

Financial Markets Standards Board Limited*
WORKING GROUP TERMS OF REFERENCE

* Formerly FICC Markets Standards Board Limited

(As established by the Standards Board pursuant to By-law 13.1 of the Financial Markets Standards Board Limited By-laws)

Background to and Purpose of FMSB

Financial Markets Standards Board Limited (“**FMSB**”) is a privately-owned organisation, funded by its members. It is legally and operationally separate from the UK, and other overseas, public and regulatory authorities. FMSB is structured as a company limited by guarantee. It has a board of directors, and three key Committees that oversee its work: a Standards Board, an Advisory Council and an Adherence Oversight Committee. The Standards Board has established a series of sub-committees and working groups to support it in its role of promulgating standards and other materials.

FMSB is committed to sustaining the integrity of wholesale financial, including, but not limited to FICC, markets. By improving their transparency, fairness and effectiveness, FMSB seeks to support well-functioning, trusted global wholesale financial markets that in turn support sustainable economic growth for governments, corporations and investors.

FMSB seeks to improve the transparency, fairness and effectiveness of global wholesale markets by:

- acting in a collaborative and agile fashion across all market interests;
- harnessing the market position, thought leadership, technical knowledge and expertise of members;
- forward-looking, alert to emerging risks to markets and market structures on the horizon and aware of disruptive impacts of innovation; and
- promoting adherence to expert standards and individual understanding of the importance of fair and effective markets.

FMSB does not produce or interpret any formal regulation, nor does it engage in any lobbying, representation or commercial activities. Company Publications (as defined below) are designed to guide best market practice in (i) unregulated markets and (ii) regulated markets in cases where there is need for specific guidance on market practice that is not already contained in the applicable regulation.

As explained above, pursuant to By-law 13.1, the Standards Board may develop terms of reference to assist each Working Group (as defined within the By-laws) and the framework for such terms of reference is set out below.

1 Definitions

1.1 In these Terms of Reference, unless otherwise defined below, defined terms shall be given the same meaning as given in the By-laws: and

“**Company Publication**” means the Standards and Statements of Good Practice approved by the Standards Board for publication on the Company’s website;

“**FEMR**” means the Fair and Effective Markets Review published by the Bank of England, HM Treasury and the Financial Conduct Authority in June 2015;

“**Legal Working Group**” means the Working Group which comprises Legal Working Group Participants;

“**Legal Working Group Chair**” means the chair of the Legal Working Group who has been appointed as the legal adviser to the Standards Board;

“**Legal Working Group Participants**” means those participants, who are legally qualified, senior and suitably experienced, nominated to participate in the Legal Working Group and shall include the relevant Legal Working Group Chair.

“**Problem Statement**” means the scoping document prepared by a Working Group, which details what the proposed Company Publication seeks to address, its proposed geographical and product scope and the proposed type of Company Publication;

“**Spotlight Reviews**” means publications produced by the Company to draw observations on, and illuminate emerging issues in, the FICC Markets;

“**Transparency Draft**” is a Standard or Statement of Good Practice which will be published on the Company’s website with a review period of at least six to eight weeks to allow the public to provide comments on the Transparency Draft by email to the Secretariat.

“**Working Group Chair**” is given the meaning in Term 4.3; and

“**Working Group Participants**” means, in respect of each Working Group, those participants nominated to participate in accordance with either (i) By-law 13.3 (and subject to By-law 13.5) or (ii) By-law 13.4 and shall include the relevant Working Group Chair.

1.2 Singular, plural, gender

References to one gender include all genders and references to the singular include the plural and vice versa.

1.3 References to persons and companies

References to:

1.3.1 a person includes any company, corporation, firm, joint venture, partnership or unincorporated association (whether or not having separate legal personality); and

1.3.2 a company include any company, corporation or any body corporate, wherever incorporated.

