to the risk disclosure document of the exchange. Formally, the COB must notify its opposition to the amendment of the contract within 5 days following the receipt of the application for the amendment. However, since the COB could oppose the amendment for lack of</p>	<p>The criteria that are applied with respect to the consideration of the initial contracts are also applied in the consideration of contract amendments.</p> <p><i>See Table 3.</i></p>

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<i>Country</i>	<i>Table 4 – Contract Amendment</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
		information, the exchanges typically submit information informally to the COB for review and approval prior to submitting a formal dossier regarding the proposed amendment of the contract. <sup>6</sup>	
<i>Germany</i>	Yes, amendments to contracts require the approval of the exchange's Board of Management. <sup>7</sup> Because the admission of a new contract requires the amendment of the Conditions for Transactions, which are adopted by the Exchange Council, the Exchange Council effectively must also consent to the amendment of the contract. Note that the Exchange Supervisory Authority has the right to participate, on a non-voting basis, in the meetings of the	<i>See Table 3.</i>	<i>See Table 3.</i>

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<i>Country</i>	<i>Table 4 – Contract Amendment</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
	Exchange Council and, in this manner, remains informed about proposed contract amendments. <sup>8</sup>		
<i>Italy</i>	Yes, any material change to the terms and conditions of a contract requires a new approval by Consob. <sup>9</sup>	<p>The Italian Rules and the Government Market Rules, respectively, provide that the exchange must give notice to Consob of any proposed change in the contract features that must be addressed in connection with the initial listing of the contract on the exchange (<i>see</i> Table 3). The exchange may commence trading in the amended contract only after it has received Consob’s explicit consent or 30 days have passed from the notification of the proposed amendment without Consob raising any objection.<sup>10</sup></p> <p>The Italian Exchange and Mercato can each exclude a contract from trading on its regulated market(s), after notifying Consob, if regular price formation or regular or continuous trading is no longer guaranteed.<sup>11</sup></p>	<p>The criteria that are applied with respect to the consideration of the initial contracts are also applied in the consideration of contract amendments.</p> <p><i>See</i> Table 3.</p> <p>The Italian Exchange has adopted standard criteria for equity option contract adjustment, <i>e.g.</i> regarding mergers, stock splits, <i>etc.</i>, regarding contracts traded in the Derivatives Market.<sup>12</sup></p>
<i>Province of Ontario, Canada</i>	Yes, specific approval of contract amendments by the OSC is required. <sup>13</sup>	Copies of amendments or additions to contract terms and conditions must be filed with the OSC and supplied to the agent designated by the commodity futures exchange (who makes copies of the amendments or additions available to all	<p>The criteria that are applied with respect to the approval of the initial contracts are also applied in the consideration of contract amendments.</p> <p><i>See</i> Table 3.</p>

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<i>Country</i>	<i>Table 4 – Contract Amendment</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
		<p>registrants under the Commodity Futures Act) forthwith after the amendment or addition is approved by the board of directors of the commodity futures exchange.<sup>14</sup></p> <p>The OSC will not refuse to accept the form of an amendment to a contract without giving the applicant an opportunity to be heard.<sup>15</sup></p>	
<i>Province of Québec, Canada</i>	<p>Yes, because the terms and specifications of contracts form part of the exchange rules in Québec, the amendment of a contract requires an amendment to the exchange rules. Amendments to the exchange rules must be submitted to the CVMQ for approval.<sup>16</sup></p>	<i>See Table 2.</i>	<p><i>See Table 2.</i></p> <p>The terms of a contract traded on the Montréal Exchange are subject to adjustment in accordance with the by-laws and rules of the exchange or with the general conditions of the clearinghouse.</p>
<i>Singapore</i>	<p><u>Futures Exchange</u></p> <p>Yes, a futures exchange may not list or delist any futures contract without seeking the prior</p>	<p><u>Futures Exchange</u></p> <p>Before a contract amendment can take effect, an exchange is required to provide to the MAS details and specifications regarding the proposed contract to permit the MAS to assess the</p>	<p><u>Futures Exchange</u></p> <p>The criteria that are applied with respect to the approval of the initial contracts are also applied in the consideration of contract amendments.</p>

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<i>Country</i>	<i>Table 4 – Contract Amendment</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
	<p>approval of the MAS.<sup>17</sup></p> <p>Amendments to an existing contract must be approved by the MAS before trading on the amended contract can commence. Approval is required at two levels. Once the Board of Directors of the exchange has approved the proposed changes to the terms and conditions, the exchange must then seek and obtain approval from the MAS.<sup>18</sup></p> <p><u>Commodity Futures Exchange</u></p> <p>Yes, amendments to an existing contract must be approved by the STDB before trading in the amended contract can</p>	<p>prudential and regulatory concerns raised by the proposed amendment.</p> <p><u>Commodity Futures Exchange</u></p> <p>The amendments will be considered by the relevant Committees of the exchange and approved by the exchange’s Board of Directors. Thereafter, the approval of the STDB must be obtained.</p>	<p>See Table 3.</p> <p><u>Commodity Futures Exchange</u></p> <p>Amendments will be assessed on the same basis as contracts themselves, <i>i.e.</i>, the contract, as amended, must serve a risk management /price discovery need, the commodity should be sufficiently freely traded in the cash market, and</p>

