FSCA

Financial Sector
Conduct Authority

Equivalence Framework for financial markets

and

Determination of licensing requirements for external central counterparties and trade repositories

Consultation Report

Updated September 2025

1. Purpose

1.1 The purpose of this document is to set out a report on the consultation process undertaken in respect of the draft Equivalence Framework for financial markets (Equivalence Framework). In this document "the FSR Act" means the Financial Sector Regulation Act, 2017 (Act No.9 of 2017), the "FMA" means the Financial Markets Act, 2012 (Act No. 19 of 2012), and the "CRSA" means the Credit Rating Services Act, 2012 (Act No. 24 of 2012), and any word or expression to which a meaning has been given in the FSR Act, FMA and CRSA bears, subject to the context, that meaning unless otherwise defined.

2. Background and summary of the consultation process

2.1 On 5 December 2019, the FSCA issued a first draft of the Equivalence Framework for public consultation. The FSCA subsequently implemented revisions to the 2019 draft Equivalence Framework – to incorporate comments received and to expand the scope of the framework to include an equivalence assessment for external credit rating agencies (CRAs), as defined in the CRSA and external Over-the-Counter Derivative Providers (ODPs) domiciled in a foreign jurisdiction that want to operate and conduct the business of an ODP in South Africa.[1]

2.2 In addition, on 2 February 2022, the FSCA and Prudential Authority (PA) (collectively referred to as the Authorities) jointly issued the Joint Roadmap for the development of a regulatory framework for central clearing in South Africa (Joint Roadmap), in order to mandate central clearing in South Africa.[2] The Joint Roadmap clarifies the process by which the FSCA and PA will mandate central clearing.

2.3 The Joint Roadmap specifies that the Authorities will develop an equivalence framework accompanied by a licensing framework for external trade repositories and external central counterparties as well as an exemption framework for entities that want to be exempted from the provisions of the FMA.[3]

2.4 On 26 September 2023, the Financial Sector Conduct Authority (FSCA) published for public consultation, the second and final draft Equivalence Framework. The Equivalence Framework was published for a period of six weeks, ending 20 November 2023. The following documents were published as part of the consultation process:

(a) Draft Equivalence Framework;
(b) Annexure A: Equivalence assessment for external trade repositories and external central counterparties and central securities depository links;
(c) Annexure B: Equivalence Assessment for external credit rating agencies;
(d) Annexure C: Equivalence assessment for external over-the-counter derivatives providers; and
(c) Comment template.

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[1] Accessible on FSCA website on Draft Equivalence Framework and Determination - for public consultation

[2] Accessible on FSCA website on Joint Roadmap for the development of a regulatory framework for Central Clearing in SA.

[3] The FSCA and PA in a parallel process developed the draft *Joint Standard [-] of 2025 - Criteria for the exemption of an external central counterparty or external trade repository from the provisions of the Financial Markets Act in what would constitute the exemption framework.* On 1 November 2023, the FSCA and PA published the draft Joint Standard and supporting documents for public consultation.

2.5 The FSCA also published the draft Determination of requirements relating to central counterparty or trade repository licence applications (Determination).

2.6 The FSCA received over 30 comments from 4 respondents of the Equivalence Framework. Following the public consultation process, where appropriate, certain comments resulted in changes being made to the Equivalence Framework by the FSCA. The changes were not deemed to be material in nature. One comment of a general nature was received on the Determination.

2.7 All comments received as part of the public consultation process were considered and are set out in the table below, together with the FSCA's response to the comments received.

2.8 In a parallel process the Joint Standard referred to in paragraph 2.3 has been developed and consulted on by the Authorities. It is expected that the Joint Standard and the Equivalence Framework will take effect in close proximity of one another. One commentator provided the same submissions for the consultation on the Joint Standard as well as on the Equivalence Framework. As such, this consultation report will refer readers to the responses dealt with in the Joint Standard consultation report.[4]

3. General account of the issues raised in the submissions made during the consultation

3.1 The main issues raised during the public consultation were as follows:

No	Main issue	FSCA response
1.	The meaning of / need for a definition of an *interested party* for purposes of submitting the equivalence recognition application	Commentators asked for clarity as to what would constitute an interested party and if a local entity could apply for equivalence recognition on behalf of a foreign entity. The term interested party need not be defined as the grammatical meaning of the term would apply. This would be an entity that has a vested interest in the subject matter and can be affected by the results or consequences of the situation. Practically speaking, the interested party applicant would need to be in possession of the information and data required to submit a complete application to the FSCA. In principle, a local entity could apply on behalf of a foreign entity if that local entity has a direct and substantial interest in the granting of the equivalence recognition **and** is able to submit a comprehensive, accurate and reliable equivalence recognition application.

[4] Accessible on FSCA website on [TO BE POPULATED ONCE JOINT STANDARD MADE]

2.	Interplay between equivalence regime for CRAs and section 18 of the CRSA	The equivalence framework is for the recognition of regulatory framework of a jurisdiction other than the SA, while the endorsement requirement is for the endorsement of external credit ratings by registered CRAs. The equivalence framework for credit rating agencies (CRAs) is designed to supplement, not replace, the requirements of section 18. The equivalence framework for CRAs is designed to ensure that credit ratings issued by CRAs outside SA can be used within SA, provided they meet other requirements of section 18 of the CRSA, which sets out the requirements for endorsement of external credit ratings. In particular, section 18(1)(b)(i) requires that the external credit rating agency must be authorised or registered by a regulatory authority to perform credit rating services similar to those regulated under the CRSA and is subject to the laws of a country other than the Republic, which laws- establish a regulatory framework equivalent to that established by the CRSA. As such this equivalence framework is meant to streamline and support equivalence recognition of foreign jurisdictions and create efficiencies around the endorsement of external credit ratings.
3.	Proposal to incorporate equivalence framework for foreign benchmark providers in this Equivalence Framework	The draft Equivalence framework is based on the prevailing legislation. The proposals in the draft Conduct Standard – Requirements for benchmark administrators are, at this stage, still under development and it would therefore be premature to include it in the framework at this juncture. The FSCA is also working on developing an equivalence framework for provision of a benchmark by a foreign benchmark administrator, which will be publicly consulted on in due course. Once the equivalence framework for provision of a benchmark by a foreign

		benchmark administrator and the regulatory framework for the financial benchmarks is finalised (or close to finalisation) the equivalence recognition of foreign benchmark administrators may, at that point, be included in the existing Equivalence Framework for financial markets, as part of ongoing review.
4.	Significant duplication of comments on Joint Standard – Criteria for the exemption of an external central counterparty or external trade repository from the provisions of the FMA	Consultation on the Joint Standard and the consultation on the Equivalence Framework – overlapped. Both the Joint Standard and the Equivalence Framework also related to Phase 2 of the Joint Roadmap. Consequently, a number of comments received during the consultation report on the *Joint Standard [-] of 2025: Criteria for the exemption of an external central counterparty or external trade repository from the provisions of the FMA* have been submitted for as comments for the Equivalence Framework. The FSCA aims to minimise duplication of responses and to provide readers a contextual understanding of the comments and responses. Therefore, this report refers readers to the consultation report on the Joint Standard where the FSCA has responded to the same comment in the consultation on the Joint Standard.

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SECTION A: List of Commentators

List of commentators		
No.	**Name of organisation**	**Acronym**
1.	Banking Association South Africa	BASA
2.	Bowman Gilfillan Inc	Bowman
3.	South African Institute of Stockbrokers	SAIS
4.	S&P Global Ratings Europe Limited	S&P

SECTION B: Comments on the draft Equivalence Framework for financial markets

Public comments received and responses from the FSCA				
No.	**Commentator**	**Paragraph of the Equivalence Framework**	**Comment**	**FSCA' response**
1.	BASA	Paragraph 1.1	The Draft Conduct Standard – Requirements relating to the provision of a benchmark provides (in Chapter 11) that for a	The proposal has been noted. The draft Equivalence framework is based on the prevailing legislation. The proposals in the draft Conduct Standard – Requirements for

			benchmark provided by a foreign benchmark administrator to be used in the Republic, the regulatory framework of that jurisdiction must be equivalent to the regulatory framework established for the provision of benchmarks in the Republic. The FSCA stated in the Draft Equivalence Framework at section 2.8 that the aim is for stakeholders to refer to a single framework for equivalence recognition. ➢ We would recommend that foreign benchmark equivalence also fell within this framework	benchmark administrators are, at this stage, still under development and it would therefore be premature to include it in the framework at this juncture. That said, Equivalence Framework for Financial markets will be reviewed from time to time ensure it remains up to date with the regulatory framework and will need to be revised in future if the legislation changes. The FSCA is working on developing an equivalence framework for provision of a benchmark by a foreign benchmark administrator, which will be publicly consulted on in due course. Once the equivalence framework for provision of a benchmark by a foreign benchmark administrator and the regulatory framework for the financial benchmarks is finalised (or close to finalisation) the equivalence recognition of foreign benchmark administrators will at that point be included in the existing Equivalence Framework for Financial markets.
2.	BASA	1.4 and 3.1	Could the Conduct Authority please expand on the definition of "interest parties" i.e.: could a local entity apply on behalf of a foreign entity?	The term interested party need not be defined as the grammatical meaning of the term would apply. This would be an entity that has a vested interest in the subject matter and can be affected by the results or consequences of the situation. Practically speaking, The interested party applicant would need to be in possession of the information and data required to submit a complete application to the FSCA. In principle, a local entity could apply on behalf of a foreign entity if that local entity has a direct and substantial interest in the granting of the equivalence recognition and is able to

				submit a comprehensive, accurate and reliable equivalence recognition application.
3.	SAIS	Exemptions granted 1.4	The SAIS firmly asserts that, in the application approval process, consultation with all relevant regulators, including FSCA, PA, and SARB, is imperative before granting any exemptions. Instead of relying solely on the FSCA, a comprehensive consultation approach ensures a well-rounded evaluation. This approach leverages the expertise and insights of all regulatory bodies involved and aligns different legislations, particularly important as risks span across various regulatory domains. The SAIS would strongly advocate for the involvement of SARS to understand the potential impact it may have on tax revenue. This collaborative stance not only enhances the thoroughness of the approval and exemption process but also promotes a holistic and inclusive decision-making framework, aligning with best practices in regulatory oversight.	Suggestion noted. Its important to keep in mind that the Equivalence Framework sets out the framework explaining how equivalence can be applied for and will be considered by the FSCA. The ability of the FSCA to determine a jurisdiction as equivalent is enabled through primary legislation (i.e. the FMA and the CRSA, as explained in detail in the framework). In terms of the Equivalence Framework, all equivalence recognitions will be granted with the concurrence of the Prudential Authority and the South African Reserve Bank. SARS is not a financial sector regulator as defined in the FSR Act. The FSCA is giving effect to the policy stance taken by National Treasury, as set out in the FMA and CRSA. National Treasury is also responsible for the fiscus, and did not deem it necessary to make consultation with SARS mandatory, and therefore it will not form part of the framework. That said, nothing precludes the FSCA to consult with SARS, as the need arises.