2 Purpose

- 2.1 Subject to Term 2.9, each Working Group formed by the Standards Board pursuant to By-law 13.1¹ has the primary purpose of assisting with the development of Company Publications, and may include the development of a specific Spotlight Review.
- 2.2 Each Working Group shall have a specific remit which could be a specific asset class or an area of market practice, as prescribed by the Standards Board upon formation of the relevant Working Group and as amended from time to time. The Standards Board may request that a Working Group considers a thematic topic in detail.
- 2.3 Subject to Term 2.2, each Working Group shall discuss and develop topics for market practice standards and making recommendations on the same to the Standards Board.
- 2.4 Each Working Group shall follow the procedure as set out in Term 7.
- 2.5 Recommendations made pursuant to Term 2.3 shall require the approval of a majority of the Working Group Participants at a full meeting of the relevant Working Group before they are referred to the Standards Board. Working Group Participants will generally be given at least three weeks' notice of the time and date of the meeting where the recommendations are to be discussed. A full meeting is defined as one where at least 5 Working Group Participants are in attendance, whether in person, via a telephonic dial-in or by electronic means.
- 2.6 Where a Working Group Participant is unable to attend a meeting referred to in Term 2.5, but has provided written approval or disapproval of the recommendations ahead of the meeting. They shall be counted as in attendance for the purposes of Term 2.5.
- 2.7 In the event, that there are any Working Group Participants who do not form part of the majority who have reached the approval in Terms 2.5 and 2.6, a summary of their dissenting opinions will be recorded and included in the summary provided to the Standards Board in Term 7.5.
- 2.8 The Working Group Chair may, subject to approval from the Standards Board or the Secretariat, appoint a third party to assist the Working Group Participants with Terms 2.1 to 2.3.
- 2.9 Working Groups may, subject to approval by the Standards Board, amend these Terms of Reference, including those terms relating to 'Purpose'. The approved amended terms applicable to a Working Group are to be set out in Annex 3 to these Terms of Reference.

3 Composition

- 3.1 Each Working Group shall comprise:
 - 3.1.1 Working Group Participants; and
 - 3.1.2 representatives from the Secretariat.

4 Chair

- 4.1 The CEO may appoint a person to be chair of a Working Group.

¹ By-law 13.1: The Standards Board may form working groups, committees or sub-committees (collectively, "**Working Groups**") to discuss and develop topics for potential Company Publications or a specific Spotlight Review and make recommendations on the same to the Standards Board, and the Standards Board may develop terms of reference to assist each Working Group formed.

- 4.2 Where no person has been appointed to be chair in accordance with Term 4.1, the Working Group may elect to appoint one of themselves to be chair.
- 4.3 The person so appointed for the time being in accordance with Terms 4.1 or 4.2 shall be known as the “**Working Group Chair**” for the relevant Working Group.
- 4.4 The CEO may terminate a Working Group Chair’s appointment at any time.
- 4.5 A Working Group Chair may resign from the appointment as chair by notifying the CEO with three months’ notice.
- 4.6 Each Working Group Chair shall oversee the activities of the relevant Working Group and any committee formed by the Working Group in accordance with Term 10.1 and report to the Standards Board on such activities from time to time.

5 Meetings

- 5.1 The relevant Working Group Chair shall, in consultation with the Secretariat, determine the frequency of meetings.
- 5.2 Meetings of each Working Group shall be held at a location agreed by the Working Group Chair and the Secretariat with a telephonic dial-in made available. Meetings of each Working Group may take place by electronic means and be a virtual meeting.
- 5.3 Working Group Participants shall notify the Working Group Chair and Secretariat in advance if they are unable to attend a relevant meeting and may nominate an alternate to take to attend in their place, provided that any person so nominated possesses the requisite suitable experience prescribed in the By-laws².
- 5.4 Meetings shall be chaired by the relevant Working Group Chair and where the relevant Working Group Chair is unable to attend, they shall nominate an alternate to chair the meeting, provided that **any** person so nominated possesses the requisite suitable experience prescribed in the By-laws².
- 5.5 Subject to By-law 13.4³, each Working Group may elect to invite non-members to participate in a Working Group.
- 5.6 Prior to each meeting of a Working Group, the Secretariat shall circulate a written agenda to all of the relevant Working Group Participants [and other persons invited to participate], and following each meeting, the Secretariat shall promptly circulate details of any action points agreed at such meeting, together with an allocation of responsibility for those actions, to all relevant Working Group Participants.

² The By-laws prescribe, amongst other things, that Working Group Participants must be suitably senior and suitably experienced persons.

³ By-law 13.4: The Working Groups may elect, in consultation with the Chair or CEO, to invite non-members to participate in a Working Group, provided that such participants:

- are suitably senior and suitably experienced persons;
- agree to adhere to the confidentiality provisions contained in By-law 25; and
- agree to adhere to the Competition Law Policy.

