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FINANCIAL SECTOR ASSESSMENT PROGRAM

CHILE

ASSESSMENT OF OBSERVANCE OF THE CPSS-IOSCO
PRINCIPLES FOR FINANCIAL MARKET INFRASTRUCTURES

DETAILED ASSESSMENT REPORT OF THE RESPONSIBILITIES OF THE AUTHORITIES

MAY 2016

This report was prepared in the context of a standards assessment mission in Chile during August 3-7 and September 21-October 2, 2015, overseen by the Finance & Markets Global Practice, World Bank and the Monetary and Capital Markets Department, IMF.



THE WORLD BANK GROUP
FINANCE & MARKETS GLOBAL PRACTICE

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GLOSSARY

BCCh	Banco Central de Chile
BDDC	<i>Base de Datos de Derivados Cambiarios</i> (database of foreign exchange derivatives)
CCLV	<i>CCLV Contraparte Central S.A</i>
CCP	Central Counterparty
CEF	<i>Consejo de Estabilidad Financiera</i> (financial stability council)
CNF	Compendium of Financial Norms
CSD	Central Securities Depository
CS	<i>Comite De Superintendentes</i> (committee of superintendents)
CPMI	Committee on Payments and Market Infrastructures
DCV	<i>Depósito Central de Valores</i>
FMI	Financial Market Infrastructure
GGERO	<i>Gerencia de Gestión Estratégica y Riesgo Operacional</i> (strategic management and operational risk department)
GIRF	<i>Gerencia de Infraestructura y Regulación Financiera</i> (financial infrastructure and regulation department)
IOSCO	International Organization of Securities Commission
KC	Key Consideration
LBTR	<i>Liquidación Bruta en Tiempo Real</i> (real time gross settlement)
LOC	<i>Ley Orgánica Constitucional del Banco Central de Chile</i> (Organic Law of the Central Bank of Chile)
MOU	Memorandum of Understanding
NCG	<i>Norma de carácter general</i> (general norm)
PFMI	Principles for Financial Market Infrastructures
ROSC	Review of Standards and Codes
SAG	<i>Sociedades de Apoyo al Giro</i>
SBIF	<i>Superintendencia de Bancos e Instituciones Financieras</i> (superintendence of banks and financial institutions)
SP	<i>Superintendencia de Pensiones</i> (superintendence of pensions)
SSS	Securities Settlement System
SVS	<i>Superintendencia de Valores y Seguros</i> (superintendence of securities and insurance)
TR	Trade Repository

I. EXECUTIVE SUMMARY

1. **Chile has fairly developed payment, clearing, and settlement infrastructures.** Sistema LBTR is the Central-Bank operated real-time (interbank) gross settlement (RTGS) system, and the backbone of the national payments system, where final payments originating from the various markets are settled. Sistema LBTR is owned and operated by the Central Bank. The RTGS is not the only high-value funds transfers system in Chile: ComBanc S.A. operates as a net clearing system for participating banks (hereinafter ComBanc). *CCLV Contraparte Central S.A* – CCLV, a subsidiary of the Santiago Stock Exchange, clears and settles exchanged-traded debt securities, and also acts as a central counterparty for equities (cash market) and exchange-traded derivatives. More recently, ComDer, Contraparte Central S.A (hereinafter “ComDer”) was established as a central counterparty for over-the-counter derivatives. As the only authorized central securities depository in Chile, *Deposito Central de Valores* (DCV) holds all securities that are object of public offering and facilitates the transfer of these securities between its depositors.

2. **Sistema LBTR is largely compliant with the Principles for Financial Market Infrastructures (PFMI), and is sound from an operations perspective.** It is subject to comprehensive risk management, including credit, liquidity, and operational. Clear and transparent risk-management policies, procedures, and systems allow measuring, mitigating, and managing the range of risks that arise in the system’s operations and from its participants. All transactions settled in Sistema LBTR are deemed final and irrevocable.

3. **However, some areas of improvement for Sistema LBTR have been identified and are summarized below.** In particular, Sistema LBTR is exposed to some legal risk in that there is no explicit coverage of irrevocability and finality of payments at the level of statutory legislation. The urgency of this issue of concern is diminished in light of the special insolvency procedures of the Banking Law and the general normative powers of the BCCh in the field; however, these would not apply should non-banks be allowed to participate in the system. This issue impacts negatively settlement finality, and could have potential repercussions on credit and settlement risk. As for collateral in general and for the provision of liquidity into the Sistema LBTR in particular, the lack of express recognition of enforceability of repos might also jeopardize the soundness of system, although also this risk might be deemed to be reduced by the understanding of repos agreements under general principles of law. Sistema LBTR should establish mechanisms for the regular review of its efficiency and effectiveness vis-à-vis the needs of its participants. As the operator of the LBTR, the Central Bank could consider recommending that non-banks – provided that these comply with risk-based criteria – be allowed as participants in light of ensuring fair and open access to a critical infrastructure.

4. **ComBanc has been also assessed as sound from a (financial, operational) risk management perspective.** In providing real-time clearing services for twenty participating banks, ComBanc relies on bilateral and multilateral credit limits to manage its participants’ credit risk vis-à-vis each other, combined with collateral requirements to cover 1.15 times each participant’s maximum credit exposure. Payments are considered final and irrevocable once these are cleared in ComBanc. In case of failure of one or more members, ComBanc has set out two extraordinary settlement processes. Operational risk management is grounded in the General Risk Policy and the General Operational Risk Policy.

5. **Additional steps to improve compliance of ComBanc with the PFMI are warranted, especially with regard to governance arrangements and management of investments risk.** First, ComBanc is exposed to the same type of (potential) legal risk as the

Sistema LBTR. With regard to governance, comprehensive governance arrangements should include procedures to review the Board's performance, and clear policies for the recruitment and termination of senior management. ComBanc could consider diversifying its investment portfolio – i.e. invest in securities other than those issued by its shareholder banks. Broader, yet still risk-based, participation criteria should be allowed. Finally, ComBanc should address gaps in transparency.

6. **DCV ensures the safekeeping and efficient transfer of securities.** The assessment has found that the relevant legal and regulatory framework minimizes custody risk. At the operational level, securities holdings of customers are held in segregated accounts, either omnibus or at the level of the final beneficial owner. More than 96% of securities (in terms of value) held at DCV are dematerialized and this percentage has been growing over the years as legacy paper-based securities mature.

7. **Nonetheless, DCV should improve compliance with the PFMI in a few areas.** The area of biggest concern for DCV is general business risk. To date, DCV has not developed a recovery plan in connection with general business losses, and was found to hold liquid net assets sufficient to cover less than three months of operating expenses (as opposed to a minimum of 6 months prescribed by the PFMI). Although for the most part the company incorporates international standards and best practices with regard to governance, there is no formal mechanism to review its board performance. DCV should take a comprehensive approach to defining and addressing the various types of risks it faces: currently, although all such risks are de facto managed, DCV general risk management policy is focused on operational risk.