4.	S&P	2 and 5	The South African branch of S&P Global Ratings Europe Ltd ("SPGRE"), as a branch of an External Company, as per section 23 of the Companies Act 71 of 2008 as amended is an External CRA as defined in the Credit Rating Services Act (CRSA). As the Consultation Paper refers to External Credit Rating Agencies ("CRAs") as CRAs not present in South Africa, we refer here to such CRAs as "Foreign CRAs" and refer to CRAs present in South Africa, including SPGRE, as "Domestic CRAs". We understand that the purpose of the proposed approach to CRA equivalence is to allow Foreign CRAs to apply for a license on the basis of compliance with a third country CRA regulatory regime deemed equivalent by the FSCA. In our view this should not exempt Foreign CRAs from effective FSCA oversight so as to remain consistent with section 3 of the CRSA which states that only registered CRAs may perform credit rating services in South Africa. If so, this could address the current practice of certain Foreign CRAs which provide credit rating services in South Africa while not being registered with the FSCA as per	The CRSA has from promulgation stage, contemplated that an equivalence recognition may be granted and flowing there from that the FSCA may place reliance on the supervisory and regulatory regime applied in the foreign jurisdiction. In terms of section 27(1) of the CRSA, the FSCA may, on application or on the FSCA's initiative exempt any person, category of persons or registered credit rating agency from, or in respect of, any provision of the CRSA. The Equivalence Framework is intended to provide a disclosure of the information that will be required to submit such an application. The Equivalence Framework does not create a new framework, but provides greater information to operationalise section 27(1) of the CRSA. The equivalence framework for CRAs is designed to ensure that credit ratings issued by CRAs outside SA can be used within SA, provided they meet other requirements of section 18 of the CRSA, which sets out the requirements for endorsement of external credit ratings. In particular, section 18(1)(b)(1) requires that the external credit rating agency must be authorised or registered by a regulatory authority to perform credit rating services similar to those regulated under the CRSA and is subject to the laws of a country other than the Republic, which laws- establish a regulatory framework equivalent to that established by the CRSA. As such this equivalence framework is meant to streamline and support equivalence recognition of foreign

			section 3 of the CRSA and FSB Board Notice 1 of 2015. We note that the proposed equivalence regime appears to be inconsistent with the endorsement regime set out in section 18 of the CRSA, which is cited in paragraph 5.6 of the Consultation Paper. The requirements for endorsement of external credit ratings are more substantive than the proposed approach to equivalence set out in point 2.3 of the Consultation Paper ('avoiding unnecessary duplication in compliance efforts'). In particular, subsection (3) of section 18 of the CRSA sets out that a 'registered [CRA] that endorsed a credit rating under this section remains fully responsible for that credit rating and for compliance with this Act.' While Foreign CRAs issuing credit ratings on South Africa domiciled entities would be held to the standard of compliance with an equivalent third country's regulatory regime, Domestic CRAs would be held to the standard of compliance with (i) the third country's regime and (ii) the CRSA. To address this inconsistency, SPGRE is of the view that the most effective method of alignment is by not transposing section 18 of the CRSA, or at a minimum not	jurisdictions and create efficiencies around the endorsement of external credit ratings. The equivalence framework for credit rating agencies (CRAs) is designed to supplement, not replace, the requirements of section 18. Suggestion noted. Registered credit ratings agencies (which include external credit ratings agencies) are required by law to pay

			transposing subsections (2) to (5), into new COFI framework. In addition, SPGRE considers that all CRAs, including Foreign CRAs, should be subject to supervisory levies. SPGRE has made a strong commitment to serving the Sub-Sahara African region from South Africa and considers that it should not be penalised for this strategy while Foreign CRAs conducting credit rating services in South Africa would not pay adequate levies. Therefore, we consider that each CRA should pay its fair share of supervisory fees on the basis of revenue generated in the Republic, whether it is a Domestic or a Foreign CRA.	levies to the FSCA. As a general rule therefore all supervised entities must pay levies, unless an entity is specifically exempted from the legislative requirement to pay fees and levies, which applications will be considered on a case-by-case basis and the merits of the matter.
5.	SAIS	Impact of Exiting Foreign Entities that have been given Equivalence 2.2	In evaluating equivalence between developing, emerging markets and first-world developed markets, it is imperative to delve into the nuanced aspects of market size, stability and the potential impact on the SA ecosystem. This consideration extends beyond mere regulatory alignment, as the distinct socio-political landscape further complicates the equation. SA presently navigates a delicate political terrain, demanding a thorough examination of the implications stemming from our geopolitical stances. The contrast	The observation is noted. By design the FMA and CRSA allows the participation of foreign entities in the South African markets. Please see paragraph 7 of the equivalence framework that explains how the assessment and decision-making process related to equivalence will work. Particularly note elements in paragraph 7.1 that explains that the regulatory framework, legally binding requirements, effective supervision by competent supervisory authorities and the outcomes achieved in a particular jurisdiction will all be taken into consideration. This can be understood to include both quantitative and qualitative measures.

			in market dynamics between developed first world and developing emerging economies necessitates a careful analysis of potential disparities in monitoring, resilience, adaptability and enforcement. Moreover, the evaluation must extend beyond quantitative measures to incorporate qualitative factors, such as governance structures, economic policies, interoperability and the robustness of regulatory frameworks.	
			The SAIS strongly advocate once again for the necessity of the FSCA, PA, and SARB to collectively review and recognise the relevant regulatory and supervisory regime in other jurisdictions as equivalent to that of SA, so as to ensure that all necessary legislation is considered across the different regulators' domains. It is suggested including a committee of key clearing and market practioners to be part of the approval process, as well as the licensing process for these entities given their experience and specific market knowledge.	Suggestion noted. However, the process of assessing equivalence and exemptions applications falls within the regulatory purview of the Authorities, as per the mandate bestowed upon them through Acts of Parliament. The FSCA, PA and SARB have sufficient expertise and market knowledge to undertake equivalence determinations and to assess exemption applications. As objectivity and impartiality is key to both these processes, it would be in the interest of applicants that the considerations and decisions related to exemptions and equivalence remain with the Authorities guided by the principles set out in paragraph 6 of the framework.
			Given SA's unique position, the assessment of equivalence should not be confined solely to regulatory	The suggestion is noted, and the Authorities will conduct a robust equivalence assessment before declaring an external MI to be

			benchmarks. It should encompass a holistic appraisal of the potential ramifications on the local ecosystem, factoring in the fragility of political scenarios and the associated uncertainties. By adopting a comprehensive perspective that considers both quantitative and qualitative dimensions, regulatory decisions can be better informed and aligned with the specific challenges and opportunities inherent in the SA context.	equivalent to enter the market. The Authorities will consult market practitioners on their views if required
6.	SAIS	Recognition that a foreign regulatory, supervisory and enforcement regime – MoU 2.2 and 3.4	As the SAIS, the importance of rigorously assessing foreign regulatory frameworks, including licensing requirements, regulations, rules, supervision and enforcement methods is recognised. SA regulatory bodies must ensure that these assessments are in line with international standards and adequately consider the systemic risks that external market infrastructures might pose to the local markets. Acknowledging foreign regulatory regimes as equivalent to SA's, along with implementing an appropriate exemption framework, could streamline the FSCA's supervision of foreign entities and reduce unnecessary compliance burdens	Noted.

			for those wishing to operate within SA.	
			The SAIS is aware of the challenges when depending on the supervisory, monitoring and enforcement mechanisms of other countries. This dependency necessitates a proactive stance from foreign entities, in communicating legal and regulatory issues to SA authorities, highlighting the importance of timely information sharing for prompt issue resolution. Enhancing interoperability and electronic reporting will also aid in this context.	Noted.
			SA regulators must have an in-depth understanding of foreign legislation to fully comprehend the impact of possible legislative changes to the SA financial markets. Directly replicating and adopting these changes is not feasible due to unique aspects of our market, including size, liquidity, system complexities and compliance requirements. A customised approach, mindful of the specific nuances of the SA financial landscape, is essential. The market share size of these foreign entities relative to the SA	Noted. The Equivalence Framework provides for the FSCA to independently assess the information provided by applicants as part of an equivalence recognition assessment. This involves an in-depth review of applicable legislation and a substantive comparison of the content of the laws in a foreign jurisdiction and the regulatory regime established in the FMA. In addition, the FSCA is at liberty to contact foreign supervisors as part of its fact checking exercises and will in accordance with section 6C(1) of the FMA, enter into a supervisory co-operation arrangement with the relevant supervisory authority from the equivalent jurisdiction to perform its functions in terms of the FMA. Section 6C(2) sets out the minimum requirements for such

			market share is a critical factor to consider. If they (foreign entities) hold a significant market share and face a major client default, it could heavily impact the foreign CCP and potentially jeopardise one of SAs major financial institutions. It is crucial to recognise that, although we may not be considered 'too big to fail' in their view, these foreign entities are often seen as 'too big to fail' within the SA context. This disparity underscores the need for robust understanding and strategic planning to address risks arising from these market size differences.	supervisory cooperation arrangements and section 6C(3) set out the principles of co-operation, which includes among others the requirements to consult, co-operate and, to the extent possible, share information regarding entities of systemic significance or whose activities could have a systemic impact on markets.
			To fully grasp the criteria and outcomes for obtaining equivalence status in financial regulations, particularly in the context of SA, various crucial factors need to be considered. Before implementing significant regulatory changes or granting statuses that could impact the financial market, an in-depth analysis and preparedness is imperative. This strategy guarantees a thorough evaluation of the current regulatory environment and the potential impact of any changes. Compliance is also crucial for the FSCA, in effectively enforcing, monitoring and upholding both domestic and international	Noted. Please see response above. Annexures A, Annexure B and Annexure C to the Equivalence Framework disclose the information required of applicants based on which the equivalence recognition will be taken.

			regulatory standards, thus safeguarding the integrity of the financial market.	
			The success of the equivalence evaluation process hinges on transparency and cooperation, aspects that are enhanced by MoUs. However, there's an observed lack of insight into the regulators expected outcomes from the application process, which is essential for the success of the equivalence framework. This observation underscores the need for a well-defined set of outcomes or benchmarks for achieving equivalence status. The decision-making process in this regard should be objective, with a clear understanding of the necessary criteria for approval, to ensure accurate and relevant assessments.	Please see paragraph 6 of the Equivalence Framework that set out the guiding principles and paragraphs 7.5 to 7.13 that explains in detail the considerations in the equivalence assessment. Paragraph 7.10 in particular refers to the outcomes achieved by the applicable regulatory framework of the foreign jurisdiction. The observation is noted.
			Before implementing significant regulatory changes or granting statuses that could impact the financial market, an in-depth analysis and preparedness are imperative. This strategy guarantees a thorough evaluation of the current regulatory environment and the potential impacts of any changes. Compliance is also crucial for the	Noted. See response directly above.

