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12 CFR Ch. II (1–14 Edition)

(10) The payment system's governance arrangements are effective, accountable, and transparent.

(b) The Board, by order, may apply heightened risk-management standards to a particular designated financial market utility in accordance with the risks presented by that designated financial market utility. The Board, by order, may waive the application of a standard or standards to a particular designated financial market utility where the risks presented by or the design of that designated financial market utility would make the application of the standard or standards inappropriate.

§ 234.4 Standards for central securities depositories and central counterparties.

(a) A designated financial market utility that is designated on the basis of its role as a central securities depository or a central counterparty must implement rules, procedures, or operations designed to ensure that it meets or exceeds the following risk-management standards with respect to the payment, clearing, and settlement activities of that central securities depository or central counterparty:

(1) The central securities depository or central counterparty has a well-founded, transparent, and enforceable legal framework for each aspect of its activities in all relevant jurisdictions.

(2) The central securities depository or central counterparty requires participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the central securities depository or central counterparty. The central securities depository or central counterparty has procedures in place to monitor that participation requirements are met on an ongoing basis. The central securities depository's or central counterparty's participation requirements are objective and publicly disclosed, and permit fair and open access.

(3) The central securities depository or central counterparty holds assets in a manner whereby risk of loss or of delay in its access to them is minimized. Assets invested by a central securities depository or central

counterparty are held in instruments with minimal credit, market, and liquidity risks.

(4) The central securities depository or central counterparty identifies sources of operational risk and minimizes them through the development of appropriate systems, controls, and procedures; has systems that are reliable and secure, and has adequate, scalable capacity; and has business continuity plans that allow for timely recovery of operations and fulfillment of the central securities depository's or central counterparty's obligations.

(5) The central securities depository or central counterparty employs money settlement arrangements that eliminate or strictly limit its settlement bank risks, that is, its credit and liquidity risks from the use of banks to effect money settlements with its participants and requires funds transfers to the central securities depository or central counterparty be final when effected.

(6) The central securities depository or central counterparty is cost-effective in meeting the requirements of participants while maintaining safe and secure operations.

(7) The central securities depository or central counterparty evaluates the potential sources of risks that can arise when the central securities depository or central counterparty establishes links either cross-border or domestically to settle transactions or clear trades, and ensures that the risks are managed prudently on an ongoing basis.

(8) The central securities depository or central counterparty has governance arrangements that are clear and transparent to fulfill public interest requirements and to support the objectives of owners and participants and promotes the effectiveness of a central securities depository's or central counterparty's risk-management procedures.

(9) The central securities depository or central counterparty provides market participants with sufficient information for them to identify and evaluate accurately the risks and costs associated with using its services.

(10) The central securities depository or central counterparty establishes default procedures that ensures that the

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central securities depository or central counterparty can take timely action to contain losses and liquidity pressures and to continue meeting its obligations and provides for key aspects of the default procedures to be publicly available.

(11) The central securities depository or central counterparty ensures that final settlement occurs no later than the end of the settlement day and requires that intraday or real-time finality be provided where necessary to reduce risks.

(12) The central securities depository or central counterparty eliminates principal risk by linking securities transfers to funds transfers in a way that achieves delivery versus payment.

(13) The central securities depository or central counterparty states its obligations with respect to physical deliveries, and the risks from these obligations are identified and managed.

(14) The central securities depository immobilizes or dematerializes securities certificates and transfers them by book entry to the greatest extent possible.

(15) The central securities depository institutes risk controls that include collateral requirements and limits, and ensure timely settlement in the event that the participant with the largest payment obligation is unable to settle when the central securities depository extends intraday credit.

(16) The central counterparty measures its credit exposures to its participants at least once a day and limits its exposures to potential losses from defaults by its participants in normal market conditions so that the operations of the central counterparty would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control.

(17) The central counterparty uses margin requirements to limit its credit exposures to participants in normal market conditions and uses risk-based models and parameters to set margin requirements and reviews them regularly. Specifically, the central counterparty—

(i) Provides for annual model validation consisting of evaluating the performance of the central counterparty's

margin models and the related parameters and assumptions associated with such models by a qualified person who does not perform functions associated with the central counterparty's margin models (except as part of the annual model validation) and does not report to such a person.

(ii) Reviews and backtests margin models and parameters at least quarterly.

(18) The central counterparty maintains sufficient financial resources to withstand, at a minimum, a default by the participant to which it has the largest exposure in extreme but plausible market conditions.

(b) The Board, by order, may apply heightened risk-management standards to a particular designated financial market utility in accordance with the risks presented by that designated financial market utility. The Board, by order, may waive the application of a standard or standards to a particular designated financial market utility where the risks presented by or the design of that designated financial market utility would make the application of the standard or standards inappropriate.

§ 234.5 Changes to rules, procedures, or operations.

(a) *Advance notice.*

(1) A designated financial market utility shall provide at least 60-days advance notice to the Board of any proposed change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by the designated financial market utility.

(2) The notice of the proposed change shall describe—

(i) The nature of the change and expected effects on risks to the designated financial market utility, its participants, or the market; and

(ii) How the designated financial market utility plans to manage any identified risks.

(3) The Board may require the designated financial market utility to provide additional information necessary to assess the effect the proposed change would have on the nature or level of risks associated with the utility's payment, clearing, or settlement