8. **No serious issues of concerns were identified with regard to the operation of CCLV as a securities settlement system.** On the other hand, there are gaps in the company's governance arrangements that include: (i) the lack of a formal mechanism for reviewing the performance of the board, which it shares with the Santiago Stock Exchange as the holding company of CCLV, (ii) roles and responsibilities of senior management are not defined and documented at the level of the subsidiary (i.e. at the level of CCLV), and; (iii) no independent reporting line exists for the risk management function. The lack of a detailed plan for its financial recovery also raises concerns that could become serious if not addressed in a timely fashion.

9. **CCLV as a central counterparty incorporates international standards in its risk management practices; issues of concern only arise as a result of the lack of coverage of segregation and portability in the legal framework.** Although CCLV rules and contracts provide the mechanism for the segregation and portability of positions, and these arrangements are implemented in practice, in light of the gaps in the legal framework the relevant standards cannot be met. It is worth noting that FMIs in general – including CCLV – do not have access to central bank liquidity in the payments system (i.e. the intraday liquidity facility). As a result, CCLV must resort to other liquidity providers before first exhausting the collateral provided by the delayed/defaulted participant(s). Authorities should consider costs vs. benefits of providing FMIs with access to intraday liquidity facilities.

10. **ComDer was established as a response of the banking system to the exponential growth of the over-the-counter (OTC) derivatives market and to achieve compliance with international standards and G20 expectations.** In practice, ComDer was designed to abide by international best practices and observes most of the Principles. ComDer risk management practices are robust in general terms. In particular, ComDer uses good and conservative

practices with regard to collateral, e.g. it accepts only cash and debt securities issued by the Central Bank or the National Treasury as collateral, marks collateral and participant positions to market daily, and applies conservative haircuts that also incorporate crisis scenarios thus reducing the need for pro-cyclical adjustments.

11. **However, ComDer has yet to fine-tune some aspects of its operations, namely its stress test programme.** In addition, as noted above for CCLV, ComDer does not have access to routine Central Bank credit either; as a result, it must resort to its liquidity providers before first exhausting the collateral provided by the delayed/defaulted participant(s). Collateral in securities – although highly liquid – may not be readily available (within one or two hours), at least in part because ComDer uses a model of electronic pledge. Also, the same considerations that were made above with regard to the lack of legal underpinning of segregation and portability of positions and collateral apply to ComDer too, however, in this case and for the time being, the risk is not very material as long as ComDer only clear positions from direct participants.

12. **Authorities' powers are clearly defined with no overlap. However, when assessed at the jurisdictional level, there are a few gaps in the observance of the Responsibilities of Authorities.** Observance is affected mainly by the following elements: i) with regard to payment systems, the Central Bank, though it has the necessary powers and the resources / processes in place, has not defined a comprehensive oversight policy for systemically important payment systems, while the *Superintendencia de Bancos e Instituciones Financieras* (SBIF) as the supervisor of ComBanc relies on the supervision framework set out for *Sociedades de Apoyo al Giro* which does not take into consideration the specific features and risk profile of ComBanc as a FMI; ii) although numerous steps are being taken in the direction of adopting the PFMI, there is no uniform recognition of the PFMI across authorities in Chile, and; iii) cooperation among authorities is efficient, but there are no effective procedures to ensure timely access to BBCh data on foreign exchange derivatives by other authorities.

13. **In the context of this PFMI assessment, it is worth noting that there is no recognized trade repository (TR) in Chile, nor the legal and regulatory framework to cover TRs exist; therefore a formal assessment of TRs was not undertaken.** At the international level, concerns about systemic risks in OTC derivatives markets have led to important changes in international standards and a G20 reform agenda to improve transparency that contemplates – among other things – mandatory reporting to TRs of all OTC derivatives contracts. The Central Bank operates a database (*Base de Datos de Derivados Cambiarios*, BDDC) where foreign exchange derivatives transactions are reported by banks, other financial institutions and certain non-financial entities, and publishes aggregate-level data. However, this infrastructure does not currently qualify as a TR. A plan of action to remove the existing barriers – legal and technological – to developing a TR function will enable Chilean authorities to meet international expectations and best practices in the global derivatives markets.

II. INTRODUCTION

14. The Central Bank of Chile (*Banco Central de Chile*, BCCh) and Chile's Ministry of Finance, in their letter of January 9th, 2015, requested the World Bank to undertake a stand-alone Review of Standards and Codes (ROSC) module of the Principles for Financial Market Infrastructures (PFMI) of the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commission (IOSCO).

15. A World Bank Group (WBG) team consisting of Jose Antonio Garcia (Senior Payment System Advisor and Team Leader), Corina Arteche (Senior Payment System Specialist), Maria Chiara Malaguti (Senior Legal Advisor) – supported remotely by Maria Teresa Chimienti (Payment System Specialist) - visited Chile from August 3-7 and from September 21-October 2, 2015 to assess Chile’s FMIs.¹ On the side of local authorities, the team included Catherine Tornel (Senior Economist) and Maria Jose Meléndez (Economist) from the BCCh, and Bernardita Palacios (Capital Markets Advisor) from the Ministry of Finance.

16. A total of five financial market infrastructures (FMIs) were assessed as part of this ROSC, although one of these operates both as a central counterparty (CCP) and as a securities settlement system (SSS) for different segments of the exchange-traded securities market, and as a result a total of six FMI assessments were produced by the team. In addition, the Responsibilities of Authorities for FMIs were assessed.

17. The main tool used by the assessment was the CPSS-IOSCO Assessment Methodology for the Principles for Financial Market Infrastructure and the Responsibilities of Authorities”. Each of the FMIs and Chilean authorities – the *Banco Central de Chile* (BCCh), the *Superintendencia de Valores y Seguros* (SVS) and the *Superintendencia de Bancos e Instituciones Financieras* (SBIF) – completed a self-assessment for the PFMI and the Responsibilities of Authorities, respectively. On this basis, the WBG team and the local team conducted detailed interviews with senior and mid-level managers of all the respective institutions, and prepared the assessment reports.

18. In addition to the self-assessments, other sources of information included the applicable laws and regulations, as well as each FMI’s main policies and internal documents (e.g. detailed policies, and processes and procedures for certain key areas) which were shared by the FMIs with the assessors, and other information available at each FMI’s website (e.g. statistics). The WBG and local teams also met with a number of users of these FMIs, including two large commercial banks and two brokers-dealers that are not part of local bank-lead conglomerates.

