

FMI STANDARD 14: SEGREGATION AND PORTABILITY

FS14



DOCUMENT VERSION HISTORY

1 March 2024	First issue date
--------------	------------------

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 the central counterparty class of designated FMI.

Legal powers

- ii. Under section 8 of the Act the regulator is defined as the RBNZ and the FMA acting jointly.
- 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)(e)(v) provides that a standard may deal with, or otherwise relate to, the management of custody and investment risk. Segregating and porting participant assets is one way of managing custody and investment risk.

Interpretation

- vi. Words and phrases used in this standard have the same meaning as in the Act.
- vii. **Segregation** means the protection of customer collateral and contractual positions by holding or accounting for them separately from those of the direct participant.
- viii. **Portability** means the ability to transfer contractual positions, funds, or securities from one party to another party.
- ix. **Internal systems** means mechanisms within an FMI or operator to implement policies, procedures, or controls.

Commencement

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

REQUIREMENTS

- 1) An operator must have rules and procedures for the FMI that enable the segregation and portability of positions of a participant's customers, and the collateral provided to the FMI with respect to those positions.
- 2) Further to the requirements in clause (1), an operator must:
 - a) have segregation and portability arrangements for the FMI to effectively protect the positions of an FMI's participant's customers and related collateral from the default or insolvency of that participant; and
 - b) if the FMI offers protection of customer positions and collateral against the concurrent default of the participant and a fellow customer, take steps to ensure that such protection is effective; and
 - c) ensure that there is an account structure that enables the operator to readily identify positions of a participant's customers and to segregate related collateral. The operator must maintain participant customer positions and collateral in individual customer accounts or in omnibus customer accounts; and
 - d) structure the FMI's portability arrangements in a way that ensures there is a high probability that the positions and collateral of a defaulting participant's customers will be transferred to one or more other participants; and
 - e) disclose publicly the FMI's rules, policies, procedures, and internal systems relating to the segregation and portability of positions of participant's customers and related collateral; and
 - f) disclose whether participant customer collateral is protected on an individual or omnibus basis; and
 - g) disclose any constraints, such as legal or operational constraints, that may impair its ability to segregate or port a participant's customers' positions and related collateral.

(See Guidance for Standard 14: 'Segregation and Portability', in Guidance for the FMI Standards for more detail).