- 5.7 The quorum for a meeting of a Working Group shall be 3 Working Group Participants, including the Working Group Chair or, where relevant, the person nominated as an alternative chair in accordance with Term 5.4, plus at least one individual from the Secretariat.
- 5.8 The Working Group Chair shall, subject to Terms 3.1 and 11.1, have discretion as to whether non-Working Group Participants are able to attend a meeting of the Working Group as observers.
- 5.9 Working Group Participants are encouraged, where appropriate, to share views and raise any concerns with draft Company Publications in Working Group meetings (as opposed to solely communicating these bilaterally to the Secretariat) so as to promote transparency and allow for appropriate discussion.

6 Secretariat support

- 6.1 The Secretariat shall provide administrative support to each Working Group and assist with any drafting of Company Publications.

7 Reporting to the Standards Board

- 7.1 When developing Company Publications, each Working Group and Working Group Chair shall follow the process set out in this Term 7 and Annex 1.
- 7.2 When the relevant Working Group has considered its potential topic or area of market practice to be developed pursuant to Term 2.3, the relevant Working Group shall prepare a draft of the Problem Statement for the Working Group Chair to present to the Standards Board for its approval.
- 7.3 Following the Standards Board's approval of a Problem Statement, the Working Group may commence drafting.
- 7.4 Whilst developing a draft Company Publication, Working Groups should consider how the draft reflects the concepts of "fairness" and "effectiveness" that FEMR introduced, a summary of which can be found in Annex 2.
- 7.5 When submitting a draft Company Publication to the Standards Board, the relevant Working Group may also, where appropriate, include a written summary of the drafting process which explains, in outline terms, what choices were considered (and adopted or rejected) by the Working Group and an explanation as to whether or not the Working Group had unanimously approved the draft (or specific elements of the draft). The intention is for this summary to give the Standards Board a better insight into what options might exist for improving market practice further, or otherwise modifying it, and what the consequences of doing that would be for market participants.
- 7.6 If, at any stage during the development of a Company Publication, a Working Group is unable to reach an agreement on a specific issue, the relevant Working Group may elect to summarise the issue and request that the Standards Board considers it.
- 7.7 Where Working Group Participants have, pursuant to Term 2.5, voted against a proposed recommendation the Working Group Chair may summarise the dissenting opinions and request that the Standards Board considers the issue.

8 Legal Working Group and External Review

- 8.1** After the Problem Statement has been approved by the Standards Board pursuant to Term 7.2, the Legal Working Group Chair (or their delegate) shall update the Legal Working Group and provide it with the Problem Statement.
- 8.2** Prior to commencing the Legal Working Group and external review process, the Secretariat will circulate the draft Company Publication to members not represented in the Working Group and other relevant industry stakeholders including regulatory bodies for feedback. Feedback received during this stakeholder review process will be shared and discussed by the Working Group, as appropriate.
- 8.3** Once the Working Group has considered the stakeholder feedback received pursuant to Term 8.2 and substantive drafting is complete and the draft Company Publication has been submitted to the Standards Board pursuant to Term 7.5, the Legal Working Group Chair (or their delegate) shall send the draft Company Publication to the Legal Working Group for its review. Any comments on the draft Company Publication shall be made to the Legal Working Group Chair (or their delegate) and consolidated on an anonymised basis and shared with the Legal Working Group together with any revised draft of the Company Publication.
- 8.4** At the same time that the draft Company Publication is sent to the Legal Working Group pursuant to Term 8.2, the Secretariat will send the draft Company Publication to the relevant individuals at the Bank of England, the Financial Conduct Authority and any other individual or body that the Working Group Chair and Secretariat consider to be appropriate. Any comments on the draft Company Publication pursuant to this term shall be submitted to the Secretariat and these shall be collated and discussed by the Working Group, and submitted to the Legal Working Group, for their discussion and review, where applicable.
- 8.5** Working Groups will target delivery of draft Company Publications to the Legal Working Group within 6 months of the Problem Statement receiving approval from the Standards Board. However, depending on the nature of the Company Publication and subject matter, this timeline may vary.
- 8.6** Following the completion of the Legal Working Group and external review, the Working Group Chair shall update the Standards Board with the comments and amendments made pursuant to Term 8.3 and 8.4.
- 8.7** If at any point the Working Group concludes that a Company Publication will not achieve its intended purpose, the Working Group Chair may recommend to the Standards Board that the activity of the Working Group cease or that it is necessary for a revised Problem Statement to be agreed.
- 8.8** For the avoidance of doubt
- 8.8.1** approval of a draft Company Publication in substantially final form by the Standards Board shall be required prior to its publication, in accordance with By-law 9.2;⁴ and
- 8.8.2** nothing in Term 8 limits the ability of the Secretariat, the Working Group Chair or the Legal Working Group Chair at their discretion from referring the draft Company Publication to the

⁴ By-law 9.2: All Company Publications shall require the approval of the Standards Board in substantially final form prior to publication and the granting of such approval shall not be delegated.

