

INTERNATIONAL MONETARY FUND



# Staff Country Reports

## **Argentina: Detailed Assessment of Observance of IOSCO Objectives and Principles of Securities Regulation**

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# ARGENTINA

## IOSCO OBJECTIVES AND PRINCIPLES OF SECURITIES REGULATION DETAILED ASSESSMENT OF OBSERVANCE

OCTOBER 2011

INTERNATIONAL MONETARY FUND  
MONETARY AND CAPITAL MARKETS  
DEPARTMENT

THE WORLD BANK  
FINANCIAL AND PRIVATE SECTOR DEVELOPMENT  
VICE PRESIDENCY  
LATIN AMERICA AND THE CARIBBEAN  
REGIONAL VICE PRESIDENCY

## Glossary

AFIP	<i>Administración Federal de Ingresos Públicos</i> (Federal Tax Administration)
AIF	<i>Autopista Financiera de Información Financiera</i> (information “highway” reporting webpage on the CNV website)
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
ANSES	<i>Administración Nacional de la Seguridad Social</i> (National Social Security Administration)
AUM	Asset Under Management
BCBA	<i>Bolsa de Comercio de Buenos Aires</i> (Buenos Aires Stock Exchange)
BCRA	<i>Banco Central de la República Argentina</i> (Central Bank of Argentina)
CDV	<i>Caja de Valores</i> (Central Securities Depository)
CCP	Central Counterparty
CNV	<i>Comisión Nacional de Valores</i> (Securities and Exchange Commission)
CPSS	Committee on Payment and Settlement Systems of Bank for International Settlements
CRA	Credit Rating Agencies (or <i>Calificadoras de Reigo</i> )
CSD	Central Securities Depository
FACPCE	<i>Federación Argentina de Consejos Profesionales de Ciencias Económicas</i>
FATF	Financial Action Task Force (also, <i>Grupo de Acción Financiera Internacional (GAFI)</i> )
FCI	<i>Fondos Comunes de Inversión</i> (Mutual Funds)
FF	<i>Fideicomisos Financieros</i> (Financial Trusts)
FSAP	Financial Sector Assessment Program
IAIS	International Association of Insurance Supervisors
IASB	International Accounting Standards Board
IFAC	International Federation of Accountants
IFRS	International Financial Reporting Standards
IOSCO	International Organization of Securities Commissions (also, OICV or Organización Internacional de Comisiones de Valores)
IPO	Initial Public Offering
MAE	<i>Mercado Abierto Electrónico</i> (Electronic Public Bond Market)
MATba	<i>Mercado a Término de Buenos Aires</i> (Buenos Aires Futures Exchange)
MECON	<i>Ministerio de Economía y Finanzas Públicas</i> (Ministry of Economy and Public Finance)
MERVAL	<i>Mercado de Valores de Buenos Aires</i> (Buenos Aires trading market)
MoU	Memorandum of Understanding
NBFI	Non-Bank Financial Institution
ON	<i>Obligaciones Negociables</i> (Corporate bonds)
OTC	Over-the-Counter (also extra bursátil, Mercado no organizado o de ventanilla)
PYME	<i>Pequeñas y medianas empresas</i> (Small and Medium Enterprises)
ROFEX	<i>Mercado a Término de Rosario</i> (Rosario Futures Exchange)
ROSC	Report on the Observance of Standards and Codes
SGR	<i>Sociedade Garantía Reciproca</i> (Mono-line mutual insurance entity)
SEC	<i>Superintendencia de Entidades Financieras y Cambiarias del Banco Central</i>
SIGEN	<i>Sindicatura General de la Nación</i> (Comptroller General)
SINAC	<i>Sistema Integrado de Negocios Asistido por Computadoras</i>
SRO	Self Regulatory Organizations (also Organizaciones Auto-Reguladas)
SSN	<i>Superintendencia de Seguros de la Nación</i> (Insurance Supervisor)
UIF	<i>Unidad de Información Financiera</i> (Financial Intelligence Unit or FIU)

**FINANCIAL SECTOR ASSESSMENT PROGRAM**

**ASSESSMENT OF IMPLEMENTATION OF THE IOSCO**  
**OBJECTIVES AND PRINCIPLES OF SECURITIES REGULATION**

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## I. SUMMARY, KEY FINDINGS, AND RECOMMENDATIONS

### A. Introduction

1. **This assessment finds that Argentina has made significant progress to improve its securities regulatory system within the existing legal framework.** Specifically, Argentina operates a highly, even uniquely, transparent securities regulatory program. For example it has real-time trade monitoring capacity to oversee products across multiple markets, an on-line continuing disclosure regime which contains self-reported timely information about listed companies and mutual funds available free of charge to the investing public, a pop-up warning to customers to restrict their dealings to authorized intermediaries, together with a link to the list of authorized firms, and prompt public reporting of enforcement charges and sanctions. In response to the recent global financial crisis, the regulator is in the process of improving its readiness to address systemic and cooperative enforcement issues, including executing on May and June of this year, formalized commitments to cooperate with other domestic regulators, specifically, the sectoral supervisors for banking and insurance and the financial intelligence unit charged with anti-moneylaundering and counter-terrorist financing enforcement. The assessment also finds that the Argentine securities regulator has dedicated professional staff, active on-site inspection programs, pro-active investigation of complaints, a road map to transition by 2012 to international accounting standards (IFRS) and plans to modernize auditing standards, the ability to assist foreign regulatory authorities to the extent of its current powers, and a commitment to use the powers it has to meet its mandate, achieve international benchmarks and build on its practical experience to strengthen regulatory oversight.

2. **At the same time this assessment finds areas, of which the securities regulator is well aware, that need to be improved.** These include that: (i) the complex structure of the market may be a source of inefficiency and an impediment to price formation and best execution; (ii) the regulator has insufficient administrative power to oversee comprehensively the regulatory performance by certain self-regulatory organizations affecting equity and private debt markets with respect to their members and to supervise, discipline and enforce its rules and the securities laws over such members directly; (iii) the ability to cooperate domestically and with foreign regulators is constrained by securities and banking secrecy law; (iv) the legal underpinning for protecting customer funds held by intermediaries needs enhancements; (iv) there are no existing market disruption contingency plans at the regulatory level; and (v) the markets offer some products that may require additional, tailored monitoring and explanation to external participants.

3. **The *Comisión Nacional de Valores (CNV)*, which is the Argentine securities commission, is well aware of the gaps in its current powers.** These gaps date from legislation originally adopted in 1968 and amended by Executive Decree in 2001 pursuant to Constitutional law and a related statutory delegation to develop a program to improve financial oversight of the financial sector. The CNV is currently in the process of proposing comprehensive changes intended to remediate these gaps via a draft project of law, which is in the process of consultation with the *Ministerio de Economía y Finanzas Públicas (MECON)*.

## B. Information and methodology used for assessment

4. **This assessment of the Objective and Principles of Securities Regulation (IOSCO Principles) was conducted between May 11 and May 26, 2011 in Buenos Aires, Argentina and includes references to certain post on-site improvements.** The assessment was requested by the government of the Republic of Argentina and precedes a more comprehensive Financial Sector Assessment due to commence in 2012. The assessment benefitted from the CNV's conclusion of a self-assessment<sup>1</sup> and was conducted in accordance with the Assessment Methodology for the IOSCO Principles that was adopted in 2003, as updated in 2008 and, as applicable, cited reports therein. It does not assess the nine new IOSCO Principles that were adopted in June, 2010 as an approved methodology for such assessments is still pending. Nonetheless, the CNV self-assessment included its views on the status of its compliance with the new principles. Comments on individual principles in the text of the detailed assessment will indicate where the CNV's current program has begun to prepare for the implementation of these IOSCO reforms.

5. **The assessment included a review of the main securities laws, executive decrees, and general resolutions that relate to the mandate of the CNV and underpin the public offer and trading of securities in Argentina.** The assessor also conducted lengthy interviews with CNV senior staff in each of the functional areas addressed by the IOSCO Principles: that is regulation, enforcement and cooperation, self-regulation, issuers, collective investments, intermediaries, and markets and securities settlement. The assessor also conducted many other meetings with the self-regulatory authorities, professionals offering services to the capital markets, and users. These meetings included management of the Board of the CNV, the *Bolsa de Comercios de Buenos Aires* (BCBA) and the related *Mercado de Valores* (MERVAL); the *Caja de Valores* or central clearing depository (CSD) for all Argentina; representatives of the Rosario Futures Exchange (ROFEX) and Argentina Clearing; various investment banking and brokerage affiliates of banking institutions offering different products, including those particular to Argentina; the Argentina offices of an international credit rating agency and a public accounting firm; local securities counsel; and the trade association for the mutual fund industry. The review also included an appraisal of relevant macro statistics, a survey of recent press information concerning the market, an analysis of proposed legislation provided by the CNV; some market reforms proposed by the mutual fund industry; and, exchange rules, clearing rules and relevant websites for the CNV, the principal exchanges and market participants. Some of the information collected and studied was in English, but much of it was only available in Spanish. While Spanish is the language of the region, the expansion of the market would be assisted by the CNV making more regulatory materials, particularly those relating to products and remedies for market participants in the event of a firm insolvency, also available in English, which is the language of international finance.

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<sup>1</sup> The CNV Self-Assessment used three ratings levels and provided thematic responses to Key Questions.

6. **The CNV was extremely helpful and cooperative, in particular by assuring that senior staff experts in each functional area were available to assist the assessment.** The CNV organized all the meetings inside and outside the CNV, provided office space, developed information on the relationship of the pending draft of proposed legislation to the existing law and the CNV self-assessment document, assisted with the interpretation of unique instruments and in locating relevant legal provisions, and loaned a liaison for the duration of the assessment who was responsible for answering the many questions that arose and locating the correct internal experts for particular issues. All outside meetings were conducted on an independent basis and the industry provided candid views on the regulatory framework and the regulator. MECON, which has a version of the CNV's proposed law before it, sent a representative to most meetings with the CNV.

7. **Argentina requested this assessment.** Argentina, at the time of the onsite visit, was one of the remaining G-20 countries not to have had a full Financial Sector Assessment. It has been the subject of at least one Report on Standards and Codes (ROSC) and of certain other international reports completed with respect to Anti Money Laundering and Combating Finance of Terrorism (AML/CFT) by the Financial Action Task Force (2010), a payments and settlements system review by the World Bank, the Centre for Latin American Policy Studies and the Western Hemisphere Payments, Securities Clearance and Settlement Initiative conducted in 1999 and published in August, 2000, and an Accounting ROSC completed in July 2007 and published in 2009. All of these reports were available to the assessor. CNV is a signatory to Annex B of the IOSCO Multilateral Memorandum of Understanding on Cooperation and Information Sharing, and was reviewed by the related screening committee in 2009.

### C. Institutional and market structure—overview

8. **The securities market is regulated in Argentina by the *Comisión Nacional de Valores* (CNV).** CNV is a functional regulator. It conducts all regulatory activities related to the prudential and conduct of business oversight of the capital markets in *Argentina*. There are two other financial sector authorities, the *Banco Central de República Argentina* (BCRA) and the *Superintendencia de Seguros de la Nación* (SSN), each of which is accountable for its own intermediaries. The offer of securities brokerage to customers by banking entities is subject to supervision by the CNV, as are securities transactions conducted on all exchanges or organized markets. The financial sector is dominated by banks. Both banks and securities firms interrelate to the capital markets, as participants and dealers in the case of banks and as investors in the case of insurance firms. The three sectoral authorities have recently formed a working group to develop more practical means of cooperation with each other and to identify cross-sectoral sources of systemic risk.

9. **Self-regulation has historically been a feature of the Argentine securities markets.** In Argentina, the structure of an exchange combines a board of trade (*Bolsa de Comercio*) and a trading venue (*Mercado de Valores*). Traders typically must be a member of both. The *Bolsa de Comercio* is in charge of authorizing the listing of securities while the *Mercado de Valores* is responsible for the trading of securities and for authorizing and directly supervising the intermediaries. Because the securities exchanges pre-existed the first securities legislation in



1968, the six regional securities markets or boards of trade with affiliated trading markets (*Bolsa de Comercio autorizadas a cotizar títulos valores y mercado de valores*), (hereinafter the *mercados de valores*) then in existence, were designated by the 1968 Act as self-regulatory associations (SROs)<sup>2</sup>, subject to authorization or revocation by presidential (executive) decree. The intermediary or stock broker members of these exchanges were authorized by the exchanges themselves and only subject to disciplinary sanction by the exchange or through the judicial system. This remains the case today. The six such grandfathered regional exchange SROs are Buenos Aires, Cordoba, Rosario, Mendoza, Santa Fe and La Rioja. The Buenos Aires exchange composed of the *Bolsa de Comercio de Buenos Aires* (BCBA) and the *Mercado de Valores* (MERVAL), however, is by far the most important. As much as 90% of all equity and private debt trading occurs there. There are 106 listed equities and 990 listed private bonds on the MERVAL<sup>3</sup>. All listings on the MERVAL may be offered on the other regional exchanges; the reverse is not the case. Equity ownership penetration is very low. Retail investors account for about 12% of the market today and fewer than 1% of domestically listed securities are held by foreign interests, though there are 36 cross-listed companies in New York, London, and Brazil.

