

FMI STANDARD 13: PARTICIPANT-DEFAULT RULES AND PROCEDURES

FS13



DOCUMENT VERSION HISTORY

1 March 2024	First issue date
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INTRODUCTION

Application

- i. This standard applies to every operator of a designated FMI that was specified in its designation notice under section 29(2)(f) of the Financial Market Infrastructures Act 2021 (the **Act**) as falling within one or more of the following classes of designated FMIs:
 - (a) a pure payment system; or
 - (b) a central securities depository; or
 - (c) a securities settlement system; or
 - (d) a central counterparty.

Legal powers

- ii. Under section 8 of the Act the regulator is defined as the RBNZ and the FMA acting jointly (or the RBNZ acting on its own in relation to pure payment systems).
- iii. Section 12 of the Act provides the regulator's functions. These include regulating designated FMIs, dealing with designated FMIs that are distressed, and other functions under the Act.
- iv. Subject to certain statutory prerequisites, section 31 of the Act empowers the regulator to make standards for designated FMIs.
- v. Section 34 sets out the matters that standards may deal with or otherwise relate to. Section 34(1)(h) provides that a standard may deal with, or otherwise relate to, rules and procedures for managing a participant defaulting on its obligations under the rules of the FMI.

Interpretation

- vi. Words and phrases used in this standard have the same meaning as in the Act.
- vii. **Close out rights** means contractual rights that enable a party to terminate or liquidate a contract, or net position under multiple contracts (including through the acceleration or termination of obligations under one or more contracts, or exercising rights to set-off or net financial exposures created under one or more contracts).
- viii. **Close out rules** means any rules of the FMI designed to facilitate the exercise of close out rights.

Commencement

- ix. This standard comes into force on 1 March 2024.

REQUIREMENTS

- 1) An operator must have effective and clearly defined rules, policies and procedures to manage a participant default. The rules, policies, and procedures must ensure that the operator can take timely action which will enable the FMI to continue to meet its obligations when facing potential losses and liquidity pressures.
- 2) Further to the requirements in clause (1) an operator must have default rules, policies, and procedures for the FMI that:
 - a) enable the FMI to continue to meet the FMI and/or operator's obligations in the event of a participant default; and
 - b) address the replenishment of resources following a default where the FMI is exposed to credit or liquidity risk; and
 - c) be prepared to implement the FMI's rules, policies, and procedures for default, including any appropriate discretionary procedures provided for in the FMI rules; and
 - d) publicly disclose key aspects of the FMI's rules, policies, and procedures for default; and
 - e) include participants and other stakeholders in the testing and review of the FMI's default rules, policies, and procedures, including any rules, policies, and procedures relating to close-out rights; and
 - f) conduct the testing and review referred to in clause (2)(e) ,following material changes to the rules, policies, and procedures and on an annual basis ensure that the rules, policies, and procedures for participant default are practical and effective.

(See Standard 17A: 'Contingency plans' for further requirements and see Guidance for Standard 13: 'Participant-Default Rules and Procedures', in Guidance for the FMI Standards for more detail).