Legal Working Group, the Bank of England and/or the Financial Conduct Authority outside of the process described in Terms 8.1 to 8.6.

9 Transparency Draft and Final Company Publication Process

- 9.1** After the Standard Board has approved a draft Standard or Statement of Good Practice, for consultation and review, it will be published on the Company's website as a Transparency Draft.
- 9.2** The day before the Transparency Draft is published pursuant to Term 9.1, the Secretariat shall send the Transparency Draft to the Advisory Council, the Standards Board, the relevant Working Group, the Bank of England and the Financial Conduct Authority. The Legal Working Group Chair (or their delegate) shall also send it to the Legal Working Group.
- 9.3** On the day that the Transparency Draft is published pursuant to Term 9.1, the Secretariat will send the Transparency Draft to other interested regulators, authorities, standards and trade bodies in the UK and overseas, and invite comment on the Transparency Draft during a period of at least six to eight weeks from the date that the Transparency Draft is published pursuant to Term 9.1.
- 9.4** The Secretariat will collate any comments received pursuant to Term 9.3 and these shall be considered by the Working Group, and the Legal Working Group, as applicable, and any necessary changes made to the Transparency Draft.
- 9.5** A final version of the Transparency Draft will be sent to the Standards Board for its approval before it is published in final form. Shortly thereafter, the Secretariat will publish the Transparency Draft in final form on its website.

10 Committees and sub-committees

- 10.1** Each Working Group may, with the approval of the Standards Board, form working groups, committees or sub-committees to assist them, and the relevant Working Group may develop terms of reference to assist any such group formed.
- 10.2** Participants in any working group, committee or sub-committee formed pursuant to Term 10.1 shall be Working Group Participants.

11 Competition Law Policy

- 11.1** All Working Group meetings shall be attended by competition law counsel.
- 11.2** All Working Group Participants and persons otherwise participating in Working Group meetings shall at all times adhere to the FMSB Competition Law Policy. For the avoidance of doubt, the FMSB Competition Law Policy shall apply to any informal meetings and communications between Working Group Participants.

12 Conflicts of interest

- 12.1** It is recognised that Working Group Participants may have a conflict of interest in the sense that their employing organisation will have an interest in what is agreed by FMSB. However, Working Group Participants must primarily have regard to the interests of FMSB and the delivery of its objectives, as opposed only to having regard to their employing entities' interests. Where a Working Group Participant has a specific conflict of interest which makes that requirement impracticable,

he shall declare it to the meeting and the Working Group Chair shall determine whether the Working Group Participant may continue to attend the meeting. Where a Working Group Chair has a specific conflict of interest which makes that requirement impracticable, he shall declare it to the meeting and the CEO shall determine whether the Working Group Chair may continue to attend the meeting.

12.2 Any documents circulated to Working Group Participants may be redacted by the Secretariat to prevent any sensitive information being disclosed a recipient excused from a meeting pursuant to Term 12.1.