III. OVERVIEW OF THE PAYMENT, CLEARING AND SETTLEMENT LANDSCAPE

19. Chile has a fairly developed payment, clearing and settlement infrastructure comprising:

- Two systemically important payment systems – a Central Bank-operated real-time gross settlement system (*Sistema LBTR*), and a privately-owned clearinghouse for high-value interbank payments (ComBanc)
- A central securities depository (CSD) for government and corporate securities (*Depósito Central de Valores S.A. – DCV*)
- A securities settlement system (SSS) for debt securities and money market instruments, that also acts as a central counterparty (CCP) for corporate equities (*CCLV Contraparte Central S.A - CCLV*). Starting July 30th, 2015 CCLV also acts as a CCP for certain exchange-traded derivatives.
- A CCP for over-the counter (OTC) derivatives (ComDer).

¹ T. Khiaonrong and F. Wendt (IMF), and D. Delort and G. Srinivas (WBG) acted as peer-reviewers.

20. In addition, the BCCh operates a database (*Base de Datos de Derivados Cambiarios, BDDC*) in which foreign exchange (FX) derivatives transactions are reported by banks and other financial institutions, and certain non-financial institutions.

21. The assessment report covers the Responsibilities of central banks, market regulators, and other relevant authorities for the above-mentioned financial market infrastructures.

a. Regulatory, supervisory and oversight framework

22. The BCCh is the regulator of payment and settlement systems in Chile. BCCh regulatory and oversight powers are grounded in its Organic Law (art. 3) and the Compendium of Financial Norms (CFN, chapters III.H III.J). The BCCh is also the regulator of the foreign exchange market. The BCCh is the overseer (and operator) of the Sistema LBTR.

23. Supervision of ComBanc and other privately-owned retail payment infrastructures is delegated to the banking supervisory agency (*Superintendencia de Bancos e Instituciones Financieras, SBIF*), based on article 82 of the BCCh Organic Law, and articles 12 and 75 of the Banking Law.

24. The securities regulator, *Superintendencia de Valores y Seguros (SVS)*, is the regulator and supervisor of CSDs, SSSs, and CCPs. The objectives, functions, powers, and organization of the SVS are spelled out in its Organic Law (Law 3.583 of 1980). The legal basis for the operation of CSDs and SSSs in Chile are provided under Law 18.876 and Law 20.345, respectively. Consistently with its statutory powers and the laws mentioned above, the SVS supervises DCV, CCLV, and ComDer. However, Law 20.345 requires that any changes to the rulebooks of CCLV and ComDer be approved by the SVS also with the binding opinion of the BCCh and after hearing the opinion of the SBIF.

25. In addition to the applicable laws, the SBIF and SVS issue general rules (*Normas de carácter general, NCG*) to the FMIs under their regulatory purview. In a few cases, NCGs have been issued jointly to reflect the fact that in some of the FMIs supervised by the SVS some of the participants are banks.

26. The main instance of domestic cooperation among financial sector authorities is provided by the Financial Stability Council (*Comité de Estabilidad Financiera – CEF*). In addition, bilateral cooperation domestically and internationally is facilitated through memoranda of understanding (MoU).

27. The main instance of domestic cooperation among financial sector authorities is provided by the Financial Stability Council. In addition, bilateral cooperation domestically and internationally is facilitated through memoranda of understanding (MoU).

b. Summary of major changes and reforms

28. The most relevant changes and reforms in recent years derive from the enactment of Law 20.345. Recent changes, partly in response to this law and to international trends and developments, included the creation of ComDer, and CCLV becoming a CCP for equities and more recently for exchange-traded derivatives.²

29. Chilean financial sector authorities expect to undertake further reforms based on the outcomes of this CPSS-IOSCO PFMI ROSC.

² CCLV has been acting as a CCP for the equities market since 2011.

IV. SUMMARY ASSESSMENT

a. Summary assessment of observance of the Responsibilities

30. In general terms, the Responsibilities are well understood by the authorities, and the legal framework allows to clearly distinguish their respective powers and responsibilities. However, there are some aspects that require follow-up and a certain degree of coordination that have been noted below. Two responsibilities have been assessed as “broadly observed” and one responsibility has been assessed as “partly observed”. These responsibilities are mentioned below:

31. Responsibility C – Broadly observed: The SVS has explicit regulatory and supervisory policies with respect to the FMIs that fall within its jurisdiction. These objectives have been disclosed in the legal framework, and the organizational arrangements necessary for the supervision of these FMIs have been made. Regarding SBIF, although objectives, roles and regulations for ComBanc as a *Sociedad de Apoyo al Giro* are clearly defined and disclosed, no specific policies exist for ComBanc as a FMI. The objectives of the BCCh as the payment system regulator are clearly defined and disclosed, and in practice BCCh fulfills the role of the overseer of Sistema LBTR. However, there is no comprehensive oversight policy framework in place encompassing systemically important payment systems.

32. Responsibility D – Partly observed: There is no uniform recognition of the PFMI across authorities in Chile. The BCCh has formalized its plans to adopt the PFMI in its publications (e.g. Financial Stability Report). Other authorities do not make an explicit reference to the PFMI, although they recognize that they are used as a guide when developing own standards and regulations.

33. Responsibility E – Broadly observed: The main instance of domestic cooperation among financial sector authorities is provided by the Financial Stability Council (*Comité de Estabilidad Financiera – CEF*). This form of cooperation is consistent with the institutional framework and effective. However, timely access to BCCh data on FX derivatives by other authorities and sharing of thereof is not supported in the current cooperation arrangements.

Assessment category	Responsibility
Observed	Responsibilities A, B
Broadly observed	Responsibility C, E
Partly observed	Responsibility D
Not observed	
Not applicable	

b. Recommendations for Authorities

Table 2 Prioritized list of recommendations				
Responsibility	Issue of concern or other gap or shortcoming	Recommendation action and comments	Relevant parties	Time frame for addressing recommended action
A	The criteria to identify FMIs are publicly disclosed, and are found in the legal framework. However, there is no legal framework for TRs.	Authorities should work on the establishment of a legal framework for TRs.	Ministry of Finance in consultation with BCCh, SVS and SBIF	In a defined timeline (1 year)
C	SBIF has defined objectives, roles and regulations for ComBanc as a <i>Sociedad de Apoyo al Giro</i> ; however, no specific policies exist for ComBanc as a FMI.	ComBanc should be subject to oversight and supervision consistently with its features and risk profile as a FMI. Therefore, the SBIF should re-evaluate using the policies for <i>Sociedades de Apoyo al Giro</i> for ComBanc in light of the requirements of the PFMI. It is recommended that an ad-hoc policy for the supervision of ComBanc as an FMI be developed.	SBIF	In a defined timeline (2 years)
	Although BCCh fulfills the role of the overseer of Sistema LBTR in practice, there is no comprehensive oversight policy framework in place encompassing operational and policy aspects of systemically important payment systems.	The BCCh should develop a policy framework for the oversight of all systemically important payment systems and make it public for transparency to market participants. This policy should include oversight objectives, scope, activities, and instruments to be used by the BCCh to implement this function.	BCCh	In a defined timeline (2 years)