			FSCA in effectively enforcing, monitoring, and upholding both domestic and international regulatory standards, thus safeguarding the integrity of the financial market. In the spirit of transparency and integrity, it is crucial for the FSCA to publicly release a list of jurisdictions deemed equivalent to SAs regulatory standards and capable of enduring similar levels of scrutiny. Furthermore, the FSCA should disclose not only a list of entities seeking equivalence status but also the specific foreign jurisdictions involved and the countries with which Regulatory MoU have been formalised. This level of transparency is vital for maintaining the integrity of the regulatory framework and supporting informed decision-making within this area. Establishing MoUs is fundamental before granting approval for equivalent status as mentioned previously. These agreements should guarantee thorough coverage, particularly concerning the CCP and TR application processes, considering the potential limitations in applicants' understanding of regulatory	Please see paragraph 7.18 of the Equivalence Framework. The FSCA confirms that all equivalence recognitions granted will be published. See paragraph 7.20 and 7.21 of the Equivalence Framework that explains the intended supervisory co-operation arrangements. Also see response at the beginning of this comment on the statutory requirement related to cooperation agreements in section 6C of the FMA.

			nuances. Moreover, it is imperative for the FSCA to provide clarity on the foundational criteria for equivalence status approval. These standards must be explicit, well-defined, and stringently applied to assure trust and comprehensive understanding within the equivalence framework, thereby confirming that approved jurisdictions meet the high standards of SA's regulatory environment.	Comment not clear. The purpose of the Equivalence framework is to set out the criteria and process for equivalence assessment.
7.	BASA	3.4	• Is equivalence required at an entity level or jurisdictional level only? • Would an external service provider need to apply for a license and associated exemptions to cover both direct members and / or client clearing only?	• Equivalence recognition will be granted to a jurisdiction, in respect of the specific type of equivalence recognition application submitted. For example, if the application relates only to central counterparties, a separate application will need to be submitted in respect of trade repositories or ODPs. In addition, the Memorandum of Understanding required to be entered into with the relevant jurisdiction per the FMA, will be between the relevant supervisory authority and the FSCA only. • An external central counterparty or external trade repository wanting to operate in South Africa may elect whether to apply for a licence in terms of sections 49 and 56 of the FMA, respectively, or to apply for an exemption from the provisions of the FMA through the joint standard under

				development by the FSCA and the PA.
8.	SAIS	JSE loss of CCP Equivalence Status 3.4	The SAIS has noted that the revocation of the JSE Clear CCP's equivalence status primarily stemmed from FATF's grey listing due to Anti-Money Laundering (AML) concerns and not because of deficiencies in the JSE or SA regulatory and supervisory framework. As per Section 6B of the FMA, the FSCA, with the agreement of the PA and the SARB, holds the power to withdraw recognition of a foreign jurisdiction's equivalent status if it fails to meet the criteria specified in Section 6A. This situation underscores critical concerns with respect to the timely manner and effectiveness of regulatory interventions in the SA financial markets and the effect of withdrawing this recognition. The risk is that delays in implementing immediate and decisive corrective measures could inadvertently lead to systemic risks. This is particularly problematic given the difficulty in reversing or mitigating the effects once permissions have been granted and processes are in motion. Therefore, the necessity for prompt and pre-emptive regulatory action is emphasised to	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 14 on page 67 of the consultation report on the Joint Standard.

			avert the entrenchment of detrimental outcomes and to safeguard the stability and integrity of the markets. Furthermore, there is an essential need for a comprehensive and thorough understanding of the impact and unintended consequences of these regulatory changes. This deep understanding is crucial before finalising the proposed equivalence framework. Ensuring that the framework is all-encompassing and considers all potential outcomes and risks is vital, hence consultation with key market experts and practitioners is vital for the success of such a framework. Such an approach will help in crafting a robust and effective equivalence framework that addresses the complexities of the SA financial market while protecting its integrity and resilience. A significant issue arises with the potential exit of foreign CCPs operating in SA during periods such as grey listing or geopolitical tensions. For instance, if a European CCP was active in SA during such a period, regulatory changes from their side might compel them to withdraw, introducing further systemic risk into the market. This scenario suggests the need for a broader	

			assessment of implications, not just limited to FATF grey listing but also considering the potential impact of geopolitical sanctions and the like. Moreover, the presence of foreign infrastructure providers in SA, under equivalence status, presents a dual-edged scenario. While they can contribute positively to the market, they also carry the risk of introducing substantial systemic vulnerabilities. Therefore, it is crucial to balance the benefits with the potential risks to ensure the ongoing stability and integrity of the SA financial system. A potential solution to address these challenges could be to insist that entities maintain a legal presence in SA, while also exploring a hybrid regulatory approach. This solution would ensure regulatory compliance and local market engagement, combined with adaptable strategies that accommodate the specific needs of both local and international market dynamics. Such a hybrid solution could offer a balanced framework, fostering market stability and integrity while catering to the complexities of global financial interactions and the nuances of the SA Market.	

9.	SAIS	Risk of Regulatory Arbitrage 3.4	Enterprises may strategically leverage disparities in regulatory frameworks between jurisdictions, engaging in what is commonly termed "regulatory arbitrage" which may be due to nuances and differences within market trading and settlement environments. This practice involves selecting CCPs based on the least stringent regulations in an attempt to optimise operational efficiency or reduce compliance burdens or with possibly the best netting and offsetting framework that may be held in foreign nominees. While this may benefit individual firms, it has the potential to subvert the overarching regulatory objectives and introduce an uneven playing field within the global financial landscape. Regulatory arbitrage, could compromise the integrity of regulatory frameworks and erode the effectiveness of measures put in place to safeguard financial stability. The risk lies in fostering an environment where entities might prioritise regulatory leniency over adherence to robust risk management standards, thereby undermining the collective goals of international regulatory initiatives.	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 16 on page 73 of the consultation report on the Joint Standard.

			To counteract these challenges, it becomes imperative for regulatory bodies to collaborate on a global scale, harmonising standards and minimising regulatory divergences. Striking a balance that encourages innovation and efficiency without compromising systemic stability is key to thwarting the detrimental effects of regulatory arbitrage. This collaborative effort can fortify the regulatory landscape, ensuring a level playing field and upholding the broader objectives of financial oversight in an interconnected global economy.	
10.	SAIS	Legal complexity 3.4	The concept of equivalence encounters heightened complexity due to disparities in legal systems and contractual frameworks across jurisdictions. This intricacy becomes particularly pronounced when disputes arise or in the event of insolvency. The multifaceted nature of navigating legal challenges on an international scale introduces considerable challenges, often requiring intricate solutions and an understanding of diverse legal landscapes. In the context of equivalence, the potential for conflicts stemming from varying legal structures necessitates a nuanced approach to dispute resolution and default. The intricacies of reconciling legal	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 18 on page 75 of the consultation report on the Joint Standard.

			discrepancies across borders contribute to a challenging and time-consuming costly process, impacting the overall efficiency of the regulatory framework and potentially the market integrity. To address these challenges, a comprehensive strategy for managing cross-border legal issues becomes paramount. This may involve the establishment of internationally recognised legal frameworks or mechanisms that facilitate smoother dispute resolution processes. Additionally, fostering greater alignment in contractual frameworks across jurisdictions can contribute to minimising legal complexities, ultimately promoting a more cohesive and harmonised global financial landscape. Striking a balance that acknowledges and addresses the diverse legal systems while working towards standardised mechanisms for dispute resolution is key to navigating the challenges associated with equivalence. The legal framework governing financial markets requires comprehensive alignment across the spectrum to establish a clear and coherent structure. This alignment is crucial for effectively	

			managing the complexities that affect financial markets. A unified legal framework would facilitate better regulatory consistency, ensure market stability and promote fair practices. It is essential to address any disparities or inconsistencies in the current legal provisions first, to create an environment that supports the smooth functioning of financial markets while safeguarding the interests of all stakeholders before this framework is implemented.	
11.	Bowman	7 and 8	As it relates to the Equivalence Recognition for ODPs from foreign jurisdictions: Once a particular jurisdiction has been deemed 'equivalent' (Jurisdiction X): (i) will all ODPs licensed by the relevant regulator in Jurisdiction X 'automatically' be allowed to lawfully issue OTC derivatives as principal in South Africa; OR will there be a process that an ODP from Jurisdiction X will need to follow in South Africa / as regards the FSCA in order to be able to lawfully issue OTC derivatives as principal in South Africa?	Equivalence recognition will be granted to a jurisdiction, in respect of the specific type of equivalence recognition application submitted. However, being licensed by a relevant regulator in an equivalent jurisdiction will not mean that an entity is automatically exempted from any of the requirements in the South African legislation that must be complied with in order to lawfully operate in South Africa. Such a foreign entity from an equivalent jurisdiction will still need to apply for an exemption from the provisions of the FMA and subordinate legislation thereunder, which exemptions will be granted on a case-by-case basis.