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<i>Country</i>	<i>Table 4 – Contract Amendment</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
	commence. Approval is required at two levels. Once the Board of Directors of the exchange has approved the proposed amendments, the exchange must then seek and obtain approval from the STDB. <sup>19</sup>		there should be sufficient support for the usage of the contract from the physical market users.
<i>Spain</i>	Yes, specific approval by the CNVM is required to amend the general conditions of a contract. <sup>20</sup>	Upon application for approval of an amendment to a contract, notice must be given to and a statement obtained from: (i) in the case of equity-based or index-based contracts, the exchange on which the underlying subject of the proposed futures or options contract is traded; (ii) in the case of money market, foreign exchange and public debt, the Bank of Spain; or (iii) in the case of commodity based contracts, the Ministry of Agriculture, as well as the agencies and entities that must opine with respect to the authorization of a citrus exchange (as described in Table 1), and the CNMV, if the Finance Minister has asserted jurisdiction for reasons of economic policy. <sup>21</sup>	The same legal standard is applied as in the approval of contracts generally. <sup>23</sup>

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<i>Country</i>	<i>Table 4 – Contract Amendment</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
		Contract amendments deemed to be of minor relevance by the CNMV can be approved directly by the CNMV without obtaining the statements from the entities/bodies specified. <sup>22</sup>	
<i>Switzerland</i>	<i>See Table 3.</i>	<i>See Table 3.</i>	<i>See Table 3.</i>
<i>United Kingdom</i>	There are no specific requirements regarding contract amendment. However, the FS Act requires that the rules and practices of the exchange must ensure that business conducted by means of its facilities is conducted in an orderly market and so as to afford proper protection to investors. The exchange must limit dealings on the exchange to investments in which there is a proper market. <sup>24</sup> While there is no specific legal	The Notification Regulations provide that an investment exchange shall notify the FS Authority of any changes in the type of investments dealt in on the exchange, including full details of any contracts traded. All contract amendments and relevant rules are notified to the FS Authority within 7 days of commencement. In practice, contract amendments are discussed with the FS Authority before implementation so as to satisfy the FS Authority that the exchange will meet its continuing statutory obligations. <sup>27</sup>	The criteria that are applied with respect to the consideration of the initial contracts are also applied in the consideration of contract amendments.  <i>See Table 3.</i>

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<i>Country</i>	<i>Table 4 – Contract Amendment</i>		
	<i>Is authorization required? If so, by whom?</i>	<i>What is the procedure for obtaining authorization?</i>	<i>What legal standard is applicable?</i>
	<p>requirement that contract amendments be notified to the FS Authority, the FS Authority has issued Guidances as to what constitutes Proper Markets and Proper Trading under the FS Act.<sup>25</sup> Consequently, in practice, the exchanges do inform the FS Authority of the terms of proposed contract amendments and accept comments from the FS Authority concerning the proposed amendments.<sup>26</sup></p>		

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<sup>1</sup> Sections 1136 (1) - (6), ACL. Responses to Question 8, IOSCO Survey.

<sup>2</sup> Responses to Question 4.g., London Survey.

<sup>3</sup> Response to Question 4.d., London Survey. Section 1136 (1) - (6), ACL. *See also* Table 2.

<sup>4</sup> Responses to Question 4.g., London Survey.

<sup>5</sup> Responses to Question 4.g., London Survey.

<sup>6</sup> Response to Question 4.d., London Survey. Response b. to Question 8, IOSCO Survey.

<sup>7</sup> Responses to Question 4.g., London Survey.

<sup>8</sup> Hessian Annual Report, section titled *Duties of the Hessian Exchange Supervisory Authority*, at p. 2.

<sup>9</sup> Responses to Questions 4.g., London Survey.

<sup>10</sup> Art. 4.5.2.4, Italian Rules; Art. 2.2.4, Government Market Rules.

<sup>11</sup> Art. 4.5.2.5, Italian Rules; Art. 2.2.5, Government Market Rules.

<sup>12</sup> Borsa Italiana, Standard criteria for equity option adjustment, Italian Derivatives Market at [http://server.borsaitalia.it/ing/italianderivativesmarket/criteria\\_idem.htm](http://server.borsaitalia.it/ing/italianderivativesmarket/criteria_idem.htm).

<sup>13</sup> *See* Section 36.(1), Commodity Futures Act. Responses to Question 8, IOSCO Survey.

<sup>14</sup> Section 37.(2), Commodity Futures Act.

<sup>15</sup> Section 36.(2), Commodity Futures Act.

<sup>16</sup> Section I.A.1.c., International Regulation of Derivative Markets, Products and Financial Intermediaries, IOSCO (1997) (“Collated Summary”).

<sup>17</sup> Section 5 (1), Futures Trading Act.

<sup>18</sup> *See* Responses to Question 3.b., 4g., London Survey.

<sup>19</sup> Responses to Question 3.b., 4g., London Survey.

<sup>20</sup> Art. 5 (1.), Royal Decree.

<sup>21</sup> Art. 5 (2.), Royal Decree. Responses to Question 8, IOSCO Survey. Art. 23, Royal Decree.

<sup>22</sup> Chapter IV, Arts. 20, 23, Royal Decree No. 2590 of 7 December 1998 on the Modification of the Law on Stock Exchanges, adding new Art. 5 (5.) and amended Art. 23 (3.) to the Royal Decree.

<sup>23</sup> *See* Art. 5, 23, Royal Decree.

<sup>24</sup> Schedule 4, FS Act. *See also* Responses to Question 4.a., London Survey.

<sup>25</sup> Guidance No. 1/93 on Proper Trades in Relation to On-Exchange Derivatives; and Guidance No. 2/93 on Proper Markets in Relation to On-Exchange Derivatives.

<sup>26</sup> *See* Responses to Questions 4.a., 4.g., London Survey.

<sup>27</sup> Responses to Question 4.d., London Survey.