10. **CNV directly authorizes electronic and futures and options markets.** The main such markets are the *Mercado Abierto Electronico* or MAE<sup>4</sup>, an over-the-counter interbank market, with 71 licensed intermediaries, largely composed of banks, which trades public debt and the two futures exchanges: the *Mercado a Término de Buenos Aires* (MATba) and the *Mercado a Término de Rosario* (ROFEX), with 83 members<sup>5</sup>, located in Rosario, which trades smaller contracts in grains, such as soya, than MATba and also trades financial futures such as the dollar/peso cross rate and interest rates. The rules and regulations of these markets and the *mercados de valores* must be approved by the CNV. There are two separate clearing and settlement systems: Argentina Clearing SA which carries out clearing and settlement for the ROFEX and Argenclear which carries out the same function for the MAE. MATba and MERVAL self-clear and act as Central Counterparties (CCPs). The unique securities depository, the *Caja de Valores*, services all markets in Argentina. The CNV delegates to the markets it directly authorizes the power to approve and supervise their intermediary members in a manner similar to the *mercados de valores*.

11. **During the past years subsequent to the crisis in 2001, market capitalization (equity value) has varied as a percentage of an also variable GDP, as depicted below, and is currently recovering from the 2008-9 crisis, though not totally back to pre-crisis levels** (See

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<sup>2</sup> The Securities Law, 17.811 appears to be applicable to subsequent equity markets, although all subsequent markets have been subject to broader regulatory powers than the existing *mercados de valores*.

<sup>3</sup> Statistics are taken from the YTD statistics produced by the World Federation of Exchanges and the CNV.

<sup>4</sup> *Mercado Abierto Electronico* (MAE) is an electronic dealers' market which trades only government debt and has been authorized by the CNV since 1993. Banks trade in this market (only 5 intermediaries are non-bank) and trades are mostly proprietary.

<sup>5</sup> Some intermediaries may be members of more than one exchange.

Table 1). Currently the capitalization of the Buenos Aires exchange as a percentage of GDP remains under 20% putting the market in the lower quartile of markets in the region and in the OECD, at the time of the on-site visit. Additionally trading is heavily concentrated in short term instruments with little current market incentive for longer term investment. The private pension funds had managed about 74 billion Pesos (7% of GDP), which were transferred to the National Social Security Scheme (ANSES) into the *Fondo de Garantía de Sustentabilidad* (FGS) in 2008. So far, the FGS has invested proceeds from the liquidation of foreign assets into domestic infrastructure projects and has not actively traded domestic securities. Mutual funds and insurance companies are currently the main participants in the market for securities (67 billion pesos under management in 2010, or 4.6% of GDP). Commercial banks are most active in debt securities in the MAE, and the largest value of financial instruments traded by far is public debt as further discussed below. There are 256 mutual funds of all types, served by 38 managers and 21 depositories; however, there are only 5 remaining closed-end funds and no ETFs. There are also some specialist listed products, such as *fideicomisos*, which infrequently trade and a short term market in *cheques de pago diferido*.

**Table 1: Capitalization as a % of GDP 1997 to 2010<sup>6</sup>**



12. **The main law that establishes the CNV and the principles for the supervision of securities markets was passed in 1968 (Securities Public Offering Act 17.811).** It was complemented by the Decree 677 of 2001 that establishes increased enforcement powers and continuing transparency requirements for public offer of securities<sup>7</sup> among other things, and by additional regulations that increased the powers of the CNV. Also relevant are:

<sup>6</sup> Source: CNV

<sup>7</sup> The decree was issued pursuant to a delegation to the National Executive under Law No. 25.414 adopted to address, through enhanced regulation, the 2001 crisis as permitted by Article 76 of the Constitution of the Republic.

- Securities Collective Deposit Act 20643, which sets forth tax treatments and the regimen for private debt (See also Law 23576);
- The National Securities Commission Act 22169
- Mutual Funds Act 24083 which establishes the regulatory regime for Mutual Funds (*Fondos Comunes de Inversion*);
- Trust Indenture Act 24441 which establishes the regulatory regime for Financial Trust (*Fideicomisos Financieros*);
- Futures and Options Markets Executive Orders 2284/91 and 1926/93
- Credit Rating Agencies Executive Orders 656/92 and 749/00 which commit Credit Rating Agencies to oversight by the CNV
- Company Law 19550 (*Ley de Sociedades Comerciales*)

13. **Argentina's capital market is small compared to other Latin American markets: market capitalization of the leading securities amounts to 17.5% of GDP compared to Brazil (78.2%) and there are 106 listed companies, 5 of which are foreign listings (375 in Brazil, see Table 1).** In addition, the capital market is dominated by public debt securities which account for about 80% of total domestic issues<sup>8</sup>. As a result, bond trading is significantly more important than equities trading (7 times higher on average over January-March 2011). Public policy recently has focused on exchange rate stability and beginning in 2003 on developing tailored means to facilitate infrastructure investments and access to finance for small and medium enterprises, that is, *pequena y mediana empresas* or PYMES rather than creating long term investment incentives for private capital formation.

**Table 2: capital market indicators**

Country	Stock Exchange	Market Cap (US\$ millions, Mar 2011)	Market Cap as %-age of GDP (2010)	No of listed companies	Value of Share Trading (US\$ millions, Jan - Mar 2011)	No of investment funds	Turnover Velocity (March 2011)	No of bonds (March 2011)	Bond turnover (US\$ millions, Jan - Mar 2011)
Argentina	Buenos Aires SE	61,488.4	17.5%	106	944.0	5	3.6%	1,305	6,827.7
Australia	Australian SE	1,497,218.2	122.7%	2,018	293,862.1	n/a	93.9%	n/a	198.2
Brazil	BM&F / BOVESPA	1,583,487.4	78.2%	375	237,990.3	59	60.1%	297	19.0
Canada	TSX Group	2,344,620.3	149.9%	3,788	442,883.0	131	82.0%	185	1,252.8
Chile	Santiago SE	318,902.9	160.0%	231	15,783.1	114	19.1%	n/a	55,582.6
Colombia	Colombia SE	203,737.3	72.0%	83	8,994.8	n/a	13.3%	612	268,624.0
Norway	Oslo Børs	328,219.2	79.4%	239	79,263.6	n/a	79.8%	1,158	133,752.0
Peru	Lima SE	93,012.9	60.6%	248	1,677.8	7	7.0%	564	161.8
Russia	MICEX	1,082,104.9	73.3%*	256	123,570.6	370	55.0%	802	68,199.1
South Africa	Johannesburg SE	916,824.4	258.7%	395	100,745.0	13	34.9%	1,088	749,936.0

n/a = data not available; source: World Federation of Exchanges year-to-date Statistics <http://www.worldexchanges.org/statistics/ytd-monthly> source for GDPs: CIA World Factbook <https://www.cia.gov/library/publications/the-world-factbook/index.html> \* note that Russia has another exchange, RTS, for which we don't have a precise market cap for March 2011. It is close in size to MICEX, with which it will soon merge, probably doubling the exchanges size as percent of GDP

About 650 intermediaries (including banks) intervene in the capital market. Banks must set up a separately incorporated broker when offering securities services, except when they trade on the MAE. Buyers of securities are mostly banks, insurance companies and mutual funds.

<sup>8</sup> Bank for International Settlements, domestic securities as of September 2010. <http://www.bis.org/statistics/secstats.htm>

14. **Regarding futures and options markets, in 2010 the ROFEX was the second futures and options market by volume<sup>9</sup> in Latin America behind Brazil's BMF BOVESPA.**

**Table 3: Futures and Options Volume**

Country	Futures Exchange	Total Futures and Options Volume, Jan - Nov, 2010
Argentina	Mercado a Termino de Buenos Aires (MATba)	184,163
	Rosario Futures Exchange (ROFEX)	56,603,658
Australia	Australian Stock Exchange (ASX)	20,102,113
	Sydney Futures Exchange (SFE)	77,301,337
Brazil	BM&F	556,540,087
	BOVESPA	751,563,067
Canada	ICE Futures Canada	3,748,262
	Montreal Exchange	40,292,070
Norway	NORPOOL	931,551
	Oslo Stock Exchange	12,566,867
Russia	Moscow Interbank Exchange (MICEX)	28,233,526
	Russian Trading System Stock Exchange (RTS)	567,489,553
South Africa	JSE Securities Exchange (SAFEX)	149,937,887

#### **D. Preconditions for effective securities regulation**

15. **Argentine markets have experienced a turbulent history (having been the fifth largest global markets in the 1920's) and exhibit an especially particularized and complex, to external observers, domestic structure.** Argentina's history of dramatic political change and inflows and outflows over the years, coupled with its comparative rate of inflation, has concentrated products in the short durations. Such political and economic volatility also has discouraged IPOs and affected the depth, liquidity, and consistency of capital market growth and resulted in the offer of unusual domestic products. Argentina's unique market structure, which may have grown out of the old system of commercial/agricultural terminal markets from its historic grain trading heyday, also has resulted today in a large number of financial exchanges for the amount of their offerings, liquidity and depth and in such innovations as cleared over-the-counter derivatives. These features have led to good conditions of competition. At the same time, however, the multiple regional markets of the Argentine market landscape may reduce efficiency of pricing, increase the cost of capital to intermediaries seeking to participate in more than one market directly and raise customer protection issues, all of which the CNV has tried to address. While there are reasons to have markets service local populations, electronics renders

<sup>9</sup> Volume statistics for futures and options are stated in number of contracts; nominal value figures are not maintained by FIA, and the volumess are not corrected for size differentials among contracts. *Source:* Futures Industry Association, "International Volume" Nov. 2010 [http://www.futuresindustry.org/downloads/INTL\\_VOL\\_NOV2010.pdf](http://www.futuresindustry.org/downloads/INTL_VOL_NOV2010.pdf)

consolidation of trading platforms more readily accomplishable than in the past. The regional market structure may create developmental problems in the least, and could impact the delivery of best execution, at worst. Therefore, further study of market structure generally and of the current system's continuing usefulness would be worthwhile. This type of study is typical of all markets that have moved in the last decades to electronic systems.

16. **Other issues relate primarily to the sufficiency of the securities law to support the full range of regulatory functions presumed by international standards and the overall legal environment.** For example, although the CNV has broad administrative powers applicable to anyone intervening in a public offering, which is interpreted to include the negotiation of securities in secondary markets, CNV can only sanction intermediary members of the *mercados de valores* through the court system or through an administrative action against the exchange itself to address issues raised by its intermediaries. There are also significant challenges from the financial sector environment as follows:

- Although the commercial courts may be sophisticated about commercial law, the judicial process is not as timely as desirable for effective support to regulatory enforcement.
- There is a perception of potential instability as to the continuity of applicable market rules, which the CNV proposes to address by planned reforms.
- While accounting and auditing standards are rapidly being improved and conformed to international benchmarks, domestic capacity building to apply the new auditing standards will be a challenge.
- Insolvency laws, do not unambiguously support completion of transactions in the event of insolvency in all markets or provide priority to customer creditors in a bankruptcy where their deposits with intermediaries are at risk.

### **E. Main Findings**

17. **The overriding finding is that needed amendments to Argentine law that have been prepared by the CNV, reflect an excellent understanding of those areas where existing legal powers and resources are insufficient, and should be expedited.** Specifically, these amendments should be reviewed in connection with the ongoing assessment process and expeditiously progressed to conclusion. Additionally pending changes to the operational structure of CNV that would augment resources and add the capacity to enhance enforcement, risk assessment, consumer protection, and ongoing review of authorized entities, including, in particular auditors should also be expedited. CNV has adopted, concluded or made operational many new programs, procedures, including information sharing arrangements, and norms within the last few months. With experience, effective implementation of these recently added improvements to CNV's operational programs should result in improved ratings.