12.	SAIS	South African Landscape	The SAIS unequivocally aligns with the overarching objectives that the FSCA seeks to achieve through the equivalence paper. Acknowledging the positive implications it holds for SA, it is crucial to underscore the nuanced and distinctive characteristics inherent in the SA financial landscape. While recognising the broader aspirations of achieving equivalence, it is imperative to approach this endeavour with a deep understanding of the bespoke intricacies that define and distinguish the SA financial ecosystem, that could potentially effect the intended beneficial outcomes, create unlevel playing fields and introducing possible risk.	The approach to be followed in issuing an equivalence determination in terms of the Equivalence Framework specifically provides that thorough consultation will be undertaken with appropriate persons, including engaging relevant experts, where appropriate. A level of comfort can be drawn from the fact that the equivalence determination will be granted with the concurrence of the PA and SARB – thereby ensuring a broad representation of bodies involved in the financial markets.
			Positive Aspects of Licensing Equivalence: Enhanced Market Access: Equivalence status enables SA entities to offer their services globally, broadening market participation and facilitating cross-border transactions.	The observation is noted.
			Increased Liquidity and Efficiency: Access to a larger participant pool enhances market liquidity, contributing to more efficient markets and improved price discovery.	The observation is noted.
			Harmonisation with Global Standards: Achieving equivalence	The observation is noted. The Equivalence Framework is also intended to enable South

			often requires adherence to international regulatory standards, promoting consistency in risk management and contributing to global financial stability.	Africa to meet the international commitments made as a member of the Group of Twenty countries (G20), in terms of which South Africa committed to reforming regulation of over the counter derivatives. The Equivalence Framework will enable South African markets to make use of international entities in meeting the clearing and reporting obligations in the FMA.
			Attracting International Investment: Equivalence can enhance SA's attractiveness to global investors, signalling a strong regulatory framework and market integrity.	The observation is noted.
			Innovation and Competition: Open access encourages entities to innovate, fostering competition and potentially leading to advancements in risk management and technology.	The observation is noted.
			Challenges and Considerations: FATF Grey listing: The ongoing monitoring of the country's status on the FATF grey list is imperative. Remaining on this list has had significant implications for the financial sector, particularly in the realm of international compliance and reputation.	Noted. Comment not responded to as it does not directly relate to the content of the draft Equivalence Framework.
			Monitoring International Relations & Impact of possible Sanctions: Vigilant monitoring of international relations and regulatory landscapes is crucial for SA to	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for

			proactively adapt its financial strategies in response to global developments. A significant concern is the potential impact possible punative measures or any international sanctions. Should SA face such sanctions, the repercussions for local clients could be substantial, particularly if foreign CCPs with equivalent status operating in SA and not registered as a company in SA are compelled to withdraw their services. A precedent for this exists in actions taken by regulatory bodies like the European Securities and Markets Authority (ESMA), which has recently revoked the JSE Clear CCP recognition. The possibility of such developments poses real threats to SA's financial market, highlighting the importance of awareness and impact for these scenarios. The withdrawal of a potential foreign CCPs could lead to far-reaching economic consequences. It may result in decreased market liquidity and heightened costs for SA entities, as they may be forced to seek alternative clearing services or manage the complexities of disrupted financial transactions. This situation could create a significant systemic risk, especially	the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 9 on page 54 of the consultation report on the Joint Standard.

			if international CCPs need to exit the South African market swiftly due to any such punative measures or related regulatory changes. Therefore, it is imperative for SA to anticipate these challenges and develop robust contingency plans to mitigate potential economic and operational risks on its financial sector. Mitigating the Risks: Effectively mitigating risks in financial operations necessitates a thorough understanding of their potential unintended consequences. Among these risks, the concept of Remote Sponsoring in trading presents a significant concern. It could potentially lead to decreased liquidity in our markets and might provide an incentive for international brokers to relocate offshore. Such a shift could arise due to concerns related to international sanctions, punitive measures, skill loss, and erosion of the tax base. This is especially pertinent in the context of cross-border netting and offset arrangements within holding companies operating across various jurisdictions. Given that a considerable proportion of our top stocks are dual-listed, these arrangements could further impact	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 9 on page 55 of the consultation report on the Joint Standard.

			market liquidity. Navigating the challenges posed by differing tax regimes and exchange control regulations across jurisdictions requires a comprehensive approach. One essential measure might involve establishing a physical presence in SA through a registered legal entity. This strategy would provide the necessary control and oversight to manage the complexities inherent in diverse regulatory environments effectively. However, this is just one facet of a broader risk mitigation strategy. It is also imperative to implement robust internal controls, ensure adherence to both local and international tax laws, and engage in strategic financial planning. Such planning should be designed to accommodate the intricacies of operating in multiple jurisdictions, thus safeguarding against the multifaceted risks these operations entail. Local Market Dynamics: It is of utmost importance for the FSCA to ensure vigilance with regards to international legislative and regulative changes to prevent any adverse shifts in such regulations that could negatively impact the SA financial market. This includes changes in	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 9 on page 56 of the consultation report on the Joint Standard.

			settlement cycles, processes, procedures, trade reporting and the likes, that are unique to each market. Such changes could lead to imbalances and create opportunities for regulatory arbitrage, which may give international firms an unfair advantage in the SA market. Therefore, ongoing monitoring and active engagement in international regulatory developments are crucial to protect the interests of the SA financial markets whilst taking consideration SA's specific industry practices. BEE Codes & Labour Regulations: The impact of the BEE code on international entities seeking equivalence status in SA presents a significant concerns. These entities, not being legal entities in SA and regulated by their own countries, would not need to adhere to SA laws and regulations, including the BEE code and labor laws. This non-adherence could potentially create an uneven playing field, giving these international entities an unfair advantage over local companies. Another point of concern is the effect on local brokers using international CCPs under an International Equivalence regime. Clearing and settlement are major	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 9 on page 57 of the consultation report on the draft Joint Standard.

			expenses for brokers and it's uncertain whether these costs would be exempted from procurement as a foreign service. This ambiguity could negatively impact local brokers procurement reporting which ultimaltey would have a negative effect on their BEE reporting and levels. Additionally, there's a risk of skill migration, particularly in the areas of clearing, settlement, and market expertise, from SA to offshore locations to enable this. This could be a consequence of the equivalence status granted to international CCPs. Regulatory Oversight: Monitoring and adhering to evolving international regulations is a demanding task that requires substantial resources, continuous vigilance and effective interoperability. For international CCPs to achieve equivalence status, they must commit to regular, electronic reporting that meets strict reporting standards set by regulatory authorities. This level of compliance is crucial for the FSCA to effectively enforce, monitor and uphold the regulatory standards agreed upon with other regulators. To facilitate this, the establishment of robust MOUs with international regulatory bodies is	This comment relates to the ongoing monitoring of equivalence recognition. In this regard, please see paragraph 8 of the equivalence framework. Also see detailed response to the verbatim comment as was made by the commentator on the draft Joint Standard- Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 9 on page 57, of the consultation report on the Joint Standard.

			essential. These MOUs are intended to improve system integration and compatibility, thereby enhancing the supervision and management of financial activities across multiple jurisdictions. This integration will not only aid in the timeliness of reporting but also increase the overall effectiveness of the regulatory framework. Such efforts are key to ensuring that international CCPs operate within a structure that is both stringent and harmonious with global regulatory standards, ultimately contributing to a more stable and transparent financial environment. Derivatives Market CCP: In the current landscape, it's important to note that, as of now, participants in SA's Derivatives market are the primary beneficiaries of settlement within the SA CCP environment. This fact underscores the potential prematurity of granting or passing equivalence status at this stage. A key reason for this caution is the incomplete knowledge and understanding of the Clearing and Settlement model for Equities, alongside the ongoing revisions to the FMA. These are intricate processes that require thorough implementation and understanding to fully grasp their implications and	Noted. Please see response above at the beginning of this comment 12 on the establishment of supervisory co-operation agreements. The FMA contains comprehensive requirements for the Authorities in this regard.

			effects. Furthermore, the absence of an extended Conduct of Financial Institutions (COFI) framework and the lack of a comprehensive blueprint for the financial market complicate the understanding of the potential impacts and consequences of granting such equivalence status. This situation suggests a need for more in-depth analysis and readiness before moving forward with significant regulatory changes or statuses that could profoundly affect the financial market's landscape in SA. This careful approach is crucial to ensure that any shifts in the regulatory environment are beneficial and well-aligned with the broader goals and stability of the country's financial system. SA's pursuit of CCP licensing equivalence presents notable advantages, such as enhanced market access and conformity with international norms. Yet, this proposal also raises significant questions and potential challenges. Key among these is SA's geopolitical position, which could expose it to international punitive sanctions. Additionally, the task of harmonising global regulatory practices with SAs unique market	It is important to keep in mind that the Equivalence Framework is being developed as a critical component of the regulatory framework that ultimately mandates central clearing for OTC derivative transactions. Comments related to the clearing and

			dynamics is complex, involving factors like compatibility with remote membership, exchange control, the BEE code, tax laws and similar considerations as mentioned above. To navigate these challenges effectively, SA must employ a nuanced and balanced approach. This strategy should capitalise on the benefits of CCP licensing equivalence while cautiously addressing the associated risks. Such an approach is essential for the sustained resilience and growth of the country's financial sector. SA faces the task of weighing these potential benefits against the inherent risks. This careful and prudent assessment is vital. It's not just about maintaining a stable and equitable financial market environment; it's also about protecting the long-term interests and sustainable development of the nation's financial sector. Therefore, while the opportunities offered by CCP and other licensing equivalence are substantially considerable, the strategy for harnessing these opportunities must be thoughtful, well-informed, and attuned to both the global context and local needs.	settlement model for equities will therefore not be responded to in detail.