Table 2
Prioritized list of recommendations

Responsibility	Issue of concern or other gap or shortcoming	Recommendation action and comments	Relevant parties	Time frame for addressing recommended action
D	There is no uniform recognition of the PFMI across authorities in Chile; the BCCh has formalized its plans to adopt the PFMI in its publications while other authorities do not make an explicit reference to the PFMI other than using it as a guide when developing own standards and regulations	Authorities should formally adopt the PFMI. To this purpose, authorities could issue policy statements. The adoption of the PFMI may require changes in the legal and regulatory framework. Authorities should closely monitor observance of PFMI by the FMIs under their respective jurisdictions, and ensure that timely action is taken by the FMI should deficiencies vis-à-vis the standards arise.	BCCh, SVS and SBIF	In a defined timeline (1 year)
E	Given the current limitations in the legal framework, and the lack of efficient mechanisms for the sharing of information, prompt access to data held in the BDDC by other authorities cannot be achieved. In practice, this also leads to duplication of efforts to some extent.	The issue of access to OTC derivative data by all relevant authorities should be considered in the development of the legal framework for TRs. It is recommended that the CEF also discuss possible solutions in light of future legal reforms.	BCCh in consultation with the SVS and SBIF; CEF for multilateral consultation	In a defined timeline (2 years)

V. DETAILED ASSESSMENT REPORT

<p>Responsibility A: Regulation, supervision, and oversight of FMIs</p> <p>FMI should be subject to appropriate and effective regulation, supervision, and oversight by a central bank, market regulator, or other relevant authority.</p>	
<p>Key consideration 1</p>	<p>Authorities should clearly define and publicly disclose the criteria used to identify FMIs that should be subject to regulation, supervision, and oversight.</p>
<p>Description</p>	<p>The BCCh is the regulator of payment and settlement systems in Chile. It has defined as systemically important payment systems:</p> <ul style="list-style-type: none"> (i) Sistema LBTR: a Central Bank-operated real-time gross settlement (RTGS) system, and (ii) Combanc: a privately-owned clearinghouse for high-value payments <p>The criteria considered by the BCCh for the identification of these systems as systemically important are grounded in the LOC and articulated in the document “<i>Gestión de Pagos de Alto Valor</i>” based on the potential of those systems to trigger or transmit system disruption.</p> <p>There is a clearinghouse for cheques and a clearinghouse for ATMs operating in the country. These are regulated by the BCCh but not regarded as systemically important; therefore, they do not warrant application of the PFMI.</p> <p>The Central Bank-operated FX derivatives database (<i>Base de Datos de Derivados Cambiarios – BDDC</i>) is not currently identified as a TR; in fact, BDDC rather operates as an internal tool of the BCCh. Although BDDC is regulated by BCCh internal regulations on the basis of the powers conferred from the Organic Law to the BCCh on foreign exchange markets, at present there is no law that explicitly covers TRs as such in Chile.</p> <p>The criteria to identify the FMIs that are subject to regulation and oversight of the securities regulator, SVS, are incorporated in the relevant legal framework:</p> <ul style="list-style-type: none"> (i) SSSs (CCLV in its function as an SSS) and CCPs (CCLV in its function as a CCP and ComDer) are regulated under Law No. 20.345, which applies to the clearing and settlement systems of financial instruments, the operators of these systems and their participants. (ii) CSDs (DCV) are regulated by Law No. 18.876 and Law No. 20.345. The Law establishes CSDs as entities with the main objective of receiving public offering securities deposits and facilitating the transfer of these securities, according to the procedures specified in the Law.
<p>Key consideration 2</p>	<p>FMIs that have been identified using these criteria should be regulated, supervised, and overseen by a central bank, market regulator, or other relevant authority.</p>

<p>Description</p>	<p>In the light of the provisions of the LOC, the BCCh is the regulator of payment and settlement systems in Chile. It oversees the Sistema LBTR which it also operates. Payment system regulations are incorporated in Chapter III.H of the Compendium of Financial Norms (CNF).</p> <p>ComBanc is subject to the regulation of the BCCh as a high-value clearing house (Chapter III.H.5 of the CNF). The supervision of ComBanc is delegated to the SBIF based on article 82 of the BCCh Organic Law, and articles 12 and 75 of the Banking Law. Under the terms established by Article 74 of the Banking Law, and in accordance with the general rules established by the SBIF, the operator of the clearing house must be constituted as a banking activities support company (<i>Sociedad de Apoyo al Giro</i>).</p> <p>The SVS regulates and supervise the SSS (CCLV as an SSS), the CCPs (CCLV, ComDer) and the CSD (DCV). The objectives, functions and powers of the SVS are spelled out in Law No. 3.583 of 1980 (<i>Ley Orgánica de la Superintendencia de Valores y Seguros</i>). Law No. 20.345 regulates securities clearing and settlement systems. Law No. 18.876 establishes the legal framework for the operation of CSDs.</p>
<p>Key conclusions</p>	<p>The criteria to identify FMIs are found in the legal framework. There is no legal framework for TRs in Chile.</p> <p>The systemically important payment systems are regulated by the BCCh. The BCCh is the overseer of the RTGS system it also operates, while the supervision of ComBanc is delegated to the SBIF.</p> <p>The SVS regulates and oversees securities clearing and settlement systems and CSDs.</p>
<p>Assessment of Responsibility A</p>	<p>Observed.</p>
<p>Recommendations and comments</p>	<p>In the absence of a legal and regulatory framework for TRs, Chile may face legal barriers in meeting international expectations and best practices in global derivatives markets aiming to increase transparency and to facilitate identification and management of global systemic risk. Authorities should develop a legal and regulatory framework that specifically covers TRs in Chile. This framework should set the minimum standards TRs should comply with, reporting obligations to TRs, and the authorities and other parties that may access the data in the TR, and specify under what conditions and the applicable limits, if any. This legal and regulatory framework is also important to ensure a level playing field with private sector entities that already are, or in the future could be, providing TR services. The legal framework should also include the implementation of the oversight for the TR.</p>