18. **Principles for the regulator (1-5):** The CNV is a functional regulator. Its powers extend to both conduct of business and prudential matters. CNV shares authority over the financial sector with the BCRA and SSN, which respectively supervise banking and insurance activities, and, with whom, it has recently documented cooperative arrangements to the extent of its powers. CNV operates a highly transparent program, within a complex but transparent framework. However, the regulator lacks sufficient powers and resources to meet international standards fully as set forth below. Further despite its ability independently to adopt secondary law or regulations, it is inhibited by limitations on its ability to directly apply its administrative powers to members of *mercados de valores*, banking secrecy provisions, and the need for reinforcement of its independence and legal protection for acts undertaken in good faith.

19. **Principles for self-regulation (6-7):** Argentina has a long-standing system of self-regulation over exchange markets and their members, under which exchanges are required to enforce their own rules. In turn, the regulator has a substantial program for monitoring trading activity on a real-time basis, must approve all exchange rules, as broadly defined, and can both authorize and revoke futures and options markets and electronic trading systems. Nonetheless, the regulator lacks sufficient authority to require *mercados de valores* to enforce their rules that pertain to the compliance of members. This deficiency affects the markets on which 90% of equities and private debt securities transactions are negotiated, albeit there is a substantial market in public debt for which this limitation is not in issue..

20. **Principles for enforcement (8-10):** CNV has comprehensive inspection and investigation powers, including the administrative power to investigate and sanction third parties and to inspect MAE member banks, and has used these. However, although CNV can investigate violations by *mercados de valores*' members, it is severely limited in that it has no administrative power to sanction these members directly, if the relevant SRO fails to do so. It must proceed judicially against the *mercado de valores*. CNV can also make a criminal referral. CNV's powers, however, are also inhibited by its inability to follow transactions from brokerage accounts into bank accounts due to banking secrecy provisions, except as permitted under new AML provisions. In contrast, CNV has comprehensive authority to review activities in custody accounts where mutual fund assets are deposited.

21. **Principles for cooperation (11-13):** CNV can share regulatory and enforcement information, including securities information protected by secrecy provisions domestically, with a foreign regulatory authority under the terms of a memorandum of understanding and can provide enforcement assistance without regard to whether there is dual criminality in Argentina. CNV cannot however share securities transaction information with other domestic regulators or bank account information with foreign authorities. CNV is currently a signatory to Annex B of the IOSCO Multilateral Memorandum of Understanding (MMOU).

22. **Principles for issuers (14-16):** Issuers of public offerings or whose securities are admitted to listing are required to submit a prospectus, or in the case of collective investments, another offering document, the content of which is in line with IOSCO Principles. Periodic, complete statements of financial condition are required quarterly, with an annual audited report. CNV also has implemented a regime of material event reporting relating to price sensitive information. Beginning 2012 financial statements for all listed companies will be prepared in accordance with International Financial Standards and the industry has made substantial

preparations for this transition. It is expected that plans to convert to international auditing standards will follow shortly. CNV also has provisions related to independence of auditors and has significant requirements for credit rating agencies, including the ability to sit as an observer on rating boards. All price sensitive information, ratings and ratings updates, and required regulatory reports are filed on the AIF or “information highway,” maintained on the CNV website, and are readily available to market participants and the public. Governance standards and take over legislation is in the process of amendment and some refinements relative to regulatory procedures for price reviews and take-overs are in process, in particular authority to remove the discretionary opt out of mandatory tender is being sought.

23. ***Principles for collective investments schemes (Principles 17-20):*** CNV authorizes two types of collective investments: the mutual fund format and the *fideicomiso*, or financial trust format. An investor’s participation interest in each of these types of investments is characterized as a “security,” by Executive Decree 677 (2001). The fund, the operator, the custodian, and the sales representatives are all required to have some level of authorization. The licensing process involves a fit and proper test for certain personnel and an analysis of the operational capabilities of entities seeking authorization as fiduciaries or asset managers. Such procedures also are reviewed in on-site visits. There is a full complement of regulations that relate to necessary disclosures, the safe custodianship of fund assets and pricing. In the case of mutual funds, the regulations require not only daily net asset values, but also weekly filing of portfolio compositions on the AIF. In the case of *fideicomisos*, the equity tranches must be rated by an authorized rating agency. The CNV has taken a pro-active view to applying its regulatory powers to remedy issues that have arisen with respect to the servicing of obligations held by *fideicomisos* and other matters, and has recently added substantial, timely disclosure on *fideicomisos*’ terms, conditions, and parties that is accessible on the AFI portion of the CNV website. The CNV has articulated clear pricing guidance for illiquid assets, and continues to review the results that this guidance achieves in practice. The pricing of illiquid assets be a subject of continuing attention,

24. ***Principles for intermediaries (Principles 21-24):*** The law does not provide CNV the authority to license and to revoke the licenses of intermediaries that are members of the grandfathered exchanges, that is the *mercados de valores*. The current process at the SROs, consistent with statutory requirements and exchange rules approved by the CNV, involves a fitness test, competency requirements, and may include additional inquiries related to the type of business to be conducted. While not specific in law, these tests apply by exchange rules, and the code of investor protection, to senior management, substantial owners and controlling persons. Capital requirements for broker/*agentes* are net worth requirements of which more than 50% must be liquid. Though relatively high from that perspective, the requirements do not explicitly address all the risks contained in the IOSCO Principles and there is no early warning procedure. The SROs apply additional requirements and, in the case of banks that participate on the MAE or otherwise offer securities, the BCRA requirements are followed. This fact underscores the need for continuing effective communication between the CNV and the BCRA. Also, although the exchange markets/clearing organizations have processes for handling market disruption and intermediary defaults, these are not fully disclosed and the CNV itself does not have a documented contingency plan.

25. ***Principles for secondary markets (Principles 25-30):*** CNV has the authority to interrupt or suspend the trading on all authorized exchanges for up to 30 days, can inspect and investigate all exchange and clearing and settlement facilities and all natural and artificial persons subject to its regulatory authority, approve all electronic systems, monitor trading electronically in real time (using the exchange's own terminals and CNV's proprietary system, the components of which are fully spelled out in an Annex to its regulations) and can communicate its findings to securities market authorities. The law, by Decree, and the regulations also establish insider trading and manipulation as administrative violations, which can attract monetary penalties, but they are not independently defined penal offenses, separate from fraud. The law does not now provide CNV the authority to license and to revoke the licenses, and otherwise sufficient power, to apply a medley of sanctions or corrective actions against exchange misconduct involving members or member firm financial disruptions in all cases. The matters contained in Decree 677, and the lacunae in the CNV's powers should be remediated by legislation which ratifies the Decree, explicitly augments CNV's powers and authorities, and removes the impediments of banking and securities secrecy provisions, which limit the CNV's ability to cooperate with other domestic authorities, to enforce securities law, and to provide enforcement assistance to foreign authorities. The CNV is well aware of these deficiencies and has prepared a legislative proposal which should materially improve the ability of CNV to comply with IOSCO Principles for which it is not now in full compliance. Insolvency law does not clearly support a customer priority in insolvency of intermediaries, does not provide the new markets the same authority to conclude open transactions as provided to the grandfathered exchanges or *mercados de valores*, and does not support the finality of close out netting. The markets themselves have coped and there have been no intermediary defaults, even during the 2001-2002 crisis, but the insolvency framework should be strengthened.



Table 1A- Summary	Grading	Findings
Principle 1. The responsibilities of the regulator should be clearly and objectively stated	Partly Implemented	<ul style="list-style-type: none"> <li>• CNV is the sole functional supervisor for securities markets, products, professionals and activities, including securities functions within banking institutions; its powers are complemented by the rules of the exchanges, especially the <i>mercados de valores</i> (See Principles 6 and 7)</li> <li>• CNV’s mandate granted by law is highly transparent ; the law and rules are readily available albeit not systematically in English</li> <li>• Ability to share information with domestic supervisors to properly oversee entities performing different functions and groups is constrained by secrecy provisions of banking and securities law</li> <li>• Good informal cooperation within existing powers;but practical operational arrangements to implement new domestic MoUs need to be tested in practice and are hampered by remaining secrecy provisions.</li> </ul>
Principle 2. The regulator should be operationally independent and accountable in the exercise of its functions and powers	Partly Implemented	<ul style="list-style-type: none"> <li>• Day-to-day operational autonomy of CNV in executing its powers, including issuing binding secondary legislation or norms</li> <li>• Budget (except for salaries and benefits) can be modified by MECON after it has been approved under pre-specified circumstances related to failure to collect fees from regulated entities</li> <li>• Organization plan even if within budget must be approved</li> <li>• Fixed terms, but no explicit criteria for removal of CNV’s Board members for cause</li> <li>• Staff have limited protection against lawsuits</li> </ul>
Principle 3. The regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise its powers	Partly Implemented	<ul style="list-style-type: none"> <li>• Excellent, recently augmented, IT systems, dedicated, professionalized staff</li> <li>• Salary levels too low to attract specialist expertise and to compete with BCRA and the private sector for qualified personnel</li> <li>• Lack of powers to administratively sanction certain intermediaries (e.g., members of existing <i>mercados de valores</i>).</li> <li>• Lack of power to “follow the money;” that is, to follow transactions from brokerage to banking deposit accounts (See Principle 9).</li> </ul>

Table 1A- Summary	Grading	Findings
Principle 4. The regulator should adopt clear and consistent regulatory processes	Fully Implemented	<ul style="list-style-type: none"> <li>• Procedures of CNV are highly transparent, including: website complaint process, publication of all charges and sanctions, and related opinions, and on-line “information highway (AFI)” of price sensitive information, regulatory reports, and other information available immediately free of charge to the general public</li> <li>• Review of grounded particular dispositions and general regulatory actions available in the courts</li> <li>• Comments on regulatory actions are considered but issuance of feedback statements on consultations would add value</li> </ul>
Principle 5. The staff of the regulator should observe the highest professional standards	Fully Implemented	<ul style="list-style-type: none"> <li>• Rules to prevent conflicts of interest amongst staff and legislatively required confidentiality</li> <li>• Adoption and use of an internal auditor to monitor internal compliance with rules and procedures affecting regulatory operations</li> <li>• Annualized inspection plan</li> </ul>
Principle 6 The regulatory regime should make appropriate use of self-regulatory organizations (SROs) that exercise some direct oversight responsibility for their respective areas of competence and to the extent appropriate to the size and complexity of the markets	Not Rated	<ul style="list-style-type: none"> <li>• Use of experienced and sophisticated self-regulatory system based on historical development of capital markets and mutual type structures</li> <li>• Exchange rules can and do augment statutory and regulatory requirements</li> <li>• Inefficient market structure in view of limited depth and liquidity of equity and corporate bond markets</li> <li>• Insufficient regulatory power of CNV to oversee properly certain SRO member intermediaries (See Principle 7)</li> </ul>

Table 1A- Summary	Grading	Findings
Principle 7. SROs should be subject to the oversight of the regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities	Not Implemented	<ul style="list-style-type: none"> <li>• Strong power to suspend an exchange for 30 days, which has been used, and to interrupt trading to address informational imbalances or disruptions</li> <li>• Review of all exchange rules and contracts</li> <li>• Inability of CNV to directly apply administrative sanctions to intermediary members of six equity markets in existence when securities law initially adopted (the <i>mercados de valores</i>)</li> <li>• Inability to directly impose changes in regulation under securities laws on intermediary members of <i>mercados de valores</i>.</li> <li>• No appeal of access denials to the CNV</li> </ul>
Principle 8. The regulator should have comprehensive inspection, investigation and surveillance powers	Partly Implemented	<ul style="list-style-type: none"> <li>• General power to inspect all regulated entities, even those located at grandfathered exchanges (<i>mercados de valores</i>), and execution of annual inspection plan</li> <li>• Existence of audit trail to trace clients' sub accounts</li> <li>• CNV investigation powers constrained by secrecy provisions of banking law; scope of <i>mercado de valores</i>'s obligation to cooperate with CNV could be viewed as ambiguous</li> </ul>
Principle 9. The regulator should have comprehensive enforcement powers	Not Implemented	<ul style="list-style-type: none"> <li>• Broad administrative enforcement power to reach third parties transacting in all regulated and organized markets</li> <li>• Ability to suspend exchange operations</li> <li>• Highly transparent sanctioning process, including procedures permitting opportunity to be heard and publication of all charges and sanctions and related opinions.</li> <li>• Limited ability to cooperate with domestic supervisors and to trace funds into bank accounts (except with respect to mutual fund custodians) due to secrecy provisions of banking and securities laws</li> <li>• Inability to administratively sanction <i>mercado de valores</i> intermediary members or to directly impose rules on such members; redress limited to judicial system</li> </ul>