13.	SAIS	Determination of Equivalence under the FMA	The SAIS recognise the determination of equivalence under the provisions of the Financial Markets Act (FMA). However, it's important to emphasise that the FMA is under review and is currently undergoing substantial revisions that could fundamentally alter our regulatory framework, as well as trading and settlement processes. These impending changes have the potential to directly influence the criteria and status of equivalence, or conversely, be significantly affected by these proposed role changes. Therefore, it is crucial to ensure that all fundamental modifications within our framework are in harmony with the proposed changes in equivalence status. This alignment is essential to maintain consistency and compliance in our financial operations and regulatory adherence.	The FSCA is aware that the financial regulatory landscape is under review with the FMA Review being undertaken by the National Treasury, and the FSCA actively participates in the development process. However, at this stage the powers and responsibilities of the FSCA under the FMA have not been pended, in anticipation of the changes to be brought about by the FMA Review. As such, the FSCA has issued the Equivalence Framework in fulfilment of its current obligations and mandate. The Equivalence Framework has been aligned to the existing laws reflected therein and will apply in accordance with the prevailing legislation. See Paragraph 8 of the Equivalence Framework in this regard. As with all frameworks the Equivalence Framework will be reviewed from time to time and as and when the legislation relevant to the sector changes to account for the evolving landscape.
14.	SAIS	CoFI, Conduct Standards for FMI's and Grey listing	The absence of finalised Conduct Standards for local Financial Market Infrastructures (FMIs) raises pertinent questions regarding the potential impact on achieving equivalence. Ensuring uniform adherence to conduct standards by both local and foreign entities is crucial for fostering a level regulatory playing field. The	Please see detailed response to comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 13 on page of the consultation report on the Joint Standard. The FSCA confirms that there are no dependencies between the Equivalence

			overarching concern centres on the timing of the current proposal in light of several ongoing regulatory developments. CoFI (Conduct of Financial Institutions) remains pending, the FMI standards are yet to be released and the FMA review is still in progress. Moreover, the fact that SA finds itself on the FATF grey list further complicates the regulatory landscape. This convergence of yet-to-be-finalised regulatory frameworks, both domestically and internationally, prompts a critical examination of whether the timing is optimal for the proposal of such an equivalence framework. The effectiveness of the proposed measures hinges on synchronised and well-coordinated regulatory initiatives. Therefore, careful consideration must be given to the dynamic regulatory environment, ensuring that the proposed framework aligns seamlessly with the evolving regulatory landscape and contributes to the overarching objectives of stability, transparency, and international cooperation.	Framework and the draft Conduct Standard – Requirements for market infrastructures. The FSCA does not agree that the development of this framework is inappropriately timed – as these are part of a publicly communicated phased approach to mandate central clearing of OTC derivatives, as part of South Africa's commitment to the G20 reforms of the OTC Derivative market. For more detail, please see the Joint Roadmap for the development of a regulatory framework for central clearing in South Africa.[5]The policy stance and powers and responsibilities of the Authorities have not been pended as a result of the COFI developments and FMA Review, and the regulatory framework is already established in terms of primary legislation in terms of the FMA. In addition, the FMA is fully effective and operative – meaning that interested parties are able to apply for equivalence recognition and exemptions. The Authorities thus have an active responsibility to ensure that applicants are guided to what must be submitted in order to have their requests considered. For this reason, it is imperative that the Authorities issue the draft Joint Standard.

[5] The document is available on the Authority's website (www.fsca.co.za) under Home > Regulatory Frameworks > Position / Policy Papers > Market Integrity > 2022 or by clicking on the following link: https://www.fsca.co.za/Regulatory%20Frameworks/Pages/Position%20Policy%20Papers.aspx

			It is critically important to establish and communicate a comprehensive SA Regulatory Blueprint. This blueprint should be designed to facilitate a seamless transformation across all relevant legislation, providing a clear understanding of the impact, consequences and any potential risks within the financial markets. The primary objective is to ensure that the integrity of SA's market remains intact. A well-defined and transparent regulatory framework is key to avoiding any outcomes that might jeopardise the market's competitiveness, relevance, or expose it to undue risk. The focus should be on maintaining a robust, competitive and secure market environment, aligning with international standards while catering to SAs unique market dynamics.	The commentator is encouraged to access the Joint Roadmap: mandating central clearing in South Africa, issued by the FSCA and the PA jointly in February 2020 (accessible on the websites of the Authorities). The Roadmap clarifies the workplan to be followed to mandate central clearing. The publication of the Equivalence Framework forms part of this workplan. Please also see the FSCA strategy and the FSCA's 3-year Regulation Plan as published on the FSCA website. The FSCA Regulation Plan, which is annually revised, sets out details of all regulatory development under the FSCA's remit. Available at www.fsca.co.za under Regulatory Framework > Regulation Plan.
15.	SAIS	Settlement Risk	It is important to acknowledge that the top 10 members of the JSE contribute significantly to its trading volume, accounting for at least 80% of the average daily turnover. This concentration underscores their pivotal role in influencing the market's liquidity and trading activities. Such a dominant presence of a few members is a key factor in understanding the overall dynamics of the JSE and becomes	This is verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 14 on page 67 of the consultation report on the Joint Standard.

			particularly relevant when considering the potential effects of any regulatory changes. Additionally, it is significant to highlight that among the top 10 members of the JSE, five are international holding companies that maintain a legal and physical presence in SA. This requirement is a direct result of regulatory membership stipulations mandating that members establish a tangible legal entity within the country. These international firms, operate under the same regulatory framework and capital requirements as domestic entities. This arrangement ensures regulatory consistency and adherence to the financial standards set within SA, reflecting the interconnected nature of global finance and the importance of regulatory compliance for international entities operating in local markets. This fact underlines the substantial influence that international players exert on the SA market. Their involvement carries significant implications, not only for market dynamics and liquidity but also for regulatory considerations and the broader economic landscape in SA. Understanding the interplay	

			between these international entities and the domestic market is crucial for informed policy-making and regulatory strategies. The proposed framework has the potential to unlock opportunities for cross-border settlement. This prospect introduces a dynamic where these international entities could potentially execute settlement activities cross border, thereby contemplating the relocation of their local entities to their respective jurisdictions while maintaining an active presence in SA without having a legal presence here. The far-reaching impact of such a shift extends beyond the realms of the financial markets, permeating into aspects such as skills and employment, tax revenue and overall market dynamics and liquidity. The envisaged scenario raises important considerations for regulators, policymakers, and stakeholders. Striking a balance between encouraging international participation and safeguarding the stability and vibrancy of the local market becomes crucial. Consequently, the proposed framework should be crafted with a forward-looking perspective,	

			cognisant of its potential ramifications on the broader economic landscape. A comprehensive approach that considers the intricacies of cross-border activities, the preservation of local economic interests and the promotion of a globally competitive financial ecosystem is imperative for achieving a harmonious and sustainable equilibrium. It is also critically important to recognise that a significant proportion of securities traded by value in SA are dual listed, with a substantial volume of their trading occurring offshore. Consequently, it could be relatively straightforward for these trades to shift more towards offshore markets, particularly if there are options for potential offsetting across markets. The primary incentive for these securities to continue trading within SA markets hinges on the presence of tangible benefits. This dynamic highlight the necessity for the SA market to offer distinct advantages or incentives to retain and attract trading activities in SA, ensuring its competitiveness in the global financial landscape. It is essential to emphasise that the increasing prevalence of netting	

			and cross-border trading activities could introduce substantial settlement risks to the SA markets. SA's unique settlement and clearing processes within the equity markets do not align seamlessly with those of international markets, presenting potential challenges. Additionally, existing exchange controls become particularly relevant in scenarios involving cross-border netting and settlements, especially when considering the same entity with a local presence and a foreign holding company, as well as the transfer of shares between different juristic registers. This situation could also impact foreign exchange trading. The ability to offset trading positions within the market might reduce the necessity for forex transactions, thereby potentially affecting forex trading volumes. Another critical aspect is the potential loss of tax revenues, such as Securities Transfer Tax (STT) and Value Added Tax (VAT), which could result from these shifts in trading and settlement patterns. Furthermore, SA markets operate under specific, nuanced rules that may not affect foreign entities in the	

			same way, especially those that permit offsetting and netting. The processes involved in unwinding a default, short selling cover, securities lending, corporate actions, the reporting and processing of dividend taxes and tax reporting are all intricately tied to settlements and could be significantly impacted under these circumstances. Therefore, it is imperative to carefully consider these unique aspects of the SA market to effectively manage and mitigate the potential risks associated with increased cross-border trading and netting activities.	
16.	SAIS	Regulatory Divergence	Regulatory standards and requirements may differ across jurisdictions. Authorising foreign CCPs could lead to regulatory challenges and discrepancies, requiring coordination and alignment of regulations to ensure a consistent and effective regulatory framework. It is crucial for regulatory authorities to carefully assess and address these potential negatives when considering the authorisation of foreign CCPs and other entities. Establishing effective regulatory frameworks, fostering international cooperation and conducting thorough risk assessments are	This is verbatim comment as was made by the commentator on the draft Joint Standard-Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 16 on page 72 of the consultation report on the draft Joint Standard.

			essential components of managing the challenges associated with cross-border clearing arrangements. The rising trend of cross-border offsetting and netting, along with the potential adoption of omnibus accounts by clients of international CCPs with equivalent status, could lead to increased use of foreign nominee accounts. These accounts, commonly utilised by shareholders for international transactions, often feature a distinct lack of disclosure requirements compared to those mandated by local regulations. This variation in disclosure standards might result in regulatory arbitrage scenarios, wherein entities exploit regulatory differences to gain competitive advantages. Such situations highlight the critical need for the alignment and harmonisation of regulatory practices, ensuring fairness and consistency across financial markets in the face of escalating cross-border activities. This issue of regulatory divergence extends across various legislations and areas, potentially leading to unintended consequences. These consequences can include the creation of an exclusive market characterised by unlevel playing	

			fields, where barriers to entry are heightened due to the complexity, size and costs associated with necessary changes. Furthermore, the sheer scale of these fundamental changes within the financial market landscape pose significant challenges, necessitating a thoughtful approach to regulatory adaptation. Addressing these disparities is crucial to maintain a competitive, accessible and equitable financial market environment.	
17.	SAIS	Operational risks	Cross-border operations in the SA market bring a myriad of operational complexities, marked by variations in time zones, communication protocols and technological standards. These differences, if not managed effectively, can increase the likelihood of operational errors or system failures. The specific rules and regulations unique to SA add another layer of complexity, as they often diverge significantly from those governing International CCPs with equivalent status. This divergence particularly affects integration, interoperability, settlement cycles and IT infrastructure, each requiring meticulous alignment to ensure seamless operation across jurisdictions. Moreover, the need to	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 19 on page 77 of the consultation report on the Joint Standard.