<p>Responsibility B: Regulatory, supervisory, and oversight powers and resources Central banks, market regulators, and other relevant authorities should have the powers and resources to carry out effectively their responsibilities in regulating, supervising, and overseeing FMIs.</p>	
<p>Key consideration 1</p>	<p>Authorities should have powers or other authority consistent with their relevant responsibilities, including the ability to obtain timely information and to induce change or enforce corrective action.</p>
<p>Description</p>	<p><i>Powers or other authority consistent with relevant responsibilities</i></p> <p>Based on its Organic Law, article 3 (<i>Ley Orgánica Constitucional del Banco Central de Chile – LOC</i>), the BCCh is responsible for the monitoring of the sound operation of payment systems – both international and domestic. In light of these broad powers, the BCCh:</p> <ul style="list-style-type: none"> (i) regulates (and operates) the Sistema LBTR. The BCCh has the power to authorize, suspend, and revoke participants, define minimum participation requirements, establish system operations and clearing procedures, connections, contingency procedures and risk management practices. Sistema LBTR is regulated by Chapter III.H.4 of the Compendium of Financial Rules (CNF). (ii) authorizes the operation of the high-value payments clearinghouse (ComBanc) and approves its rulebook. ComBanc is authorized as a large-value clearing house under article 35 of the LOC and regulated by Chapter III.H.5 of the CNF. <p>While regulation of ComBanc is the responsibility of the BCCh, the Banking Law confers to SBIF the powers to supervise <i>Sociedades de Apoyo al Giro</i>. ComBanc must be incorporated as a <i>Sociedad de Apoyo al Giro</i> (See Responsibility A, Key Consideration 2).</p> <p>The SVS regulates and supervises CSDs, SSSs and CCPs, consistently with its statutory powers (Law Decree No 3.538), and Law 18.876 (for CSDs) and Law 20.345 (for SSSs and CCPs). Law 20.345 also requires that any changes to the rulebooks of CCLV and ComDer be approved by the SVS though also with the binding opinion of the BCCh, and after hearing the opinion of the SBIF.</p> <p><i>Powers to obtain timely information</i></p> <p>BCCh is the regulator of the Sistema LBTR; as such, it has access to all information necessary for the purposes of oversight. The information is analyzed by the Supervisory Committee of Sistema LBTR and by the <i>Gerencia de Infraestructura y Regulación Financiera (GIRF)</i>, responsible for the oversight of payment systems. There is no restriction on access to information.</p> <p>The BCCh does not receive information directly from ComBanc. However, since ComBanc settles all its operations in the BCCh RTGS system, the BCCh obtains information about volume and value of</p>

	<p>operations (at the level of the single participant) through the Sistema LBTR.</p> <p>The SBIF is empowered to obtain information from ComBanc in accordance with the provisions of the Banking Law regarding the <i>Sociedades de Apoyo al Giro</i>. In case of ComBanc, SBIF requests semiannual or annual information on Board minutes, changes of ownership, and internal and external audit systems, and conducts on-site supervision every two years.</p> <p>Based on D.L. No. 3.538, art. 4 SVS has the power to: (i) examine all transactions, goods, books, accounts, archives and documents of supervised entities or activities, and demand of their administrators, advisors or personnel all the information and the explanations that it deems necessary; and (ii) request financial balance sheets and statements.</p> <p>In accordance with Law No. 20.345, all the SSSs and CCPs should provide information that may be requested by the SVS in the exercise of its supervisory functions. Similarly, Law No 18.876, requires that CSDs provide the SVS with all information that it may request.</p> <p><i>Powers to induce change or enforce corrective action</i></p> <p>BCCh has powers to induce change as part of its role as regulator and overseer of the payment system. In the case of ComBanc, Chapter III.H.5 of the CNF gives powers to the BCCh to suspend the operation of a clearinghouse when the operator fails to comply with the duties and obligations set out in the relevant law and regulations, or when its operation threaten the security of the payments system. Also, the BCCh has the power to amend the regulations when conditions demand it.</p> <p>The BCCh through the Business Continuity Committee of the Sistema LBTR can induce changes in the technical procedures used by the FMIs that participate in the system.</p> <p>SBIF and SVS, according to their respective legal frameworks, can sanction FMIs and impose action plans to correct detected violations in the compliance with the norms:</p> <p>(i) Law Decree No. 3.538, art. 4 establishes that the SVS can set rules, give instructions and issue orders for the implementation and adherence of the legal framework. It also enables the SVS to apply penalties to supervised entities. According to article 27, supervised entities that violate laws, regulations, statutes or other rules, or do not comply with the instructions and orders issued by the SVS, may be subjected to one or more of the following sanctions:</p> <ul style="list-style-type: none"> • Warnings • Penalty fees • Revocation of license
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	<p>(ii) Circular No. 3 issued by the SBIF indicates that <i>Sociedades de Apoyo al Giro</i>, as in the case of ComBanc, are subject to the sanctions referred to in Article 19 of the General Banking Law. Article 19 states that the institutions subject to the supervision of the SBIF that shall incur in a violation of the law or regulations issued by the SBIF may be sanctioned with penalty fees.</p>
Key consideration 2	Authorities should have sufficient resources to fulfil their regulatory, supervisory, and oversight responsibilities.
Description	<p><i>Resources</i></p> <p>The BCCh has allocated resources for the exercise of its responsibilities as the payment system regulator and overseer.</p> <p>The GIRF is tasked with conducting research and studies related to financial stability and with monitoring payment systems. The GIRF has 12 employees of which 6 work in the regulation and oversight of payment systems. One of the tasks of the GIRF is the design and evaluation of policies and regulations relating to payment systems in order to promote the efficient and safe development of the financial system and the capital market. The GIRF contributes with two sections to the BCCh Financial Stability Report, namely “Financial regulation” and “Payment Systems”, describing and analyzing initiatives in financial regulation, both in Chile and abroad, as well as aspects relating to the operation and development of payment systems and infrastructure that supports the operation of financial markets.</p> <p>The oversight of the Sistema LBTR is done by the Sistema LBTR Supervision Committee. This committee was established by a resolution of the General Manager of the BCCh. Its objectives are defined in the “Internal Manual for the Management and Operation of the Sistema LBTR”. Its task include to review the operation of the system, and to analyze the events that require the application of contingency arrangements and other relevant developments. The members of the Committee are: the General Manager, Manager of the Financial Operations Division, Manager of the Financial Policy Division; Manager of the Infrastructure and Financial Regulation Division, IT Management, National Markets and Financial Services Management, the Head of the Payments Department, the Head of Systems Development, and a representative of the Legal Department.</p> <p>The supervision of ComBanc is delegated to the SBIF (see Key Consideration 1). The SBIF does not have resources specifically allocated for the supervision of ComBanc. The department responsible for <i>Sociedades de Apoyo al Giro</i> – including ComBanc – is comprised of eight analysts and a head. The unit’s emphasis is on measurement and monitoring of operational risk of the 22 entities supervised (12 <i>Sociedades de Apoyo al Giro</i>, 7 <i>Cooperativas de Ahorro y Crédito</i> and 3 <i>Operadores de tarjetas</i>). The Operational Risk Unit of SBIF supports the supervision</p>