Table 1A- Summary	Grading	Findings
Principle 10. The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.	Partly Implemented	<ul style="list-style-type: none"> <li>• Development of annual inspection plans; use of well-articulated inspection manual</li> <li>• New Stock Watch capability to monitor markets in real-time using trading feeds that are in a single format, coupled with direct access in CNV offices to exchange terminals</li> <li>• Highly transparent sanctions process</li> <li>• No administrative enforcement powers over intermediary members of <i>mercados de valores</i></li> <li>• Inability to sanction intermediary members for failure to cooperate and lack of clarity as to the willingness of the <i>mercados de valores</i> to do so</li> </ul>
Principle 11. The regulator should have the authority to share both public and non-public information with domestic and foreign counterparts	Not Implemented	<ul style="list-style-type: none"> <li>• Inability to share securities transactional information with other domestic financial supervisors for any purpose absent court order except for UIF</li> <li>• Ability to share information with international supervisors to full extent of CNV's existing powers</li> </ul>
Principle 12. Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts	Fully Implemented	<ul style="list-style-type: none"> <li>• Domestic cooperation agreement concluded in May 2011 with BCRA and in June with SSN and UIF.</li> <li>• 26 MoUs with international supervisors (11 requests for information responded to within the last three years)</li> <li>• Confidentiality of shared information maintained except in criminal case on same facts</li> </ul>
Principle 13. The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers	Partly implemented	<ul style="list-style-type: none"> <li>• Ability to share information, including securities information, within the limits of powers pursuant to an MoU without regard to shared criminality or interest with the requesting authority</li> <li>• Signatory of Annex B, but not full signatory of the IOSCO MMoU</li> </ul>
Principle 14. There should be full, timely and accurate disclosure of financial results and other information that is material to investors' decisions	Fully Implemented	<ul style="list-style-type: none"> <li>• Prospectus, disclosures and ongoing continuing disclosures related to publicly offered securities (all issues on markets are considered public offerings) meet IOSCO standards for content and timeliness</li> </ul>

Table 1A- Summary	Grading	Findings
Principle 15. Holders of securities in a company should be treated in a fair and equitable manner	Partly Implemented	<ul style="list-style-type: none"> <li>• Voluntary code of corporate governance</li> <li>• Mandatory disclosure of interests, and changes of interests above 5% including by persons acting in concert; no disclosure of insiders interests if below 5%</li> <li>• Customer electronic access to check repositioning of shares from intermediaries account to sub-accounts but CNV oversight of process may require strengthening</li> <li>• Opt out from mandatory tender offer by issuer may prejudice minority shareholders</li> </ul>
Principle 16. Accounting and auditing standards should be of a high and internationally acceptable quality	Broadly Implemented	<ul style="list-style-type: none"> <li>• Move to IFRS for listed companies (except banks and PYMES, with capitalization of less than 15 million Argentine pesos) from January 2012</li> <li>• Progress on adoption of a roadmap to move to IAS</li> <li>• Robust oversight authority and plan to move to routine quality control procedures</li> <li>• Powers and active role in overseeing credit rating agencies</li> <li>• Implementation of new standards will put premium on CNV, accounting profession, and issuer accounting and auditing resources and capacity building</li> </ul>
Principle 17. The regulatory system should set standards for the eligibility and the regulation of those who wish to market or operate a collective investment scheme	Broadly Implemented	<ul style="list-style-type: none"> <li>• Incorporation of products, managers, custodian/depository/trustees, grantors within the regulatory framework</li> <li>• Fitness standards include statutory disqualifications, certifications from criminal authorities, analyses of operational capacity, and pertain to Directors, senior management, and “controlling interests,” though these latter are undefined and shareholders apparently are not vetted</li> <li>• CNV requirements for sales representatives are unclear</li> </ul>

Table 1A- Summary	Grading	Findings
Principle 18. The regulatory system should provide for rules governing the legal form and structure of collective investment schemes and the segregation and protection of client assets	Broadly Implemented	<ul style="list-style-type: none"> <li>• Contractual structures for collective investment schemes, which have been upheld in courts; treatment of structures as “securities,” by relevant Executive Decree</li> <li>• Appropriate disclosure and customer protection</li> <li>• Since July 2011, publication on the AFI of additional information on the structure of of financial trusts (<i>fideicomisos</i>), which could facilitate monitoring of delivery of funds to the fiduciary and disposition of assets planned in contractual arrangements</li> </ul>
Principle 19. Regulation should require disclosure, as set forth under the principles for issuers, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investor’s interest in the scheme	Fully Implemented	<ul style="list-style-type: none"> <li>• High level of disclosure and continuing disclosure for various collective investment schemes under overall public offering regime</li> </ul>
Principle 20. Regulation should ensure that there is a proper and disclosed basis for assets valuation and the pricing and the redemption of units in a collective investment scheme	Broadly Implemented	<ul style="list-style-type: none"> <li>• Requirement for daily net asset values in the case of mutual funds, and use, and frequent updating, of ratings to address the value of equity interests in <i>fideicomisos</i></li> <li>• Ongoing CNV review of existing pricing guidance for illiquid securities to determine whether the prices produced are achievable and equitable</li> </ul>
Principle 21. Regulation should provide for minimum entry standards for market intermediaries	Partly Implemented	<ul style="list-style-type: none"> <li>• Fit and proper criteria for all market intermediaries intervening in a public offering, which is construed to include secondary trading; exchange rules include directors and controlling persons; lack of operational fitness review by CNV although the various exchanges have additional operational standards. Lack of a separate investment advisor “registration” category, although all compensated advice by someone holding themselves out with respect to the offer of securities must be through a registered broker or via authorized persons who sell or advise collective investments.</li> <li>• Lack of CNV oversight over the intermediaries intervening in the <i>mercados de valores</i>, including the receipt of off-site periodic financial reports for on-site scope setting</li> </ul>

Table 1A- Summary	Grading	Findings
Principle 22. There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake	Partly Implemented	<ul style="list-style-type: none"> <li>• Capital requirements for intermediaries, which require relatively high net worth, may not be sufficiently adjusted to risk and lack early warning procedure</li> <li>• Capital rules of exchanges (e.g., ROFEX) for their members and related risk management processes may be more stringent than CNV rules</li> </ul>
Principle 23. Market intermediaries should be required to comply with standards for internal organization and operational conduct that aim to protect the interests of clients, ensure proper management of risk, and under which management of the intermediary accepts primary responsibility for these matters	Partly Implemented	<ul style="list-style-type: none"> <li>• Litany of customer protection requirements for market intermediaries intervening in a public offering, including know your customer and loyalty requirements</li> <li>• Analysis, and as warranted, investigation by CNV of all complaints</li> <li>• Lack of CNV administrative sanctioning power over the intermediaries intervening in <i>mercados de valores</i> though these markets do have loyalty, customer first and other requirements approved by CNV and by law as SROs are required to enforce their own rules</li> <li>• No requirement for intermediary compliance function</li> <li>• CNV requirements for sales representatives are unclear</li> </ul>
Principle 24. There should be a procedure for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk	Partly Implemented	<ul style="list-style-type: none"> <li>• Special bankruptcy procedures in the exchanges not authorized by CNV to ensure conclusion of trades</li> <li>• CNV has authority to interrupt trading in case of disruption</li> <li>• Lack of sufficient CNV oversight over the intermediaries intervening in <i>mercados de valores</i></li> </ul>

Table 1A- Summary	Grading	Findings
Principle 25. The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight	Fully Implemented	<ul style="list-style-type: none"> <li>• Trading systems for all exchanges must be submitted to CNV for review and under recent requirements must be audited annually by an external auditor</li> <li>• Data on trades that must be collected as explicitly specified by CNV</li> <li>• CNV approves listing rules and futures products terms and conditions and all listed equities must have prospectuses</li> <li>• Exchanges must have a dispute resolution mechanism in place</li> <li>• Exchanges must have procedures to deal with disorderly trading</li> <li>• Exchanges must meet fitness requirements, including financial requirements</li> </ul>
Principle 26. There should be ongoing regulatory supervision of exchanges and trading systems, which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants	Broadly Implemented	<ul style="list-style-type: none"> <li>• CNV has a robust, real time IT system, coupled with an active inspection program, to oversee trading</li> <li>• All rule amendments of the exchanges must be submitted to CNV</li> <li>• CNV can suspend operations of an exchange</li> <li>• CNV cannot bring administrative actions against exchange member intermediaries at the <i>mercados de valores</i>, but see Section 7 of Law 17.811.</li> </ul>
Principle 27. Regulation should promote transparency of trading	Broadly Implemented	<ul style="list-style-type: none"> <li>• Institutional end users and brokers serving retail clients must use electronic matching markets with time price priority for such clients</li> <li>• Best execution requirements where multiple markets trade same product could be clarified if intermediary has a choice of markets on which to transact</li> </ul>
Principle 28. Regulation should be designed to detect and deter manipulation and other unfair trading practices	Broadly Implemented	<ul style="list-style-type: none"> <li>• Appropriate CNV and exchange rules on market manipulation and insider trading exist with provision for strong administrative sanctions</li> <li>• Manipulation and insider trading are not criminalized and actions cannot be brought administratively by CNV against the members of the <i>mercados de valores</i> though it can proceed administratively against third parties and issuers and request the exchanges to take action.</li> <li>• Limited enforcement experience (See Principle 10)</li> </ul>



Table 1A- Summary	Grading	Findings
Principle 29. Regulation should aim to ensure the proper management of large exposures, default risk and market disruption	Broadly Implemented	<ul style="list-style-type: none"> <li>• Law 17.811 (Articles 57 and 26) provide legal authority for the completion of transactions using mandated guarantee funds for regional <i>mercados de valores</i> and where the regional market stipulates there is a performance guarantee</li> <li>• Similar protections do not exist for futures markets and the interdealer market</li> <li>• All exchanges have procedures for defaults and other disruptions</li> <li>• The CNV and related financial sectoral authorities do not have contingency plans to address market disruption and firm failures</li> </ul>
Principle 30. Systems for clearing and settlement of securities transactions should be subject to regulatory oversight, and designed to ensure that they are fair, effective and efficient and that they reduce systemic risk	Not Rated	<ul style="list-style-type: none"> <li>• CNV has regulatory oversight over clearing and settlement and related margining methodologies</li> <li>• Law 17.881 provides protection for the completion of transactions using mandated guarantee funds for regional markets in the event of financial disruption or insolvency</li> <li>• Similar protections in the law do not exist for futures markets and the interdealer market</li> <li>• The legal underpinning for protection of customer funds of intermediaries in bankruptcy should be provided</li> </ul>
<p><i>Aggregate:</i> Fully implemented (FI) 6 # broadly implemented (BI) 8 #, partly implemented (PI) 11, not implemented (NI) 3, not rated (N/R) 2.</p>		

## F. Recommended Action Plan

**Table 2—Recommended Action Plan**

Principles	Recommended Actions
Principles 1- 5 relating to the Regulator	<ul style="list-style-type: none"> <li>• Update the Securities Law to give the CNV explicit powers to proceed administratively against intermediary members of the <i>mercados de valores</i> to address all securities law and regulatory violations, to impose rules directly on the <i>mercados de valores</i>'s members, and to revoke or condition exchange authority for failure to enforce exchange rules.</li> <li>• Update the Securities and Banking Laws to remove Bank and Market Secrecy provisions, so as to allow domestic supervisors to effectively exchange</li> </ul>