			adapt to and maintain diverse IT systems poses significant barriers to entry and could lead to an uneven playing field. The costs associated with adapting to and maintaining different IT systems and infrastructures could pose significant barriers to entry, potentially leading to uneven playing fields. The risk of fragmenting clearing and settlement across many different entities with lack of standardisation and centralisation would create potential systemic risk. In this context, the disparate operational frameworks and systems used by member firms and asset managers in SA present distinct automation, integration challenges and operational impacts. Tailored approaches are often necessary to harmonise these varied operations. The use of different netting processes and offshore offsets introduces additional system-wide challenges, further complicated by the lack of a defined clearing and settlement model in the SA market. This lack of a standardised model necessitates a comprehensive review and potentially a redefinition of new settlement processes to	

			achieve operational coherence that is aligned to the revised FMA. Furthermore, the unique nature of SA's settlement process, particularly the role of Central Securities Depository Participants (CSDPs), diverges from international practices, adding to the complexity. The absence of integrated post-trade systems, interoperability issues between FMIs and the requirement for developing and implementing Codes of Conduct among these entities further exacerbate operational challenges. These factors, combined with the ongoing review of the FMA, underline the potential for increased operational risks. To effectively manage these risks and complexities, there is a critical need for carefully structured regulatory frameworks and operational strategies that address these unique challenges. Such efforts should focus on aligning operational standards, enhancing system integration and ensuring regulatory coherence. This comprehensive approach is vital to ensure fair and efficient market participation for all entities involved,	

			maintaining the integrity and stability of SA financial markets.	
18.	SAIS	Financial Stability Concerns	Relying on foreign CCPs with equivalent status introduces significant risks of interconnectedness and concentration to the SA financial markets. If a substantial portion of local market transactions are cleared through these foreign CCPs, any operational disruption or failure on their part could have systemic repercussions on the local financial system. This concern is magnified by the limited regulatory jurisdiction SA regulators hold over these entities and the relative size disparity, which may not afford sufficient influence to mitigate risks effectively. The SA market's unique clearing and settlement processes, which do not align with international processes and existing exchange controls, are particularly pertinent in the context of cross-border netting and settlements across difference instruments. This misalignment can potentially affect foreign exchange trading and lead to the loss of critical tax revenues, such as Securities Transfer Tax (STT), Value Added Tax (VAT) and Income Tax as trading and	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 20 on page 79 of the consultation report on the draft Joint Standard.

			settlement patterns may shift accordingly offshore. Moreover, the presence of international holding companies among the top members of the JSE further complicates the landscape. These entities, required to maintain a legal and physical presence in SA due to regulatory membership rules, exert a substantial influence on market dynamics and liquidity. Their operations under the same regulatory and capital frameworks as domestic entities ensure regulatory consistency. However, their potential to execute and offset clearing and settlement activities with their offshore entities, possibly relocating their local entity to their respective jurisdictions while being given the ability to maintain an active presence in SA, raises significant concerns. Such a shift could impact not just the financial markets but also broader economic aspects like employment, skill development and tax revenue, which ultimately raises concerns with regard to financial stability. The dual-listed nature of a significant portion of securities traded by value in SA, with substantial trading volumes occurring offshore, further	

			underscores the potential ease of shifting trades towards offshore markets. This situation highlights the need for SA to provide distinct advantages or incentives to retain and attract trading activities, thereby maintaining its competitiveness in the global financial landscape. In the sphere of financial market equivalence, the potential for conflicts arising from divergent legal structures requires a carefully considered approach to dispute resolution and default management. The ability to effectively handle such situations is crucial for maintaining financial stability, as these conflicts can have far-reaching implications. This necessitates not only a deep understanding of the various legal systems involved but also the development of mechanisms that can accommodate and reconcile these differences. A comprehensive approach is needed to address these challenges, considering the intricacies of cross-border activities and the preservation of local economic interests. SA policymakers and regulators must develop strategies that balance	

			international participation with local market stability, ensuring a sustainable and competitive financial ecosystem. This approach should include careful consideration of SA's unique market rules, particularly those impacting processes like unwinding defaults, short selling, securities lending, corporate actions and tax reporting, to effectively manage and mitigate risks associated with increased cross-border trading and netting activities.	
19.	SAIS	Access Restrictions	Access restrictions posed by some jurisdictions can significantly impact the integration of SA entities into their financial markets. Specifically, when it comes to authorising foreign CCPs, there may be limitations or additional requirements imposed, which can hinder the smooth integration of cross-border clearing services. This can create an uneven playing field in the global financial markets. The introduction of CCP equivalent status opens the possibility for remote or sponsored membership, potentially allowing foreign trading participants direct access to the SA market. However, this	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 21 on page 82, comment number 21 of the consultation report on the Joint Standard.

			arrangement might not be reciprocated, with SA members possibly not being afforded similar opportunities in foreign markets. Such asymmetry in market access can lead to disparities in trading opportunities and market participation. This situation emphasises the need for balanced and fair regulatory frameworks that facilitate equitable market access for all participants. Ensuring that such frameworks provide equal opportunities for both domestic and foreign entities is crucial for maintaining a level playing field and fostering healthy competition in the global financial markets. It is essential for regulators to consider these aspects when structuring and implementing policies related to cross-border financial activities and market access.	
20.	SAIS	Data and privacy security	Cross-border transactions inherently involve the transfer of sensitive financial and personal data, which brings into focus the challenge of adhering to varying data protection and privacy laws. This complexity is heightened when considering the divergence of legal requirements across different jurisdictions, such as the General Data Protection Regulation (GDPR) in the European Union and the Protection of Personal	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 22 on page 83 of the consultation report on the Joint Standard.

			Information Act (POPIA) in SA. Such disparities can lead to significant concerns regarding data security and compliance with varies local SA regulations. SA legislation and regulation regarding data privacy and security are not uniformly aligned across various legislations, presenting additional complications. In the event of a data breach involving a foreign entity, the SA regulator may lack jurisdictional authority over a foreign entity leaving SA members potentially without recourse. This highlights a gap in the regulatory oversight and enforcement capabilities of SA authorities over foreign entities in matters of data privacy and security. To address these challenges, there may be a need for Data Sharing and Privacy MOU with different foreign regulatory bodies. These MOU would facilitate cooperation and ensure some level of oversight and enforcement alignment regarding data protection standards. However, the SAIS does not believe this to be effective. The SAIS recognises that these issues may become increasingly significant as the alignment between foreign and local legislation in data privacy and	

			security is still evolving. Additionally, SAs ongoing exploration of Open Finance standards and similar initiatives for information sharing could further impact data privacy and security considerations. It is important to note that in the current environment, data privacy and security as well as cybersecurity are becoming increasingly critical issues, especially with the rise in cybercrime and the challenges associated with effective prevention and enforcement. The growing sophistication of cyber threats and the difficulties in curbing these incidents underscore the need for robust data protection strategies and stronger enforcement mechanisms. Therefore, it is crucial to develop comprehensive strategies and frameworks that can accommodate these differences in data protection laws and ensure robust security and compliance measures can be supervised and enforced across jurisdictions, seamlessly. This approach is vital for maintaining the integrity of cross-border financial transactions and protecting sensitive information in an	

			increasingly interconnected global financial landscape.	
21.	SAIS	National security concerns	Authorising foreign CCPs can raise significant national security concerns, particularly when these entities are owned or influenced by foreign governments. This apprehension stems from the potential risks associated with entrusting critical financial infrastructure to entities outside of national jurisdiction. Such a scenario could lead to a loss of control and authority over important financial market operations, which is a matter of considerable concern. One of the primary issues is the potential erosion of national sovereignty in financial markets. This concern is exacerbated when the foreign CCP is not just a participant but a dominant player, owing to the size and value of its transactions and its international membership. In such cases, the operations and decisions of a foreign CCP and its regulatory body could inadvertently influence or even dictate local legislation and regulations within the SA market, simply due to their scale and reach. The possibility of foreign entities exerting such influence poses a	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 23 on page 85 of the consultation report on the Joint Standard.

			challenge to maintaining sovereign control over national financial market operations and regulatory frameworks. It highlights the need for careful consideration and strategic planning in the authorisation of foreign CCPs. Ensuring that national interests and security are not compromised in the process of integrating into the global financial infrastructure is of paramount importance. This necessitates a balanced approach that allows for international cooperation and market participation, while simultaneously safeguarding national sovereignty and control over critical financial infrastructure. There is a palpable concern among SA participants regarding the potential implications of applying exemptions that could enable a large foreign CCP to acquire significant influence over major financial institutions in SA. This concern is rooted in the disparity in market share size between local and foreign entities and the systemic risks associated with it. SA regulators must possess a deep understanding of foreign legislation to fully grasp the potential impact of legislative changes on the local financial markets. Simply	

			replicating and adopting foreign legislative changes is not a viable option for SA due to the unique characteristics of its financial market, including factors like market size, liquidity, system complexities, and compliance requirements. A customised approach that considers the specific nuances of the SA financial landscape is essential to maintain market stability and integrity. The relative market share size of these foreign entities compared to local institutions is a critical aspect to consider. In scenarios where these foreign CCPs hold a substantial market share and encounter issues like major client defaults, the repercussions could be significant for both the foreign CCP and large SA financial institutions. It is reiterated that this situation is compounded by the perception that, while SA entities might not be viewed as 'too big to fail' from an international perspective, these foreign entities could be considered as such within the SA context. This perception disparity highlights the need for careful strategic planning and a robust understanding of market dynamics	

			to address the risks arising from these market size differences. SA regulators need to devise strategies that ensure financial stability while accommodating the presence of large foreign entities, mitigating systemic risks that could potentially jeopardise major local financial institutions. This approach necessitates a delicate balance between embracing global financial integration and maintaining control over the national financial system, ensuring that the unique nuances of the SA markets are not overshadowned by the need for foreign equivalence.	
22.	SAIS	Loss of Control	The challenge lies in the reduced capacity of local authorities to exert direct control over the operations and risk management practices of foreign CCPs. This diminished oversight poses a significant hurdle, introducing complexities that may impede the effective enforcement of local regulatory priorities and standards. As a result, ensuring the alignment of foreign CCPs with the unique regulatory landscape of the local jurisdiction becomes a formidable task, requiring nuanced strategies to navigate the intricacies of cross-border regulatory oversight. For regulators to effectively navigate the impacts of legislative	This is a verbatim the same comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to comment 24 on page 87 of the consultation report on the Joint Standard.