	<p>of these institutions. The SBIF undertakes both on-site and off-site supervision activities of banks and <i>Sociedades de Apoyo al Giro</i>.</p> <p>The SVS has created a unit dedicated to the supervision of FMIs (DCV, CCLV, and ComDer). It is currently in a process of internal restructuring and has two analysts and a head. The SVS is expected to increase the number of employees in this area.</p> <p><i>Legal Protection</i></p> <p>The Law (article 7, D.L. 3.538) grants the SVS Chairman legal support in case of being sued for actions or omission during the exercise of his/her duties.</p> <p>Similarly, art. 10 of the Banking Law establishes that the SBIF Superintendent shall be the legal representative of the Superintendence, and shall have authority to perform all the acts that are necessary or convenient for the accomplishment of its purposes. In the event that law suits are filed against the Superintendent because of actions or omissions performed during his term in office, the Superintendence provides him with legal assistance. SBIF officials exercise their duties under of the Banking Law, and in this context, the Superintendent may delegate some of its powers to them.</p>
Key conclusions	<p>BCCh, SBIF and SVS have the necessary legal powers (including powers to obtain information and induce change or enforce corrective actions) to fulfill their responsibilities, as well as the resources to carry out in an effective manner their regulatory, supervisory and/or oversight responsibilities with regard to FMIs.</p>
Assessment of Responsibility B	<p>Observed.</p>
Recommendations and comments	

Responsibility C: Disclosure of policies with respect to FMIs	
Central banks, market regulators, and other relevant authorities should clearly define and disclose their regulatory, supervisory, and oversight policies with respect to FMIs.	
Key consideration 1	Authorities should clearly define their policies with respect to FMIs, which include the authorities’ objectives, roles, and regulations.
Description	<p>The LOC states that BCCh has among its objectives to ensure the stability of the financial system and the proper functioning of the payments. To achieve these goals, it has developed a regulatory framework for different payment systems operating in the country; this framework is incorporated in the CNF.</p> <p>Chapters III.H.4 and III.H.4.1 of the CNF articulates BCCh policies with regard to the RTGS system. The responsibilities of the BCCh as the regulator of the large-value clearing house can be found under article 35 of the LOC, and are articulated in Chapter III.H.5 of the CNF. BCCh performs oversight of the Sistema LBTR through the GIRF and the Sistema LBTR Supervision Committee.</p> <p>The Banking Law mandates the SBIF to supervise the “<i>Sociedades de Apoyo al Giro</i>”. The supervision practices on these entities emphasize the regulatory compliance of operational risk management, corporate governance, business continuity, and business risk management. There is no specific oversight policy for ComBanc as an FMI.</p> <p>Law Decree No 3.538 – the Organic Law of the SVS – establishes the functions, responsibilities and powers of the SVS vis-à-vis all supervised entities. Laws No 20.345 and Law No. 18.876 and implementing regulations incorporate SVS regulatory and supervision objectives and rules/standards for CCPs and SSSs, and for CSDs, respectively.</p>
Key consideration 2	Authorities should publicly disclose their relevant policies with respect to the regulation, supervision, and oversight of FMIs.
Description	<p>Policies with regard to the regulation of payment systems are disclosed in the CNF, and published on the BCCh website (http://www.bcentral.cl/normativa/normasfinancieras/pdf/CapIIIH4.pdf; http://www.bcentral.cl/normativa/normasfinancieras/pdf/CapIIIH5.pdf).</p> <p>The BCCh has disseminated its regulatory policy with regard to payment systems through different publications, such as the “<i>Gestión de Sistemas de Pagos de Alto Valor 2012</i>” and the Financial Stability Reports.</p> <p>SVS regulatory and supervision objectives are defined and disclosed in the legal and regulatory framework applicable to the entities that are under its purview. The laws and implementing regulations are available at the SVS website (http://www.svs.cl/portal/principal/605/w3-propertyvalue-18493.html)</p>
Key conclusions	The BCCh has established its role as the regulator of the payments system. However, even if the BCCh de facto oversees the RTGS system, and has delegated the supervision of ComBanc to the SBIF, it has not defined a

	<p>comprehensive oversight policy for systemically important payment systems. In the case of the Sistema LBTR, the terms of reference of the Sistema LBTR Supervision Committee and the Business Continuity Committee focus heavily on operational aspects.</p> <p>The SBIF carries out the supervision of ComBanc according to the policies it has set out for all <i>Sociedades de Apoyo al Giro</i> and based on a delegation of authority from the BCCh. However, these policies do not regard ComBanc as a FMI.</p> <p>SVS have clearly defined policies for the FMIs it regulates and oversees, which are embedded in the relevant legal and regulatory framework.</p>
<p>Assessment of Responsibility C</p>	<p>Broadly observed.</p>
<p>Recommendations and comments</p>	<p>The BCCh should create and implement an oversight policy framework for systemically important payment systems, and make it public and transparent to market participants.</p> <p>The Committee on Payment and Market Infrastructures (CPMI) has provided a definition of oversight which is widely accepted. Oversight of payment and settlement systems is defined as “<i>a central bank function whereby the objectives of safety and efficiency are promoted by monitoring existing and planned systems, assessing them against these objectives and, where necessary, inducing change</i>”. This definition encompasses the public policy objectives of oversight (safety and efficiency), the scope of oversight, and the activities of the oversight which comprises (i) monitoring existing and planned systems; (ii) assessing them; and (iii) inducing change if and when necessary.</p> <p>SBIF supervises ComBanc as a <i>Sociedad de Apoyo al Giro</i>, thus its policies are not tailored to the operations and risk profile of a FMI. It is recommended that SBIF re-evaluate the use of its policies for <i>Sociedades de Apoyo al Giro</i> for the purposes of overseeing ComBanc. This is in the light of PFMI requirements and expectations on national authorities. In fact, a specific supervision policy for ComBanc as a FMI may be warranted.</p>