Principles	Recommended Actions
	<p>information, and the CNV to “follow the money” to the intermediaries’ bank accounts</p> <ul style="list-style-type: none"> <li>• Update the Securities Law to strengthen existing legal protections of supervisors so that they cannot be individually subject to lawsuits if they perform their supervisory duties in good faith</li> <li>• Ring fence the budget of CNV so that (i) it may not be modified <i>ex post</i> by third parties once approved by the MECON and that (ii) CNV can make organizational personnel changes or reallocations within the budget provisions.</li> <li>• Update the Securities Law to set explicit criteria for removal of the CNV Board Members</li> <li>• Approve the new structure of the CNV which <i>inter alia</i> consolidates enforcement activities and creates a specific unit to oversee auditors and to provide consumer protection</li> <li>• Make more information available in English</li> <li>• Consider issuing feedback statements on comments received on proposed regulation after regulatory consultation</li> <li>• Use CNV internal audit function to spot test the compliance of staff with ethical standards</li> </ul>
Principle 6-7 relating to Self-Regulation	<ul style="list-style-type: none"> <li>• Update the Securities Law to ensure the CNV has the power to authorize and revoke all SROs, to administratively enforce SRO rules and relevant securities law and regulations against member intermediaries if the SRO fails to do so, and to otherwise make the SROs accountable to properly use their self-regulatory powers.</li> </ul>
Principles 8-10 relating to enforcement of securities regulation	<ul style="list-style-type: none"> <li>• Update the Securities Law to give the CNV powers to proceed administratively against SRO member intermediaries</li> <li>• Update the Securities and Banking Laws to remove secrecy provisions, so as to allow domestic supervisors to effectively exchange information, and the CNV to “follow the money” to the intermediaries’ bank accounts</li> <li>• Consider explicitly criminalizing the offenses of insider trading and market manipulation; and ratify the Executive Decree that makes such market abuses administrative offenses as planned in the CNV’s draft legal reform</li> </ul>

Principles	Recommended Actions
Principles 11-13 for cooperation in regulation	<ul style="list-style-type: none"> <li>• Update the Securities and Banking Laws to remove secrecy provisions, so as to allow domestic supervisors more effectively to exchange information, and the CNV to “follow the money” to intermediaries’ bank accounts</li> <li>• Take steps to join the IOSCO Multilateral MOU as a full signatory and pursue explicit authority to protect information received from competent foreign authorities</li> </ul>
Principles 14-16 for Issuers	<ul style="list-style-type: none"> <li>• Adopt clear pricing requirements for tender offers and consider whether it is possible under existing law to extend the mandatory tender rule to all listed companies; pursue planned legal changes to eliminate the discretion to opt out of the mandatory rule.</li> <li>• Continue progress to move to international audit standards</li> <li>• Oversee phase-in of IFRs by CNV regulated entities</li> </ul>
Principles 17-20, for collective investment schemes	<ul style="list-style-type: none"> <li>• Augment procedures for vetting eligibility to be authorized and extend these to major shareholders.</li> <li>• Include review of the timeliness of collections of funds due and dispositions of funds to unit holders in <i>Fideicomisos Financieros</i>, and randomly test how funds are liquidated at maturity</li> <li>• Ratify the Decree 677/2001 by Law as planned in the CNV’s draft legal reform</li> <li>• Test on a continuing basis whether the current guidance for net asset value pricing guidance for Mutual Funds’ provides equitable and achievable prices for illiquid products</li> </ul>

Principles	Recommended Actions
Principles 21-24 for market intermediaries	<ul style="list-style-type: none"> <li>• Update the Securities Law to give the CNV powers to take direct administrative sanctions against SRO member intermediaries; test the limits of CNV’s current authority to directly supervise SRO member firms.</li> <li>• Consider whether with the existing protections against provision of securities advice for a fee outside a broker or regulated portfolio adviser are sufficient to address unregulated conduct or whether a separate registration category would be advisable</li> <li>• Continue to enhance the capital requirements for intermediaries and add early warning procedures</li> <li>• Adopt a contingency plan for addressing an intermediary default</li> <li>• Work with other regulators to develop a systemic risk process (also for Principles 25 to 30)</li> </ul>
Principles 25-30, Principles for the Secondary Market	<ul style="list-style-type: none"> <li>• Update the Securities Law to give the CNV powers to authorize and revoke all SROs and to have a medley of means to oversee SRO markets to ensure the genuineness of transactions (see Law 17811 Article 23).</li> <li>• Clarify that the duty of loyalty and timely handling of clients’ orders should be interpreted as including a duty of best execution</li> <li>• Update the legal framework for insolvency to ensure (i) irrevocability of instructions; (ii) enhanced protection of customers’ funds and property as a first priority over creditors; (iii) protection from the interruption of settlement in futures markets by injunctions</li> </ul>

### **G. Authorities Response**

The authorities believe that the ratings for Principles 7, 9, and 11 should be raised in that they have significant authority either with respect to an active portion of the market or they have used what authority they have to the extent of their powers.

The authorities further contest the discussion of impact of uncertainty on market confidence.

## II. DETAILED ASSESSMENT OF IMPLEMENTATION OF THE IOSCO PRINCIPLES

Table 3. Detailed Assessment of Implementation of the IOSCO Principles

<b>Principles Relating to the Regulator</b>	
<b>Principle 1.</b>	The responsibilities of the regulator should be clear and objectively stated.
Description	<p><b><i>Clear and transparent statement of mandate by law</i></b></p> <p><i>La Comisión Nacional de Valores (CNV)</i> was created in 1968 by the Securities Public Offering Act 17811(17811Act or Securities Law). CNV is a Federal entity, established within the ambit of, but separate from, the executive branch. Its relations with the Executive branch are conducted through the <i>Ministerio de Economía y Finanzas Públicas</i>(MECON). As such, CNV is, an independent executive agency, with jurisdiction for all of Argentina for those securities functions, products and professionals for which it is the competent authority, that is, for which it has been granted a mandate.</p> <p>The complement of requirements affecting the responsibilities of the CNV is set out within a legal hierarchy, which includes the Constitution, Laws, and Presidential (Executive Decrees). The CNV can itself issue secondary legislation in the form of General Resolutions or “<i>Normas</i>” that affect the matters subject to its jurisdiction. The powers and functions of the CNV contained in the 17811 Act have been augmented by the following legislation:</p> <ul style="list-style-type: none"> <li>• Securities Collective Deposit Act 20643</li> <li>• CNV Functions Act 22169 (corporate control)</li> <li>• Company Law 19550</li> <li>• Mutual Funds Act 24083 (collective investment vehicles)</li> <li>• Trust Indenture Act 24441 (trust participations)</li> <li>• Futures and Options Markets Executive Decrees 2284/91 and 1926/93 (listed derivatives intermediaries, markets, and products)</li> <li>• <i>Obligacións Negociables</i> 23756 (private debt)</li> <li>• Public Offering Transparency Regime Executive Decrees 677/01 (periodic and event driven disclosure)</li> <li>• Credit Ratings Agencies Executive Decrees 656/92 and 749/00</li> </ul> <p>With the exception of members of the <i>mercados de valores</i>, CNV has explicit authority to register/authorize, regulate, control, supervise, and inspect all entities, natural persons, and instruments that engage in the capital markets as well as issuers that offer shares to the public. CNV’s mandate explicitly extends to futures and options, clearing organizations, central securities depositories, guarantee funds, collective investment funds and their asset managers and custodians, financial fiduciaries, financial trusts, and rating agencies. Additionally, CNV is charged with overseeing compliance by regulated intermediaries with anti-money laundering and terrorist finance compliance, herein referred to as AML and CTF compliance (which compliance is subject to separate, more particularized rating by the Financial Action Task Force ( FATF)).</p> <p>CNV has powers, that are subject to certain limitations discussed in more detail under Principles 6, 7, and 25 below, with respect to: “<i>bolsas de comercios</i>” (boards of trade or exchanges) and “<i>mercados de valores</i>,” (trading platforms or markets), which are treated by law as self-regulating organizations (SROs) and their members, and with respect to over-the-counter (OTC) activity, which is minimal.</p>

	<p>The web-site of the CNV, <a href="http://www.cnv.gob.ar">www.cnv.gob.ar</a>, contains an organigram of the organization as set out by Executive Decree 2041/2006 that indicates the specific responsibilities accorded to each unit within the CNV in some detail.</p> <p><b>Gaps and duplication</b></p> <p>No other governmental authority has responsibility for the above-described securities functions; however, the SROs have the exclusive power to discipline their members and the President has the exclusive power to grant and deny licenses to equity markets or <i>mercados de valores or bolsas de comercio</i>. A substantial portion of financial services business (more than 40%) is conducted through banks and bank conglomerates. Securities activities conducted by banks, whether custodianship and sales of mutual funds (which may be conducted within the bank) or management of mutual funds and brokerage (which must be conducted through a separate subsidiary), issuance or underwriting, must be authorized by and are subject to inspection and sanction powers of the CNV. In addition to the Securities Law, these powers are addressed by the banking law, 21526 (<i>Ley de Entidades Financieras</i>) and also by a legal opinion of the <i>Banco Central de la República Argentina</i> (BCRA) that explicitly acknowledges the CNV’s authority with respect to collective funds.</p> <p><b>Cooperation among related regulatory authorities</b></p> <p>CNV, as part of its core regulatory mission, must also work with the BCRA and the <i>Superintendencia de Seguros de la Nación</i> (SSN), but the authorities are circumscribed from sharing information with each other by applicable provisions of bank secrecy and securities laws, except to the extent permitted for those limited AML purposes specified by amendments to the AML law in 2011. The authorities often may have related responsibilities for the same entity. In May 2011, CNV, for the first time, executed an MoU with the BCRA concerning the sharing of information related to AML issues and other matters to the extent of each of their respective powers, and in June 2011 it executed a similar arrangement with the SSN. The CNV and BCRA state that in practice they in fact have cooperated in the past, to the extent of their powers and authority. However, although the authorities have extensively discussed common issues over the years, documentation of practical, operational protocols for executing their joint responsibilities are new and will require some testing in practice, and amplification of information sharing powers, to become fully operational. The CNV is also in the process of working with its sectoral colleagues to develop a working group to look more closely at cross-sectoral systemic issues.</p> <p>By law, the CNV must work with the Financial Intelligence Unit (UIF) and the Federal Administration of Public Revenues (AFIP). The UIF is specially charged to orchestrate coordination among the BCRA, CNV, SSN and itself on AML and CFT matters (Executive Decree 1036/(2010)). The CNV has a working group that works with the UIF on training, risk assessment, supervisory issues, and other operational and cooperation matters.</p>
Assessment	Partly Implemented
Comments	<p>The requirements affecting securities professionals, products and transactions are set out clearly in law and related regulations and can be found readily on the general Argentine web site, <a href="http://www.infoleg.gov.ar">www.infoleg.gov.ar</a>, and on the CNV website. Additionally, the regulations have a version, the “<i>Texto Ordenado</i>,” that is available on-line, which clearly indicates where, how, and when CNV General Resolutions (regulations) has been amended—a commendable, user friendly feature.</p> <p>However, the basic law is quite old and would benefit not only from updating but also from a virtual table of contents that would aid in finding texts by regulated function, product and professional. Further to the extent that the market is made open to international transactors, the complete set of rules and laws should be available in English.</p>

	<p>Ready accessibility to the rules of the exchanges (boards of trades) and markets is also important as these rules in the case of the former regulate the listing of securities and the latter govern market conduct and go beyond the specific requirements of the CNV or the law. Exchange rules are enforced directly by the exchanges and the markets. In the case of the principal market in Buenos Aires, the law and an explanation of its purposes, as well as the internal operational rules of the market, are available on the website of the MERVAL. The <i>Caja de Valores</i> provides the English texts by CD. The rules of the <i>Bolsas de Comercios</i>, while posted in Spanish, are not similarly available in English.</p> <p>Importantly, currently pending, there is a pending draft “project of law,” drafted by the CNV after a review of international benchmarks, which has been approved in concept by the MECON, to reform the Securities Law. The contemplated reforms would provide the CNV with equivalent powers to sanction all securities intermediaries and regulated entities, and explicitly would remove the prohibitions on the domestic regulators from sharing needed supervisory (prudential and conduct of business) information with each other as necessary to permit effective supervision and enforcement activities.</p> <p>Currently, the restriction on information sharing among the authorities not only frustrates the ability to conduct the appropriate supervision of conglomerates, to oversee properly securities activities conducted within banks and to develop appropriate risk-based oversight regimes, but also impedes the ability of the CNV to perform its primary function related to oversight of all securities transactions. CNV cannot “follow the money”. Ideally the Securities Law reforms necessary to permit CNV and BCRA to share information domestically with the banking and insurance authorities would be coupled with comparable changes to Law 21 526.</p> <p>Principle 1 is explicit that where more than one domestic authority has accountability for the same entity or group, the responsible authorities should be required to communicate with each other in connection with their shared areas of competence. The authorities indicate that they have effective, cooperative and flexible working relationships, except where constrained by the limits of the existing law. Commendably, the first MoUs documenting the commitment by CNV and BCRA to cooperate was executed on May 10, 2011 and by CNV and SSN in June. The BCRA MoU was prompted in part by new AML CFT authorities granted to each authority. In Article 2, the authorities agree to cooperate to facilitate the exchange of information on matters under their supervision, consistent with the limitations on each under the law (Article 4). In that the authorities must work together, sharing of solvency-related information is not prohibited, and they have common interests in the risks posed to various groups and products, the authorities should continue to take practical steps to enhance policies and procedures and execute operational paradigms that takes account of the full scope of their powers, whatever the outcome on legal reform. Such operational arrangements could in practice draw on a review of possible issues related to the transmission of risk across sectors, potential contagion and capital allocation within groups. The authorities should also work together to maximize the benefits of the projected law reform by more actively engaging in cooperative dialogue about regulatory processes and related groups of companies.</p>
<b>Principle 2.</b>	The regulator should be operationally independent and accountable in the exercise of its functions and powers.
Description	<p><b><i>Independence</i></b></p> <p><i>Structure and governance</i></p> <p>The Securities Law describes the CNV as an “<i>entidad autárquica actuante en la orbita</i>” of the Undersecretary for Financial Services of the Ministry of the Economy and Finance (MECON). The CNV is related to the Executive Branch through the MECON by virtue of Section 1 of the</p>

Securities Law but is an independent agency. The Securities Law (Section 2) provides that the Commission shall have a Board of five Commissioners (it requires a quorum of three to act) and that the term of the Chairman shall be seven years, which are not coincident with the term of the President, who appoints the Board by Executive Decree. A Commissioner may be reappointed and serve two terms.