			changes in our financial markets, a profound understanding of foreign laws and market dynamics is imperative. Merely mirroring foreign legislative changes is unfeasible, considering the distinct characteristics of the SA market such as its size, liquidity and the intricacies of its systems and compliance demands. Tailoring the approach to align with the unique facets of the SA financial landscape is crucial for ensuring that regulatory adaptations are both relevant and effective. The SAIS strongly advocates for the formation of a collaborative entity. This collective entity should comprise of key financial stakeholders including the FSCA, the PA, the SARB, Exchanges, FMIs and expert practitioners in financial market and clearing operations. The purpose of this coalition is to ensure a comprehensive understanding of the implications of current financial practices and to oversee the processes of application, supervision, and enforcement. Coordinated efforts by key financial stakeholders are vital not only to safeguard and uphold the integrity of the SA financial market but also to maintain its international	.

			competitiveness and relevance. This collaboration ensures that SA retains control over its own financial industry, preventing external forces from dictating market dynamics or compromising the nation's financial sovereignty.	
23.	SAIS	Multiple FMI's e.g. CCPs	The introduction of multiple Central Counterparties (CCPs) in an emerging developing market like SA, presents a complex set of challenges and opportunities. On one hand, it can lead to increased competition, potentially benefiting market participants through improved pricing and services. However, on the other hand, this competition might be less effective in a "smaller" market due to limited size. Key implications include: 1. Market Fragmentation: The presence of multiple CCPs can cause market fragmentation, which may dilute liquidity as trades are dispersed across various platforms. This could increase trading costs and hinder efficient price discovery. 2. Regulatory and Operational Complexities: Navigating diverse operational	This is a verbatim comment as was made by the commentator on the draft Joint Standard - Criteria for the exemption of a central counterparty or trade repository from the provisions of the FMA. Please see the response to this comment 25 on page 89 of the consultation report on the draft Joint Standard.

			frameworks, risk management protocols, and settlement procedures across multiple CCPs introduces significant operational complexity. This can elevate the risk of operational errors and necessitates enhanced regulatory coordination to maintain a cohesive regulatory environment. 3. Liquidity Dispersion and Price Discovery Challenges: Multiple CCPs could lead to liquidity being spread thinly across different platforms, complicating seamless trade execution and accurate price formation. 4. Increased Systemic and Counterparty Risk: While CCPs aim to mitigate systemic risk, having several in a small market might paradoxically increase it, especially due to the interconnectedness between different CCPs and financial institutions. Additionally, managing counterparty relationships across multiple CCPs	

			complicates the assessment and management of counterparty exposure. 5. Capital Efficiency Issues: The need for market participants to allocate more capital to cover exposures across different CCPs could lead to inefficiencies in capital utilisation. 6. Barrier to Entry: The complexity of dealing with multiple clearing systems might pose a barrier to entry for new market participants. 7. Global Integration vs. Local Control: While multiple CCPs can aid in integrating the local market with global financial systems, there could be concerns about losing local control and sovereignty, particularly if foreign CCPs dominate. 8. Impact on Market Participants: Domestic and international market participants may face challenges in adapting their trading strategies and risk	

			management practices to accommodate multiple CCPs. While the presence of multiple CCPs in a market like SA can offer benefits such as competitive services and enhanced global integration, it also poses substantial challenges in terms of market fragmentation, regulatory complexity and increased systemic risk. Coordinated efforts by financial stakeholders are crucial to navigate these challenges, ensuring the market's integrity, stability, and sovereignty.	

SECTION C: Comments received on Annexure A, Annexure B and Annexure C to the Equivalence Framework

Annexure A				
No.	**Commentator**	**Paragraph of Annexure A**	**Comment**	**FSCA' response**
1.	SAIS	Review and Outcomes	The SAIS expresses confidence in the thorough collection of information for applications, with a key focus on the precision of their assessment. A primary concern is whether regulators like the PA, FSCA, and SARB are adequately staffed and equipped for this task and how to avoid duplication of efforts among them. An ineffective	Suggestions noted. The FSCA, PA and SARB enter into Memoranda of Understanding (MOU) with each other in accordance with section 77 of the FSR Act, to give effect to their obligations in terms of section 76 of the FSR Act. These MOUs sets out in detail the co-operation and collaboration between financial sector regulators and the SARB, when performing their functions in terms of financial sector

			assessment and fragmented process could significantly increase risk market stability and must be prevented. To enhance the application process, SAIS recommends a strategic refinement, categorising requirements based on the responsible regulator to promote efficiency and reduce redundancy. This approach aims to expedite regulatory evaluation and improve overall effectiveness. Adherence to a specified format for application delivery is crucial to manage the substantial quantity and complexity of information, preventing administrative burdens and potential costs. The SAIS suggests automating the process to ensure a level playing field and the intergrity an open and transparent process. The success of the equivalence evaluation process relies on transparency and cooperation, with an objective decision-making process grounded in a well-defined set of outcomes or benchmarks for achieving equivalence status. This requires an in-depth understanding of the necessary approval criteria and a thorough evaluation of the current regulatory environment and potential impacts of changes.	laws. There are comprehensive processes and procedures in place in accordance with the MOUs to ensure efficiency and avoid duplication of efforts. The formats for the information required are set out in the proposed annexures A,B and C to the Equivalence framework.

			The FSCA's role is critical in maintaining compliance and upholding both domestic and international standards, ensuring the financial market's integrity. For transparency and integrity, the FSCA should publicly release a list of jurisdictions deemed equivalent to SA standards, including entities seeking equivalence status, the specific foreign jurisdictions involved, and formalised Regulatory MoUs. These MoUs, essential for granting approval, should ensure comprehensive coverage and alignment with the ODP's and other application processes. A collaborative framework, agreed upon across regulators and clearing and trading practitioners, is imperative for efficient reporting and the overall strength of the regulatory framework.	Please see paragraph 7.18 and 7.19 of the Equivalence framework. All determinations will be published on the FSCA's website. Please see paragraph 7.20 and 7.21 of the Equivalence framework that explains he statutory cooperation arrangements in accordance with Section 6C of the FMA.
2.	SAIS	Finalisation and Comprehensive Blueprint of SA regulatory framework	Enhancing the creation of a comprehensive blueprint that spans across various regulators, with the collective input of professional market participants, is of paramount importance. This blueprint should ambitiously aim to establish a shared understanding of the financial market's overarching objectives and its intricate functioning. Embracing a collaborative approach, enriched	The proposal is noted. Please see the respective strategies of the FSCA and PA, and the FSCA's 3-year Regulation Plan as published on the FSCA website. The FSCA Regulation Plan, which is annually revised, sets out details of all regulatory development under the FSCA's remit. Available at www.fsca.co.za under Regulatory Framework > Regulation Plan.

			by diverse perspectives, is likely to yield a more profound and end-to-end comprehension of the market. Moreover, this collective effort will facilitate the identification and understanding of potential unintended consequences, providing valuable insights into the market's future trajectory. By bringing together the wealth of expertise and viewpoints, this blueprint serves as a crucial tool in navigating the complexities of the financial market. It ensures a well-informed and forward-looking regulatory strategy that aligns with the needs and aspirations of all stakeholders involved. However, a note of caution is warranted. It is essential to avoid hastily establishing a system focused on short-term gains without first addressing the intricacies of the South African (SA) blueprint. Neglecting this foundational aspect may lead to inadvertent and severe long-term consequences, creating risks that could gradually undermine the relevance of the South African market. Therefore, a meticulous and balanced approach is imperative. Prioritising the finalisation of the SA landscape before implementing an equivalence framework is essential to safeguard the market's long-term	The FSCA's statutory powers and mandate is clearly set out in the FSR Act, and the FSCA has frequent and ongoing collaborative engagements with industry players both individually and collectively. One example of such engagement is the Market Conduct Committee of the FSCA, that consists of representatives of industry bodies. In addition to this the FSCA has regular engagements with industry participants and is always amendable to bilateral engagements with industry players should the need arise. The development of regulatory instruments follows a comprehensive public consultation process within the prescripts of Chapter 7 of the FSR Act. In the view of the FSCA there are various existing forums and rigorous process in place that ensure transparency and extensive collaboration with all relevant stakeholders.

			health and viability. This strategic sequencing ensures a robust foundation, reducing the potential for unintended repercussions and reinforcing the stability and significance of the South African financial market on the global stage	
Annexure B				
3.	SAIS	Review and outcomes	The SAIS expresses confidence in the thorough collection of information for applications, with a key focus on the precision of their assessment. A primary concern is whether regulators like the PA, FSCA, and SARB are adequately staffed and equipped for this task and how to avoid duplication of efforts among them. An ineffective assessment and fragmented process could significantly increase risk market stability and must be prevented. To enhance the application process, SAIS recommends a strategic refinement, categorising requirements based on the responsible regulator to promote efficiency and reduce redundancy. This approach aims to expedite regulatory evaluation and improve overall effectiveness. Adherence to a specified format for application delivery is crucial to manage the substantial quantity and complexity of information, preventing administrative burdens and	Please see response above to comment 1 of this Part C of the Consultation Report.