Responsibility D: Application of the principles for FMIs	
Central banks, market regulators, and other relevant authorities should adopt the CPSS-IOSCO Principles for financial market infrastructures and apply them consistently	
Key consideration 1	Authorities should adopt the CPSS-IOSCO Principles for financial market infrastructures.
Description	<p>In the case of the payment systems, explicit reference to the PFMI and its importance is disclosed in the document “<i>Gestión de Sistemas de Pagos de Alto Valor 2012</i>” published by the BCCh. In the Financial Stability Report for the second half of 2014, the BCCh also states the importance of the PFMI and the commitment of authorities to comply with all the principles.</p> <p>To date, there is not explicit mention of the adoption of the PFMI in any of the publications of the SBIF and the SVS. However, the SVS has restructured its internal organization creating a special unit dedicated to the supervision of the FMIs under its scope and in line with the PFMI.</p> <p>The Financial Stability Council (<i>Consejo de Estabilidad Financiera – CEF</i>) which represents the highest financial authority (see Responsibility E) approved the assessment of the PFMI by the World Bank and IMF. The CEF requested the BCCh and the Ministry of Finance to coordinate with the other authorities and the FMIs in order to prepare self-assessments as a first step of a plan to comply with the PFMI over the medium term.</p>
Key consideration 2	Authorities should ensure that these principles are, at a minimum, applied to all systemically important payment systems, CSDs, SSSs, CCPs, and TRs.
Description	<p>The CEF approved the broad adoption of all the PFMIs in the medium term.</p> <p>The principles will be applied to systems that the authorities of each sector define as systemically important. These would include: Sistema LBTR, ComBanc as a high value clearinghouse, CCLV (in its role as SSS and CCP), DCV as a CSD, and ComDer as a CCP. The BDDC does not currently have the status of TR.</p>
Key consideration 3	Authorities should apply these principles consistently within and across jurisdictions, including across borders, and to each type of FMI covered by the principles.
Description	At present, none of the authorities fully apply the PFMI across FMIs. Authorities do regulate and supervise/oversee FMIs based on the laws and regulations that are applicable to the supervised entities.
Key conclusions	<p>There is no uniform recognition of the PFMI across authorities in Chile.</p> <p>BCCh has formalized its intention of adopt the PFMI in its publications. Other authorities do not make a specific reference to the PFMI, although these are used as a guide when developing own standards and regulations.</p> <p>As a first step toward adoption and application of the PFMI, the CEF approved the assessment of the PFMI by the World Bank and the IMF, and requested that self-assessments be made.</p>

<i>Assessment of Responsibility D</i>	Partly observed.
<i>Recommendations and comments</i>	<p>Authorities should formally adopt and put in place the necessary review mechanisms to ensure the broad application of the PFMI in the medium term.</p> <p>The formal adoption of the PFMI may require changes in the regulatory and supervisory frameworks, and in the internal organization of the Chilean authorities, as outlined in Responsibilities A, C, and E.</p> <p>Each supervisory and/or regulatory authority should review their policies in light of the PFMI to ensure the fullest application of the PFMI.</p>

<p>Responsibility E: Cooperation with other Authorities</p> <p>Central banks, market regulators, and other relevant authorities should cooperate with each other, both domestically and internationally, as appropriate, in promoting the safety and efficiency of FMIs.</p>	
<p>Key consideration 1</p>	<p>Relevant authorities should cooperate with each other, both domestically and internationally, to foster efficient and effective communication and consultation in order to support each other in fulfilling their respective mandates with respect to FMIs. Such cooperation needs to be effective in normal circumstances and should be adequately flexible to facilitate effective communication, consultation, or coordination, as appropriate, during periods of market stress, crisis situations, and the potential recovery, wind-down, or resolution of an FMI.</p>
<p>Description</p>	<p>Mechanisms for cooperation are in place between authorities both formally and through informal / more flexible mechanisms.</p> <p>Cooperation involve the BCCh, SVS, SBIF, the Ministry of Finance, and the <i>Superintendencia de Pensiones</i> (SP). All FMIs object of cooperation to different degrees (see Key Consideration 8).</p> <p>Cooperation facilitate communication and consultation at the highest level (e.g. through the Committee of Superintendents), as well as technical-level consultation. Cooperation involves exchange of information. Through less formal mechanisms, authorities have increased flexibility and the possibility to escalate certain issues that are deemed relevant to the more formal instances of cooperation.</p> <p>Cooperation procedures contemplate both normal circumstances and crisis situations.</p>
<p>Key consideration 2</p>	<p>If an authority has identified an actual or proposed operation of a cross-border or multicurrency FMI in its jurisdiction, the authority should, as soon as it is practicable, inform other relevant authorities that may have an interest in the FMI’s observance of the CPSS-IOSCO Principles for financial market infrastructures.</p>
<p>Description</p>	<p>Not Applicable. Currently there are no FMIs that can be classified as cross-border or multicurrency.</p>
<p>Key consideration 3</p>	<p>Cooperation may take a variety of forms. The form, degree of formalization and intensity of cooperation should promote the efficiency and effectiveness of the cooperation, and should be appropriate to the nature and scope of each authority’s responsibility for the supervision or oversight of the FMI and commensurate with the FMI’s systemic importance in the cooperating authorities’ various jurisdictions. Cooperative arrangements should be managed to ensure the efficiency and effectiveness of the cooperation with respect to the number of authorities participating in such arrangements.</p>
<p>Description</p>	<p><i>Forms of cooperation</i></p> <p>There are different instances of cooperation between the authorities. Formal cooperation takes place through the following instances:</p>

- (i) CEF is comprised of the Ministry of Finance, the SVS, the SBIF, and the SP, the BCCh being a permanent advisor to the CEF. The President of the Central Bank can participate in all meetings of the CEF, and has the right to obtain all the information and materials to be analyzed in the CEF and which are related to the objective of the BCCh. The technical secretariat of the CEF is provided by the Ministry of Finance, which contributes the infrastructure and human resources necessary for the proper functioning of the CEF. The CEF has the following tasks: (i) to analyze all activities subject to financial supervision and regulation, with a view to ensure the proper management of systemic risk; (ii) to facilitate proper coordination between supervisors and regulators to exercise comprehensive supervision of financial conglomerates and the implementation of public policies in this regard, and; (iii) to make appropriate recommendations to the Parliament.
- (ii) The Committee of Superintendents (*Comité de Superintendentes*, CS) was created by a joint resolution of the Superintendents of SBIF, SVS, and SP, with the BCCh as an observer, with the aim of creating an instance of coordination among supervisory bodies at the highest level. Coordination involves the following areas:
- Supervision, comprising the analysis of financial markets and consolidated supervision of their risks;
 - Regulations, covering cross-regulation norms or regulatory changes that impact the financial sector;
 - Exchange of information among the authorities and the necessary agreements that allow the exchange of information to improve and facilitate the supervision.
- (i) There are also bilateral cooperative agreements between authorities:
- SBIF-SVS working groups in the areas of business continuity, supervision of financial groups, and exchange of information;
 - BCCh-SBIF working groups in the areas of business continuity and exchange of information.
- (ii) There are informal instances of technical consultation and shared agendas that are activated on a case-by-case basis, and are composed of technical staff. In the case that such meetings lead to the identification of actions to be taken or call for an action plan to be prepared, the decision/approval is deferred to relevant formal cooperation body.

Efficiency and effectiveness of cooperation

The high-level cooperation mechanisms through the CEF are well established and formalized. The CEF has a technical secretary which is responsible for creating and coordinating working groups between the technical teams of the authorities in order to comply with the decisions taken at the CEF. The progress made as a result of the decisions must be submitted to the CEF.