Currently the Board operates with three members, and in practice in recent years Chairs have not served out a full term. The Securities Law sets forth criteria for appointment that broadly address competence and potential conflicts: the commissioners must have “recognized competence” in capital markets, and cannot hold other governmental positions or undertake professional activities directly or indirectly relating to persons subject to the provisions of the Securities Law. Board members typically are academics, judges, registrars of commercial companies, inspectors and the like. There are no specific criteria for removal.

#### *Legal Protection*

The staff, the Board and the CNV, which has legal personality, can be sued. Executive Decree 677(2001) provides that legal fees of staff, in that case, would be defrayed by the government up to a pre-set maximum for each level of any such proceeding. The court would decide whether the staff or Board acts were in *bona fide* execution of their duties—but the law does not provide specific guidance on whether *bona fide* is interpreted as lack of bad faith or otherwise. If the staff person, or member, were to lose in court, their legal fees would not be reimbursed. This level of staff protection took years to obtain and there is no plan currently to request additional protection for *bona fide* regulatory activity in the pending law reform.

#### *Day-to-day operations*

The CNV has day-to-day autonomy in the running of its operations and execution of the Law. It also has the independent authority to issue binding norms, subject to public consultation. Such resolutions or secondary laws need not be passed by the Ministry of Justice or the MECON for approval in order to be implemented. Nor are those authorization (grant, denial or revocation) decisions that are within the powers of the CNV required to be passed by the MECON or the President. However, the CNV does not have the power to authorize or revoke the authorization of *bolsas and mercados de valores* nor does it have the power directly to sanction or ban certain exchange-authorized intermediaries. This empowers the exchanges, and exchange intermediaries, to resist and contest the authority of the CNV.

#### *Budget*

The CNV's budget is part of the general budget of the government. CNV submits an annual request which must be approved by the MECON and which takes account of fees charged by the CNV but paid to the Treasury. Once approved, budgeted funds are drawn down quarterly. Salaries are mandatory and, as such, sacrosanct, but other expenses, even within an approved budget, may be denied *ex post* in the event fees collected are less than projected. Additionally, structural changes that would provide for the performance of additional functions, such as the planned consumer protection function, must be requested and promulgated by Executive Decree even if no additional resources or legal powers were unnecessary to implement them.

#### *Accountability*

##### *Annual Report; Decisional Transparency*

The CNV produces an annual report of its actions and must submit this to the MECON. This Annual Report, which is largely an activity report, as well as monthly newsletters, concerning the execution of CNV's programs, are published on its website. CNV operates an excellent website in Spanish, which includes information about operations, issuers, licensed products, and sanctions,



	<p>and appears to be regularly updated at least as to changes in the law and regulations. Certain, but not all laws and regulations, are also available in English translation. Consultation is not required for all activities. But all proposed resolutions must be published in the Official Journal, subject to comment as a matter of general administrative law. Comment may be provided electronically or in hard copy within a specified timeframe and all comments are public. No feedback statement or statement as to how comments are addressed is issued.</p> <p><i>Judicial Review</i></p> <p>All decisions of the CNV may be contested through the judicial system. When the CNV takes action, for example, through its sanctioning process against individuals, it must provide a reasoned opinion, and the decision and grounds are subject to judicial review. The administrative hearing process permits a right to appear and to present evidence on the part of the respondent (See Chapter 1, Section 12 of the Securities Law).</p> <p><i>Internal Audit Function</i></p> <p>The CNV must have an internal audit section, with specific mandated duties, including the responsibility to share both its audit plans and its results with the <i>Sindicatura General de la Nación</i> (SIGEN), that is, the National Comptroller General. The specific tasks of the internal audit section are available to the public on the CNV website.</p> <p><i>Confidentiality of private information</i></p> <p>There is strict protection of confidentiality of information from the securities sector about individuals and transactions within the domestic system, such that transactional information may not even be passed to other authorities (see discussions in Principle 1, and 8 to 13) other than the criminal authorities for ordinary crimes if directly related thereto (Securities Law, Chapter 1, Section 8).</p>
Assessment	Partly Implemented
Comments	<p>Within its day-to-day operations, with respect to those entities, products and professionals over which it has authority, the CNV is free to develop programs, to innovate and to run its inspection, oversight, regulatory, and supervisory programs without undue political or commercial interference.</p> <p>Nevertheless, there remains concern as to whether CNV's regulatory actions can be interfered with by alterations of the structure, <i>ex post</i> reduction or allocation of budgeted funds, by the threat of legal actions for damages, or otherwise. As stated by IOSCO, the balance between independence and accountability is a delicate one that must be assessed both in terms of the applicable legal accountability structures and how they are used in practice.</p> <p>The structure for an independent securities regulator (albeit within the general budget of the government) exists in Argentina, the question is how the existing checks and balances are applied and to what extent they have a chilling effect on regulatory action in practice.</p> <p>The CNV itself believes that (i) there is undue capacity for the exchange SROs to resist CNV actions. Uncertainty as to the consistent application of requirements, and as to continuity of the operations, and hence the related power and authority of regulatory leadership, can and does, affect the market confidence that is critical to the growth and development of robust capital markets. These concerns could be rectified by eliminating the power of parties other than the CNV to alter budget allocations <i>ex post</i>, by setting explicit removal criteria for Board members, and by further enhancing staff and Board protection from damage claims for <i>bona fide</i> exercise of their mandate or for regulatory deployment of resources within their discretion. This would be without prejudice</p>

	<p>to a party's determination to resign. In this regard the term "<i>bona fide</i>" should be defined as not in bad faith.</p> <p>The nationalization of private pension savings during the 2008 crisis has led to uncertainty in the marketplace as to the stability and integrity of the rules/terms of market-related products.</p>
<b>Principle 3.</b>	The regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise its powers.
Description	<p><b>Powers</b></p> <p>As discussed in Principle 1, and in Principles 8 to 13, the CNV lacks certain powers to properly enforce the securities laws both because it cannot sanction exchange member intermediaries (except for the futures, options and electronic markets) and because of restrictions on its access to banking information related to securities accounts and intermediaries. For example, CNV cannot share any information gathered as part of its inspection and investigation activities with other domestic financial authorities for supervision, regulatory or enforcement purposes nor can it properly trace transactions into banking records due to Bank Secrecy laws (See e.g., Securities Law, Chapter 1, Section 8, See also Sections 46 and 48 and Article 39 and 40 of the Banking Law).</p> <p><b>Resources</b></p> <p><b>Budget</b></p> <p>CNV is funded from the general governmental budget (Securities Law, Chapter 1, Section 5). Although the CNV has assessed fees for registration of securities and for other regulatory activities on regulated entities, since 1998 (Executive Decree 1526 (1998)), the fees are not considered in advance in the budget process and only a portion are in practice returned to the CNV. The budget is annualized and must be approved by the MECON. Once the funds are appropriated, however, there are potentially continuing restraints on the use of non-mandated funds (that is, funds other than, salaries and benefits) if there is a failure to collect sufficient fees, as part of the regulatory process.</p> <p><b>Professional</b></p> <p>The CNV has been able to attract people who like to work on the cutting edge of issues occurring in the financial markets. However, the ability of the CNV to keep pace with market developments from the perspective of salaries and expertise is diminishing. CNV today has 182 staff, almost 80% of which are professional staff and 50% of these of which are lawyers. This number was increased from 132 by Executive Decree 2041 in 2006. While the CNV has taken aggressive steps to keep pace with the demands of the marketplace and to operate an innovative and comprehensive supervisory and regulatory program, the salaries of the CNV are less than one-half of those accorded employees of the BCRA and one-half again less than for similar activities in the private sector. The complexity of the issues arising in financial markets, and the degree of innovation is such, that the sufficiency of resources, particularly in the skills related to assessing risks, evaluating products, and analyzing and overseeing market-based information technology are increasingly critical to effective exercise of the CNV's regulatory mandate. At the same time these skills are increasingly in demand, are sought competitively in the marketplace, and are difficult to recruit and retain under the current salary formulas.</p> <p>CNV believes that existing staffing is insufficient to meet the new demands resulting from the G-20 initiatives following the financial crisis and to perform the enhanced regulatory functions required by the new IOSCO Principles that were adopted in June 2010. Among other things it is seeking additional authority to assist it in adequately effectuating its audit oversight role, in undertaking additional, and more complex, monitoring activities, for implementing further AML</p>

	<p>CTF programs, and for adding a consumer protection unit.</p> <p><i>IT</i></p> <p>The CNV has excellent IT resources, that are regularly commended by the industry. These include the AIF and real time, state of the art, trade monitoring systems that have recently been placed in operation.</p>
Assessment	Partly Implemented
Comments	<p>The CNV has prepared and submitted to the MECON a proposed legal reform to correct the deficiencies in its ability to oversee SRO activities and to remove the restrictions relative to securities and banking secrecy that prevent it from being fully capable of effectuating an enforcement and supervision program. CNV also is seeking additional oversight authority with respect to accounting and auditing. As stated above, these initiatives should be progressed swiftly.</p> <p>The CNV does have “career paths,” and its staff does participate in training programs. It also has excellent IT systems, which are consolidated within the CNV, including the “<i>autopista</i>” or information highway for entering price sensitive information on issuers, periodic financial and other required reports, and a new monitoring system, which, after one year of development, was just put into operation in April 2011. However, in order for CNV to have the capacity to take on the type of responsibilities that are expected of securities regulators in the aftermath of the recent financial crisis, to have the skills to address market innovation, and to grow the capital markets, the CNV should be assured sufficient resources, both in number and expertise.</p> <p>The CNV has developed a new structure that would permit multi-year planning, mitigate existing gaps and consolidate enforcement activities for all types of products rendering the program more targeted and efficient, and launch a consumer protection function. These changes however require (i) approval of the President and (ii) sufficient skilled staff. Means should be explored to enhance CNV resources and planned structural changes should be moved forward with expedition, consistent with the law.</p> <p>Within its existing budget the CNV should have the ability to alter its organization to deliver its program and it should have the ability to request augmentations and change inter period through MECN or directly.</p>
<b>Principle 4.</b>	The regulator should adopt clear and consistent regulatory processes.
Description	<p><b><i>Review and consultation on decisions</i></b></p> <p>The CNV can issue both General Resolutions (“<i>Normas</i>”) and Particular Actions (“<i>Disposiciones particulares</i>”), which powers flow from powers delegated by Congress to the Executive. All actions committed to the CNV are vetted by the legal counsel for the CNV and are submitted to the Board. Additionally, all actions (both particular and general) are subject to judicial review specific to the type of action. In the case of norms, the proceeding is known as a “<i>reclamo en proprio</i>.” All general and particular dispositions are posted on the CNV website, both in summary form and with the underlying order, which provides the grounds for the decision. In the case of the introduction of new regulations and the amendment of existing regulations, public consultations are conducted in accordance with Executive Decree 1172 (2003) adopted in 2003, which include consideration of costs. Comments are public, but the CNV does not issue any feedback statement or explain with particularity how the comments are disposed of.</p> <p><b><i>Transparency of access, recourse</i></b></p> <p>The organigram of the agency and the responsibilities of each of the various Directorships is</p>