			potential costs. The SAIS suggests automating the process to ensure a level playing field and the intergrity an open and transparent process. The success of the equivalence evaluation process relies on transparency and cooperation, with an objective decision-making process grounded in a well-defined set of outcomes or benchmarks for achieving equivalence status. This requires an in-depth understanding of the necessary approval criteria and a thorough evaluation of the current regulatory environment and potential impacts of changes. The FSCA's role is critical in maintaining compliance and upholding both domestic and international standards, ensuring the financial market's integrity. For transparency and integrity, the FSCA should publicly release a list of jurisdictions deemed equivalent to SA standards, including entities seeking equivalence status, the specific foreign jurisdictions involved, and formalised Regulatory MoUs. These MoUs, essential for granting approval, should ensure comprehensive coverage and alignment with the ODP's and other application processes. A collaborative framework, agreed upon across	

			regulators and clearing and trading practitioners, is imperative for efficient reporting and the overall strength of the regulatory framework.	
4.	SAIS	Loss of Authority	The FSCA mandates that Credit Rating Agencies (CRAs) apply for a license, ensuring accountability for their statements. However, the recommended Equivalence status for CRA's suggests that the existing approach has not yielded success on a global scale. While the positive aspect of Equivalence entails a renewed focus of all CRAs on South Africa, the drawback is the potential loss of the authority to hold them accountable.	The Credit Ratings Services Act, 2012 has from promulgation stage, contemplated that an equivalence recognition may be granted and flowing there from that the FSCA may place reliance on the supervisory and regulatory regime applied in the foreign jurisdiction. In terms of section 27(1) of the CRSA, the FSCA may, on application or on the FSCA's initiative exempt any person, category of persons or registered credit rating agency from, or in respect of, any provision of the CRSA. The Equivalence Framework is intended to provide a disclosure of the information that will be required to submit such an application. The Equivalence Framework does not create a new framework, but provides greater information to operationalise section 27(1) of the CRSA.
Annexure C				
5.	Bowman	2	The qualifier to question 2 / requirement 2 states, "[i]n your jurisdiction, are ODPs required to … ", and then the requirement proceeds to 'test' whether that jurisdiction requires the ODP to hold and maintain capital (and equity) "in South Africa" (our underlining, for emphasis). Question (a)	1. The question is intended to test whether the ODP is required to hold and maintain capital and equity in the foreign jurisdiction. The question will be amended accordingly. 2. With respect to the question of whether there is requirement for an ODP from a jurisdiction recognised through the Equivalence Framework to hold capital and equity in South Africa, attention is drawn to paragraph

			As it seems highly unlikely that a foreign jurisdiction will require an ODP to hold and maintain capital and equity in South Africa, we expect that this may be poor drafting, and that the requirement is actually intended to ascertain whether the foreign jurisdiction has in place operational capital requirements that apply to an ODP in that foreign jurisdiction (rather than "in South Africa"). Please confirm this, or correct it. Question (b) Once Equivalence Recognition for ODPs from a particular foreign jurisdiction has been assessed and granted (Jurisdiction X), will it be sufficient: (i) for an ODP registered in and operating from Jurisdiction X to demonstrate that it meets the operational capital requirements in place in Jurisdiction X; OR (ii) will it still be required for an ODP from Jurisdiction X to hold and maintain capital (and equity) in South Africa?	9.11 of the draft Equivalence Framework. An ODP from an equivalent jurisdiction can apply for an exemption from any requirement in the FMA by virtue of section 6(3)(m) of the FMA. Therefore, if an entity wants to be exempted from the requirement to hold capital or equity, an exemption application must be submitted to the FSCA.
6.	SAIS	Review and outcomes	The SAIS expresses confidence in the thorough collection of information for applications, with a key focus on the precision of their assessment. A primary concern is whether regulators like the PA, FSCA, and SARB are adequately	Please see response above to comment 1 of this Part C of the Consultation Report.

			staffed and equipped for this task and how to avoid duplication of efforts among them. An ineffective assessment and fragmented process could significantly increase risk market stability and must be prevented. To enhance the application process, SAIS recommends a strategic refinement, categorising requirements based on the responsible regulator to promote efficiency and reduce redundancy. This approach aims to expedite regulatory evaluation and improve overall effectiveness. Adherence to a specified format for application delivery is crucial to manage the substantial quantity and complexity of information, preventing administrative burdens and potential costs. The SAIS suggests automating the process to ensure a level playing field and the integrity an open and transparent process. The success of the equivalence evaluation process relies on transparency and cooperation, with an objective decision-making process grounded in a well-defined set of outcomes or benchmarks for achieving equivalence status. This requires an in-depth understanding of the necessary approval criteria and a thorough evaluation of the	

			current regulatory environment and potential impacts of changes. The FSCA's role Is critical In maintaining compliance and upholding both domestic and international standards, ensuring the financial market's integrity. For transparency and integrity, the FSCA should publicly release a list of jurisdictions deemed equivalent to SA standards, including entities seeking equivalence status, the specific foreign jurisdictions involved, and formalised Regulatory MoUs. These MoUs, essential for granting approval, should ensure comprehensive coverage and alignment with the ODP's and other application processes. A collaborative framework, agreed upon across regulators and clearing and trading practitioners, is imperative for efficient reporting and the overall strength of the regulatory framework.	
7.	SAIS	Enhanced liquidity	The anticipated introduction of efficiencies into the system, especially in scenarios where banks, operating as Over the Counter Derivatives Providers (ODPs), strategically allocate capital to facilitate or innovate products tailored to specific needs, holds the promise of significant	The observation is noted.

			benefits. This initiative is poised to go beyond mere operational streamlining, potentially becoming a catalyst for transformative advancements within the financial landscape. The strategic allocation of capital by ODPs has the potential to not only enhance operational efficiency but also play a pivotal role in fostering innovation and tailored product development. In turn, this has the potential to contribute substantially to the enhancement of liquidity within the system, creating a more robust and responsive financial environment.	

SECTION D: General Comments

GENERAL COMMENTS			
No.	**Commentator**	**Comments**	**FSCA's response**
1.	BASA	We wish to note that the slide presentation was shared with London Clearing House (LCH) whom I was in direct contact with during the consultation phase and was also sent to CME Group and DTCC for information purposes.	The comment is noted.
2.	SAIS	Premature While the SAIS acknowledges the premise, we assert that the current framework appears premature at this stage. Critical components such as the finalisation of CoFI, the FMA review, and the Code of Conduct of FMIs remain outstanding. We firmly believe that	The Authorities are of the view that the framework is not premature – as these are part of a publicly communicated phased approach to mandate central clearing of OTC derivatives, as part of South Africa's commitment to the G20 reforms of the OTC Derivative market. For more detail, please see the Joint Roadmap

		delving into foreign equivalence without concluding our local landscape first is not opportune. The complexities and dynamics within our domestic regulatory framework necessitate a thorough and comprehensive foundation before venturing into considerations of foreign equivalence. Hence, we advocate for a strategic sequencing of priorities to ensure that our local regulatory landscape is well-established and robust before diverting attention to international equivalency frameworks.	for the development of a regulatory framework for central clearing in South Africa. The powers and responsibilities of the Authorities have not be pended as a result of the COFI and FMA Review and the regulatory framework for the determination of equivalence is already established in terms of primary legislation in terms of the FMA and the CRA.
3.	SAIS	Papers to be read in conjunction with each other The SAIS holds the view that the Joint Standard Exemption Criteria for CCPs and TRs should have been comprehensively considered alongside this paper, with comments amalgamated. The current separation unintentionally leads stakeholders to assess the impact of these two papers in isolation, rather than recognising the holistic impact they collectively pose on the market—a matter we consider of utmost significance. The risk is substantial; our comments articulated in this paper may be rendered ineffective if an exemption is granted, introducing potentially significant risks to the market. The imperative of considering these components together is paramount to ensuring a well-informed and cohesive regulatory approach that safeguards market stability and integrity.	Agreed that the documents should be considered collectively as the strong correlation between the frameworks required that all three be considered as a package. However please note that the package has been separated for several fundamental and practical reasons. Firstly, they are not the same type of legal documents (i.e. regulatory instrument as defined in the FSR Act, versus a framework and licensing forms determined by notice on the FSCA website) Secondly, the Joint Standard is issued jointly by the FSCA and PA (as is required in the FMA), while the Equivalence Framework and the draft Determination falls within the mandate of the FSCA. Accordingly, different consultation and governance processes apply to the effective making of these documents. These differences are informed by the empowering provisions in primary legislation as well as the regulators needs to have the ability to respond effectively and timeously to observations in the market.

			The Equivalence Framework furthermore applies broadly to other types of entities (beyond external market infrastructures) not covered by the draft Joint Standard and the draft Determination is capable of being amended by the FSCA in a relatively shorter time than a regulatory instrument – providing an appropriate mechanism to deal with emerging issues identified in the licensing of external CCPs and external TRs.

SECTION E: Comments on the Determination of licensing requirements

Public comment received and response from the FSCA				
No.	**Commentator**	**Paragraph of the Determination**	**Comment**	**FSCA's response**
1.	**SAIS**	**General comment**	The SAIS expresses confidence in the thorough collection of information for applications, with a key focus on the precision of their assessment. A primary concern is whether regulators like the PA, FSCA, and SARB are adequately staffed and equipped for this task and how to avoid duplication of efforts among them. An ineffective assessment and fragmented process could significantly increase risk market stability and must be prevented. To enhance the application process, SAIS recommends a strategic	Suggestions noted. The FSCA, PA and SARB enter into Memoranda of Understanding (MOU) with each other in accordance with section 77 of the FSR Act, to give effect to their obligations in terms of section 76 of the FSR Act. These MOUs sets out in detail the co-operation and collaboration between financial sector regulators and the SARB, when performing their functions in terms of financial sector laws. There are comprehensive processes and procedures in place in accordance with the MOUs to ensure efficiency and avoid duplication of efforts.

			refinement, categorising requirements based on the responsible regulator to promote efficiency and reduce redundancy. This approach aims to expedite regulatory evaluation and improve overall effectiveness. Adherence to a specified format for application delivery is crucial to manage the substantial quantity and complexity of information, preventing administrative burdens and potential costs. The SAIS suggests automating the process to ensure a level playing field and the intergrity an open and transparent process. The success of the equivalence evaluation process relies on transparency and cooperation, with an objective decision-making process grounded in a well-defined set of outcomes or benchmarks for achieving equivalence status. This requires an in-depth understanding of the necessary approval criteria and a thorough evaluation of the current regulatory environment and potential impacts of changes. The FSCA's role is critical in maintaining compliance and	The formats for the information required are set out in the proposed annexures A,B and C to the Equivalence framework.

			upholding both domestic and international standards, ensuring the financial market's integrity. For transparency and integrity, the FSCA should publicly release a list of jurisdictions deemed equivalent to SA standards, including entities seeking equivalence status, the specific foreign jurisdictions involved, and formalised Regulatory MoUs. These MoUs, essential for granting approval, should ensure comprehensive coverage and alignment with the CCP,TR and other application processes. A collaborative framework, agreed upon across regulators and clearing and trading practitioners, is imperative for efficient reporting and the overall strength of the regulatory framework.	Please see paragraph 7.18 and 7.19 of the Equivalence Framework. All determinations will be published on the FSCA's website. Please see paragraph 7.20 and 7.21 of the Equivalence Framework that explains he statutory cooperation arrangements in accordance with Section 6C of the FMA.