	<p>The CF is an efficient mechanism that formalizes an agreement between superintendents, and benefits from solid legal bases.</p> <p>However, despite the existence of agreements between the authorities, the implementation of these agreements with respect to the exchange of information has proved difficult. There are different legal interpretations on the powers of each supervisory authority to share information collected from their supervised institutions. In addition to the legal interpretation issues, the formats in which the information is sent to the supervisor are inconsistent across authorities. The different formats do not allow exchanging the information electronically and harmonization of formats is regarded as critical. There is also some duplication of efforts in that both BCCh and SBIF have trade repository-like capabilities, but no information is shared between the two institutions.</p>
Key consideration 4	For an FMI where cooperative arrangements are appropriate, at least one authority should accept responsibility for establishing efficient and effective cooperation among all relevant authorities. In international cooperative arrangements where no other authority accepts this responsibility, the presumption is the authority or authorities with primary responsibility in the FMI’s home jurisdiction should accept this responsibility.
Description	<p>For all matters that fall within the scope of the CEF, the Ministry of Finance – who chairs the CEF – is responsible for establishing and maintaining the coordination mechanisms, and for following up on the decisions of the CEF. The Ministry of Finance is also responsible for the Technical Secretariat of the CEF.</p> <p>When decisions are taken in the CEF, the CEF delegates to a relevant authority the responsibility of establishing the necessary arrangements to implement the decisions of the CEF. For example, the BCCh together with the Technical Secretary of the CEF were designated as coordinators of the project of adoption of the PFMI.</p>
Key consideration 5	At least one authority should ensure that the FMI is periodically assessed against the principles and should, in developing these assessments, consult with other authorities that conduct the supervision or oversight of the FMI and for which the FMI is systemically important.
Description	The BCCh and the Ministry of Finance have requested that the World Bank and the IMF conduct an assessment of FMIs against the PFMI. They are responsible for coordinating this assessment. Authorities have requested that FMIs conduct self-assessments.
Key consideration 6	When assessing an FMI’s payment and settlement arrangements and its related liquidity risk-management procedures in any currency for which the FMI’s settlements are systemically important against the principles, the authority or authorities with primary responsibility with respect to the FMI should consider the views of the central banks

	of issue. If a central bank of issue is required under its responsibilities to conduct its own assessment of these arrangements and procedures, the central bank should consider the views of the authority or authorities with primary responsibility with respect to the FMI.
Description	<p>The BCCh is the regulator of the payment systems; as such, it has the powers to issue rules aimed at ensuring the proper management of liquidity. As for the SSS and CCPs under the purview of the SVS, the BCCh must also approve the rulebook of these FMIs.</p> <p>From an operational perspective, the BCCh is the coordinator of the Business Continuity Committee that is participated by all FMIs that settle their positions in the Sistema LBTR. All aspects that may affect the continuity of the systems and their impact on liquidity are reviewed and discussed in this Committee.</p>
Key consideration 7	Relevant authorities should provide advance notification, where practicable and otherwise as soon as possible thereafter, regarding pending material regulatory changes and adverse events with respect to the FMI that may significantly affect another authority’s regulatory, supervisory, or oversight interests.
Description	<p>The CEF and the CS are the mechanisms that enable communication and coordination on all aspects of payment and securities settlement systems – including legal and regulatory changes and the occurrence of adverse events – between authorities with respect to the FMIs that they regulate and supervise. To fulfill the decisions of the CEF working groups are created in which officials of the supervisory authorities and the BCCh are participants.</p>
Key consideration 8	Relevant authorities should coordinate to ensure timely access to trade data recorded in a TR
Description	<p>There is no fully functional TR in Chile.</p> <p>With regard to the BCCh database, because of legal restrictions (i.e. confidentiality obligations of the BCCh mentioned in article 66 of its Organic Law), beyond aggregate data that is released to the general public, at present there are no processes and procedures to provide data to other financial supervisors and other authorities in a timely and appropriate manner to assist them in meeting their mandates and responsibilities.</p> <p>There is an exception, contained in the BCCh Organic law, whereby the BCCh may provide BDDC data to certain specific public sector authorities. The process is rather cumbersome. Data requests must be analyzed by the BCCh department that is responsible for the data in BDDC, and by the Legal Department.</p> <p>Only if these analyses conclude that the request is consistent with article 66 of the Organic Law, then data is provided following the institutional information security policy.</p>

	The SBIF also collects some information about derivatives, but it does not share it with BCCh.
Key consideration 9	Each authority maintains its discretion to discourage the use of an FMI or the provision of services to such an FMI if, in the authority’s judgment, the FMI is not prudently designed or managed or the principles are not adequately observed. An authority exercising such discretion should provide a clear rationale for the action taken both to the FMI and to the authority or authorities with primary responsibility for the supervision or oversight of the FMI.
Description	FMI’s in Chile have to be licensed by the BCCh or a supervisory authority according to the legal framework. No instances of authorities exercising such discretion of discouraging the use of an FMI have occurred so far.
Key consideration 10	Cooperative arrangements between authorities in no way prejudice the statutory or legal or other powers of each participating authority, nor do these arrangements constrain in any way an authority’s powers to fulfil its statutory or legislative mandate or its discretion to act in accordance with those powers.
Description	Cooperative arrangements between authorities do not affect each other’s formal powers. Authorities are required to perform the responsibilities assigned to each of them by law duties regardless of any cooperative arrangement they may enter to with each other or with other authorities.
Key conclusions	<p>Cooperation is achieved at the highest level through the CEF. As the chair of the CEF, the Ministry of Finance has taken the lead for ensuring there is efficient and effective cooperation among all parties.</p> <p>Other multilateral and bilateral mechanisms of cooperation are also in place, and technical committees such as the Business Continuity Committee coordinated by the BCCh.</p> <p>An issue of concern is identified in the access to BCCD data. In fact, BCCD does not qualify as a TR; on the other hand, the nature of the information collected by the BCCh is such that it warrants defining a process to ensure prompt access by other authorities for the purposes of monitoring systemic risk implications that may arise in the derivatives market. Given the current limitations in the legal framework (see Resp. A), and the lack of efficient mechanisms for the sharing of information, access to data contained in the BCCD by other authorities cannot be achieved to the fullest extent of key consideration 8. In practice, this also leads to duplication of efforts to some extent.</p>
Assessment of Responsibility E	Broadly observed.
Recommendations and comments	Following the principle of non-regression, supervisors and other authorities should, at a minimum, have access to the data held in the BDDC where that data can also be received directly from an entity reporting to the BDDC (including same level of detail). Hence, to promote authorities’ access to

	<p>data held in the BDDC, clearly articulated and rationalized access policies are needed. However, this issue should be first addressed from a legal viewpoint to remove the legal restrictions to access to and sharing of these data (see also Resp. A).</p>
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It is also recommended that the CEF discuss possible solutions to information sharing also in light of future legal reforms.