	<p>explained and posted on the website.</p> <p>There is a process for receiving complaints that permits them to be filed electronically, by mail or by telephone (by collect call) and identifies a specific contact office. All complaints, including anonymous complaints, are analyzed and as appropriate further investigated. A record is maintained of their handling and disposition, and a response is provided to the complainant. Additionally, the CNV has recently approved implementation of a process whereby individual customers can, through an encrypted means, have direct access to the central security depository records of their accounts, which are maintained as subaccounts of their respective intermediaries. This permits the customer to directly monitor the status of his account. CNV is working further on requiring participants on exchange markets to have unique identifiers to access the markets in a manner similar to ongoing projects in other jurisdictions.</p> <p>CNV also publishes a Code of Customer rights and a voluntary Code of Governance, with respect to which affected entities (public companies) must in their annual reports indicate whether or not they comply, and, if not, must further explain.</p> <p><b><i>Consistent Procedures</i></b></p> <p>Sanction procedures are subject to the Securities Law, which provides for the presentation of evidence and witnesses. Decisions of the Board, including, the initial resolution or decision to take charges on the file, and the final determination, or sanctioning decision in the “<i>sumario</i>,” must be published. The sanctioning process is designed to prevent the staff that is involved in investigation from participating in the decisional process or in the imposition of sanctions.</p> <p>CNV has a written procedures manual which is intended to document its procedures and related objectives. Use of the manual helps to assure that appropriate procedures are followed for processing each type of action and to assure the treatment of issues is consistent, comprehensive and efficient. There is no power to make investigative reports or the results of investigations more generally public. In fact this is not permitted as a matter of law.</p> <p><b><i>Investor Education</i></b></p> <p>CNV participates in seminars and conducts them. Most recently in April, 2011 it conducted a seminar in Buenos Aires on the financial crisis. The website contains training modules and investor warnings under the dashboard heading: “<i>Educación Financiera</i>”</p>
Assessment	Fully Implemented
Comments	<p>CNV operational procedures are highly transparent and all of its actions (whether general or particular) are subject to recourse in the courts. However, in that the CNV ultimately aspires to be an international market it should consider making more of its information available in English. CNV indicates that it takes the consultation process seriously and has amended or refined its approach based on the comment process, citing the example of having changed its procedures for the implementation of a new resolution with respect to financial trusts. It is recommended, however, that the CNV consider the issuance of feedback statements addressing the comments on the general resolutions that it issues, which indicate how the comments are addressed.</p> <p>Additionally, CNV is impeded in addressing exchange membership access denial and disciplinary actions, as more particularly set out in the discussion with respect to Principle 7 and can only hear appeals of censures. Sanctioning procedures at the exchanges are also subject to (i) decision by Boards that are not subject to any requirement for participation of independent directors or (ii) the creation of business conduct committees with independent members to promote the fairness of the process. Denial of membership, which could be denial of the ability to conduct brokerage activities, is not subject to review by the CNV, but must be taken to the courts. The rules affecting</p>

	such denials must be approved by the CNV, however. Further control over the access denial process to exchanges should be accorded to the CNV, as should the ability to address the composition of exchange disciplinary committees (These issues are addressed in the discussion of Principle 7 below).
<b>Principle 5.</b>	The staff of the regulator should observe the highest professional standards including appropriate standards of confidentiality.
Description	<p><b><i>Professional Conduct and personal trading</i></b>  CNV staff are not permitted to hold, or trade, individual equity securities or private debt, although they may hold participations in collective investments and sovereign debt. If a CNV staff member obtains such securities through inheritance or gift, they must dispose of them within 30 days. The law applicable to members of the CNV Board is also intended to prevent conflicts of interest. Both staff and Board members must file disclosure documents certifying their assets bi-annually. It is not clear, however, whether the reporting requirements extend to relatives.</p> <p><b><i>Confidentiality of regulatory information</i></b>  The CNV staff is subject to strict confidentiality provisions both by law and also by their contracts of employment. If violations are discovered they are sanctioned and this has happened. As CNV staff members are often lawyers, their professional credentials are also at stake. There is also an internal audit process, though it is not directed specifically to employee conduct.</p>
Assessment	Fully Implemented
Comments	It is recommended that the CNV consider spot testing compliance.
<b>Principles of Self-Regulation</b>	
<b>Principle 6.</b>	The regulatory regime should make appropriate use of Self-Regulatory Organizations (SROs) that exercise some direct oversight responsibility for their respective areas of competence, and to the extent appropriate to the size and complexity of the markets.
Description	<p>Both the <i>bolsas</i> (which operate as listing agents) with affiliated trading markets and the markets themselves must be authorized under the Securities Law in Argentina and are considered to be a self-regulating organizations or SROs<sup>10</sup>. A member of the trading venue must also be a member of the related <i>bolsa</i>. The six major <i>bolsas</i> with affiliated markets are:</p> <ol style="list-style-type: none"> <li>1. <i>Bolsa de Comercio de Buenos Aires</i> (BCBA) -- <a href="http://www.bcba.sba.com.ar/home/index.php">http://www.bcba.sba.com.ar/home/index.php</a></li> <li>2. <i>Bolsa de Comercio de Cordoba</i> -- <a href="http://www.bolsacba.com.ar/">http://www.bolsacba.com.ar/</a></li> <li>3. <i>Bolsa de Comercio de La Rioja</i> S.A.</li> <li>4. <i>Bolsa de Comercio de Mendoza</i> S.A. -- <a href="http://www.bolsamza.com.ar/index.php">http://www.bolsamza.com.ar/index.php</a></li> <li>5. <i>Bolsa de Comercio de Rosario</i> (BCR) -- <a href="http://www.bcr.com.ar/default.aspx">http://www.bcr.com.ar/default.aspx</a></li> </ol>

<sup>10</sup> Los términos "bolsas" y "mercados" de comercio son utilizados como sinónimos, para designar las instituciones que agrupan a comerciantes y agentes de comercio, que se reúnen en los locales correspondientes para la realización de operaciones mercantiles lícitas, conforme a las leyes y a las normas reglamentarias establecidas por dichas entidades. Such bolsas may undertake listing activities and may form exchanges (mercados). Bolsas must be constituted as corporations or associations under the commercial code. (Securities Law Chapter 3)

Los mercados de valores, organismos técnicos de fiscalización y liquidación de las operaciones sobre títulos valores, integran o adhieren a una Bolsa de Comercio autorizada a cotizar títulos valores, incorporándose a la misma como socios o asociados, según se halle constituida la bolsa correspondiente como sociedad anónima o asociación civil con personería jurídica

	<p>6. <i>Bolsa de Comercio de Santa Fe</i> (BCSF) -- <a href="http://www.bcsf.com.ar/">http://www.bcsf.com.ar/</a></p> <p>Each of these has an affiliated <i>Mercado de Valores</i>. Additionally there is the <i>Mercado Abierto Electronico</i> or MAE— <a href="http://www.mae.com.ar">http://www.mae.com.ar</a>, which trades bonds electronically; and the <i>Mercado a Término de Rosario</i> or ROFEX— <a href="http://www.rofex.com.ar">http://www.rofex.com.ar</a>, and the <i>Mercado a Término de Buenos Aires</i> or MATba, <a href="http://www.matba.com.ar">www.matba.com.ar</a>, which are futures market in soya among other things. Each of these entities also has self-regulatory powers. Although the Merval and ROFEX have issued shares and are listed, there is no active trading in exchange shares and in the case of Merval they are almost entirely held by members. The members of each of the trading venues are exclusively financial intermediaries through which non-members and other customers must transact. No member is a listed company at present. Additionally, the ROFEX allows sponsored “direct market access” under new rules adopted by the CNV in 2010.</p> <p>The discipline of intermediary members of the <i>mercados de valores</i> is exclusively the province of the SRO (although the CNV can suspend operations of the exchange itself). Additionally there are several other provincial <i>bolsas</i> that do not have affiliated markets.</p> <p>Since its inception, the securities regime of Argentina, which initially was modeled on that of the U.S., has granted powers and authorities to the exchanges (<i>bolsas and mercados</i>), which were in existence long before the adoption of the Securities Law, to continue to be exercised. In the case of those exchanges other than the equity exchanges, CNV has full power to discipline intermediaries directly, but has delegated this power to the futures and options and regulated over-the-counter markets, subject to the capacity to withdraw the delegation.. CNV’s reasoning is that there should be a “level playing field,” and that all markets should have equivalent requirements. Nonetheless, delegating all authority to an SRO, without a robust program for oversight of the SRO, is inconsistent with the view that an SRO must be accountable to the regulator for its SRO activities. The inability (or unwillingness) to directly bring administrative sanction proceedings against exchange members if the exchange SRO fails to do so is inconsistent with IOSCO’s view that SROs augment regulatory power but do not supersede it.</p> <p>See English version of Securities Law, Section 30, 37 and 39 which indicate that the exchanges shall enforce the rules for listing securities among other things.</p>
Assessment	Not Rated
Comments	See Principle 7
<b>Principle 7.</b>	SROs should be subject to the oversight of the regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities.
Description	The oversight of exchange SROs is addressed in the case of exchanges with affiliated trading markets ( <i>Bolsa de Comercio autorizadas a cotizar títulos valores y mercado de valores</i> ), by the Securities Law; in the case of futures and options markets, by Executive Decree 2284/(1991) and 1926 (1993) and for the electronic markets, which do not guarantee their trades, designated as OTC markets, and futures and options clearing houses by Executive Decree 1926 (1993).

**Authorization**

The *mercados de valores*, all of which were<sup>11</sup> in existence before 1968 as of the time of this assessment, however, are authorized by the President upon submission of a licensing application through the CNV and with its prior advice and can only be revoked by the President, in contrast to the markets which were established under different laws, e.g., that on futures and options, which are designated directly by the CNV.

**Oversight<sup>12</sup>**

The listing of securities, registration of members (“*inscritos*”), inspection of members, monitoring of markets, provision for maintenance of accurate books and records, capital requirements, discipline of members, and enforcement of exchange rules is subject to certain criteria set by the Securities Law and resolutions and approval by the CNV. The CNV in fact conducts monitoring of the markets and of exchange members in accordance with a general performance plan. However, the CNV has no authority to bring administrative actions directly against exchange members of the *mercados de valores* who conduct brokerage or to review decisions of the exchange in its disciplinary proceedings or registration decisions. Additionally, if the CNV adopts a rule affecting intermediary members of such markets, it must request the SRO to add that rule to its rulebook, by adopting its own rule and submitting it for approval by the CNV. The CNV cannot apply such a rule to *mercado de valores* members directly.

The CNV may request an exchange to take disciplinary action; if it does so and the CNV disagrees with the result, the CNV may be able to file an appeal with the courts; if the SRO does not proceed to take action, the CNV has no administrative recourse except to apply up to a 30 day suspension to the SRO itself or to try to proceed in court against the exchange. The CNV has full power to overturn decisions of SROs, which are futures and options markets and post 1968 electronic markets.

**Professional standards and conflicts of interest**

A particular problem of the current regime is that it can permit the equity exchanges (*mercados de valores*) to engage in what amounts to unfair and anti-competitive conduct in the execution of their powers as self-regulators subject only to court review. For example, no review is possible for an exchange denial of access to an intermediary except in a court. There is no requirement that the disciplinary panels of exchanges contain independent, non-conflicted members. The Securities Law imposes strict confidentiality provisions on the *mercados de valores*. Appropriate confidentiality provisions that apply to the trading and listing of securities and the receipt of non-public information are also contained in Executive Decree 677 (2001). And similar provisions apply to futures and options markets and the regulated electronic markets.

**Cooperation**

While the new markets typically are very responsive to the concerns of the CNV, they can also refuse to take actions requested by the CNV or to impose needed regulation (from the perspective

<sup>11</sup> The futures markets existed prior to 1968, but they were treated as agricultural forward markets, under the supervision of the Ministry of Agriculture until 1993.]