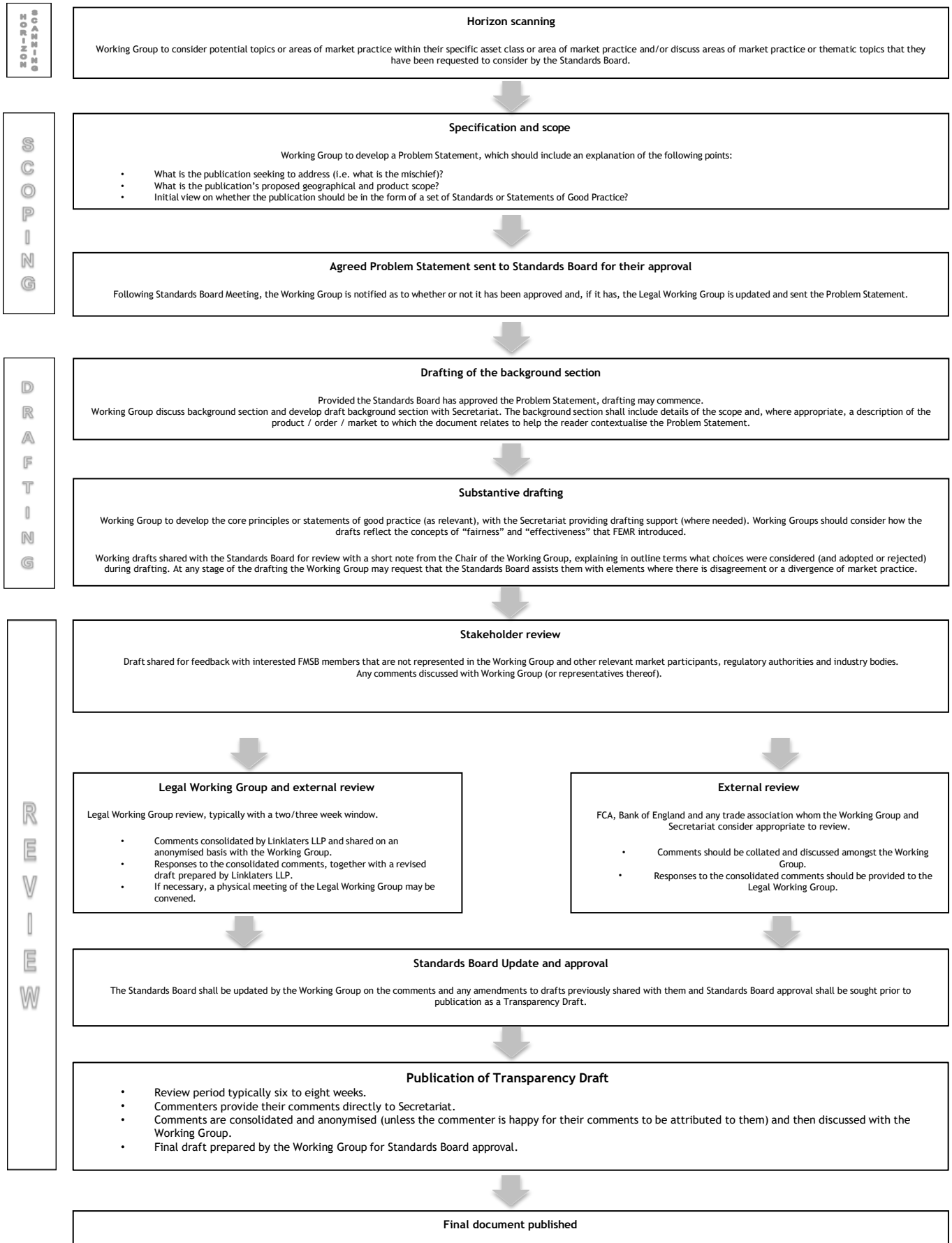
13 Confidential information

13.1 Any information disclosed, opinions expressed or statements made: (i) during meetings of any Working Group; and (ii) in any communications (written or oral) relating to such meetings, shall be treated by all Working Group Participants and other participants involved as confidential and not disclosed by the recipient without the express authority of those who disclosed the information, expressed the opinion or made the statement (as the case may be).

13.2 Nothing in Term 13.1 shall restrict the ability of a Working Group from reporting to the Standards Board in accordance Terms 4.6 and 7, provided that any such information, opinions or statements are not attributed to an individual Working Group Participant or capable of being attributed to them or, where relevant, the Contractual Member who nominated them, from the context of the report, without such individual's express consent.

Annex 1

How does a typical Standard or Statement of Good Practice progress?



Annex

FAIRNESS AND EFFECTIVENESS

When debating market practices and considering the drafting of Company Publications, explicit consideration should be given to how the drafts reflect (or not) the concepts of “fairness” and “effectiveness”.

The key characteristics of Fair and Effective Markets are as follows:

A Fair FICC Markets are those which:

- (1) have clear, proportionate and consistently applied standards of market practice;
- (2) are transparent enough to allow users to verify that those standards are consistently applied;
- (3) provide open access (either directly or through an open, competitive and well-regulated system of intermediation);
- (4) allow market participants to compete on the basis of merit; and
- (5) provide confidence that participants will behave with integrity;

B Effective FICC Markets are those which also:

- (6) allow end-users to undertake investment, funding, risk transfer and other transactions in a predictable way;
- (7) are underpinned by robust trading and post-trading infrastructures enabling participants to source available liquidity;
- (8) enable market participants to form, discover and trade at competitive prices; and
- (9) ensure proper allocation of capital and risk.

Annex

[PLACEHOLDER - ANY WORKING GROUP SPECIFIC ANNEX/SCOPE OR AMENDED TERMS (AS APPROVED BY THE STANDARDS BOARD)]