<sup>12</sup> The limited ability to address certain SRO members is primarily assessed and rated in this section; in that the CNV can in fact receive specified market information, review trading activity, and inspect/investigate market intermediaries, even in the *mercados de valores*, while the comment is repeated it is given less weight under other Principles where relevant (e.g., Principle 26).

	of the CNV) on their members.
Assessment	Not Implemented
Comments	<p>The CNV does not have sufficient mechanisms of oversight and control over the SRO exchanges (equity exchanges) with respect to the actions of their members. The SROs for the equity markets (or <i>mercados de valores</i>) are neither enjoined nor required as a matter of law to cooperate with the regulator. CNV is in the process of requesting additional oversight authority with respect to those exchange member activities for which it has none, in connection with the pending draft of rules for financial reform. CNV indicates that in the case of the markets that it supervises that are not <i>mercados de valores</i>, it can take an appeal if it does not agree with the decision of the market, or could withdraw the delegation. CNV also should proceed expeditiously to seek the power necessary to properly oversee brokers operating on the exchanges and to monitor the conduct of transactions in customer accounts held through intermediaries for which such powers do not now exist.</p> <p>As additionally, the CNV cannot revoke the exchange registration, the exchanges for which application must be made to the President take less account of the CNV's regulatory program. Nonetheless, it should be noted that the ability to suspend trading or listing of securities is a very robust power entrusted to the CNV; and a power which CNV has effectively used. While vesting the power to revoke in the regulator is important to its independence and credibility, in general it is preferable for there to be stepped up powers, such as powers to replace management in addition to any power to revoke the license for functioning markets. (See Explanatory Note to Principle 7)</p> <p>The independence of exchange staff is critical to proper self-regulation regimes.</p>
<b>Principles for the Enforcement of Securities Regulation</b>	
<b>Principle 8.</b>	The regulator should have comprehensive inspection, investigation and surveillance powers.
Description	<p>The Securities Law, in particular Section 6 empowers the CNV to enforce compliance with legal rules, by-laws, and regulations within the scope of its mandate. Section 7 states that CNV has the power to apply the law and the administrative sanctions thereunder to any natural or artificial persons involved in any capacity related to the public offering of securities. In this regard the Securities Law grants CNV the authority to carry out inspections and investigations, to undertake administrative proceedings or <i>sumarios</i> and to report or act as a plaintiff in court.</p> <p><b>General power to inspect</b></p> <p>CNV can inspect any regulated entity on a surprise basis without suspicion of wrongdoing, including inspections of those intermediaries, for which the law delegates disciplinary power to the SRO and intermediaries that are part of banking structures (See Securities Law Section 6 and 7). Such inspections can be, and are, in fact conducted on a routine basis and also can be conducted for cause. Both CNV, using its own staff, and the MERVAL, for example, on which 90% of all equity trading occurs, through the use of external auditors, visit all licensed brokers within the year. The periodicity or cycle for the inspection of mutual fund managers and related depositories that are overseen by the CNV is three years. CNV can also engage in “horizontal” or theme inspections, and often does so when it is implementing a new requirement. In the course of an inspection, CNV can take away or copy records, and can take statements and request additional information. CNV can also obtain the work papers related to inspections of operations undertaken on behalf of the exchanges, even those for which it cannot directly sanction members.</p> <p><b>Audit Trail information</b></p> <p>The electronic trading records for exchanges contain customer IDs as do the underlying sub-</p>



	<p>accounts held at the <i>Caja de Valores</i>, which is the Central Securities Depository for all securities transactions, including public debt as well as corporate debt and shares. “Nominee,” or “shadow” accounts are not permitted. The exchanges, by their own rules, to permit proper external audit, also require their members to keep the paper documents that indicate how funds are transferred to banks. In general these records together with records held by intermediaries should enable the CNV to determine the underlying customer or beneficial owner of a securities interest. In some cases, the legal title could be held in the name of a trustee, but the underlying record should be maintained by such trustee of the ultimate ownership interests in the account. The CNV now has comprehensive ability to cooperate with the UIF which is responsible for AML and CTF enforcement and can review the compliance procedures that are required of those financial institutions that are within its mandate.</p> <p><b>Tracing brokerage funds to bank accounts</b></p> <p>However, although the CNV has comprehensive requirements for the maintenance and retention of records, the CNV is unable under existing law to trace funds related to trades from a brokerage account into and out of banking records due to provisions of the Bank Secrecy laws. CNV can, however, examine the records of bank custodians of mutual funds to confirm the custodianship of mutual fund assets required to be in custody in such accounts. The bank secrecy limitations go to deposit, not custody, accounts. In principle, the bank could request help from the BCRA, but except for AML and CFT, the bank cannot show account information to the CNV or vice versa. This in practice could mean that the monetary impact of most suspicious and non-economic trading activities (such as wash trading) may have to be approached through the AML route rather than directly under the related Securities Law. (See discussion under Principle 9.) Additionally, were a broker to fail to cooperate, the CNV would have to resort to the judicial system to force the production of records. In the case where the CNV does not have direct sanctioning powers over intermediaries, the inability to obtain law enforcement support with expedition might compromise the ability to address frauds or other matters (see also the discussion under Principle 7).</p>
Assessment	Partly Implemented
Comments	The pending project of law reform proposed by CNV is intended to eliminate the Bank Secrecy provisions that would prevent the tracing of funds related to securities transactions and abuses to banking accounts and the delivery of transactional information on securities and securities accounts to the BCRA and other competent authorities as appropriate. It may be that in order for such changes to be effective companion changes must be made to the banking laws; this should be determined to be certain that contemplated changes are fully effective (see Principle 1).
<b>Principle 9.</b>	The regulator should have comprehensive enforcement powers.
Description	<p><b>Scope</b></p> <p>The CNV has a complement of enforcement powers that include the capacity to take its own administrative actions (known as <i>sumarios</i>), the capacity to proceed in the commercial court, even to assist private actions of investors, and the capacity to refer cases to the criminal prosecutor and to present evidence as an expert investigator in either a civil or criminal proceeding. Ironically the CNV can proceed directly administratively against third party participants, or end users in the market, whether or not licensed and against intermediary members of the MAE and the futures and options markets. However, it cannot act administratively or via court process to sanction directly intermediary members of <i>mercados de valores</i>.</p> <p>Nonetheless, the CNV can conduct investigations over all intermediaries, even those for which disciplinary action must be recommended to the exchange. For example, Executive Decree 677/(2001) augmented the Securities Law to extend the ability of the CNV to conduct</p>

investigations to “any legal or natural,” person engaged in activities related to public offers, including any person, including a member intermediary’s trading activities at the futures and options markets and also at the *Mercado Abierto Electronico*. Recent changes have also augmented the CNV’s powers with respect to AML and CTF activities. The requirements of the UIF have been adopted as part of the CNV’s complement of rules and requirements affecting those parties subject to its jurisdiction (See General Resolutions, Chapter 22). The CNV has a full complement of enforcement authority with respect to the making of public offers, issuer obligations, rating agencies, and external auditors.

### ***Major limitation***

However, a major limitation on the ability of the CNV to enforce the Securities Laws is that it remains subject to critical limitations on its administrative ability to directly discipline intermediary members of *mercados de valores*. Effectively, the CNV does not authorize broker intermediaries, whose authorization is granted by the respective *mercado de valores*, and is not permitted to revoke these member’s authorizations without court intervention. Subsequent to conducting its own investigation, the CNV can only request the relevant SRO to bring an action against a member intermediary at those markets where CNV power is limited. In this regard, the CNV has the power to share its own investigative file with the SRO. The CNV, however, cannot directly take action if the SRO refuses to do so (See discussion Principles 7 and 8). The CNV could bring an action against the SRO, as the CNV has the power to suspend the SRO for refusal. Where the concern is the conduct of a single intermediary, however, this is a power that is difficult to employ. And, it is a power that can and has been in the past been successfully contested in court. CNV can also proceed in the court against the intermediary, but there a civil action as opposed to an administrative offense would be required on the court time table which is less timely than the administrative process.

### ***Criminal enforcement***

Where there is a penal offense, the CNV must refer this to the public prosecutor for action. CNV has worked with the prosecutor recently to address fictitious trades that were on both sides of a transaction as such wash trades were characterizable as a penal offense. Administrative and criminal proceedings can be commenced in parallel.

### ***Transparency***

All proceedings of the CNV, such as the initial resolution or charge by the CNV and the final resolution (or sanction) are made public on the CNV website. This in itself is an independent reputational sanction and increases the deterrence effect of CNV proceedings. CNV’s powers to sanction include the power to censure, fine from 100,000 to 10,000,000 pesos, to suspend for up to two years and to bar from making public offers. Its powers against legal entities state that the liability for such fines in the case of a legal entity shall be shared jointly and severally by the responsible Directors and Managers.

The Securities Law (Article 23, 17.811) requires *mercados de valores* to be responsible for the ‘genuineness’ of transactions. The exchanges have rules that directly prohibit their members from engaging in fictitious transactions and that also prevent misconduct such as manipulation. For example, the Merval’s operational rules, as translated, state that, members and their agents must: “refrain from carrying out transactions or practices implying manipulation of prices and volumes of securities, fees, or assets traded, or to incur in any other kind of maneuver causing an alteration thereon. Every transaction wherein the parties were to act apparently or damaging third parties, even where there should exist an effective transfer of securities, fees or assets traded, shall be deemed comprised within the mentioned maneuver. Furthermore, they shall refrain from inducing to mistake to any market participant by means of misrepresentations, when being aware

	<p>of their untrue or deceitful nature”.</p> <p>The CNV itself has authority to address insider trading and manipulation by virtue of Executive Decree 677/2001 and related Articles 33 and 7, insider trading; Article 21 dissemination of false information, and Article 34 market manipulation and fraud. Chapter 21 of the General Regulations also addresses these violations. However, this authority does not appear to be available to the CNV to use against <i>mercado de valores</i> intermediary members, though they can otherwise proceed directly against any non-SRO intermediary or market intervener to sanction such conduct.</p> <p><b><i>Ability to cooperate with other authorities to bring enforcement actions</i></b></p> <p>The CNV has the ability to cooperate with the UIF and with foreign authorities pursuant to a bilateral MoU with reciprocity provisions. However, the CNV does not have the capacity to work with the BCRA to address infractions where it is important to follow the money through bank accounts, unless the matter is pursued in a criminal court. For the moment the violations related to insider trading and manipulation, are administrative offenses that have not been particularly criminalized, though they would constitute fraud<sup>13</sup>. The CNV can however work with the BCRA on regulatory issues related to solvency and the information that the CNV has in its files or obtains can be passed to foreign authorities.</p>
Assessment	Not Implemented
Comments	<p>The CNV, via the proposed law and structural reforms now pending, plans to augment and consolidate its enforcement structure, by focusing its investigation powers within a single unit rather than dispersing such powers among the various functional directorates of the CNV. The removal of bank secrecy provisions as contemplated by the reform would additionally enhance the capacity of the CNV to trace transactions for any purpose and the enhancement of other authorities’ ability to receive securities transactional information to the extent necessary to supervise properly a financial group. Reforms to augment the direct enforcement powers of the CNV to all actors in the markets should be expedited (See also Principle 3). Ideally the offenses of manipulation and insider trading would attract a criminal as well as a civil penalty as this would increase the capacity to enforce the law aggressively in egregious cases and apparently would also permit the use of banking records for evidentiary purposes.</p>
<b>Principle 10.</b>	The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.
Description	<p><b><i>Detecting Breaches</i></b></p> <p><b><i>Inspections</i></b></p> <p>The CNV conducts an inspection program that includes routine inspections; inspections based on complaints, rumors or press reports; and, in certain cases where new rules are implemented or otherwise, where there is a common issue, theme or horizontal inspections of particular matters across a number of markets or intermediaries. The securities markets, as SROs, also maintain a review program for their own members and markets; that program is complemented by the CNV inspection program, which proceeds in accordance with an Annual Compliance Plan that is approved by the CNV Board. The objective is for every securities market, clearing arrangement, and broker-dealer type intermediary to receive a routine inspection once a year. Mutual fund managers and depositories are visited on a three year cycle.</p>

<sup>13</sup> There are other jurisdictions where the administrative/or criminal authority is stated in terms of general fraud or where such offenses are primarily addressed in the criminal courts.

CNV conducts its inspections in accordance with a written inspection manual. Inspections result in a report, and exit reviews and observations or exceptions are noted for follow up in subsequent years. The CNV also makes adjustments to its rules, regulatory programs and inspection processes as the result of information obtained from its inspection activities.

### ***Complaints***

The CNV also has a comprehensive plan to pursue all complaints, including anonymous complaints, which requires every complaint that is received to be logged, analyzed and investigated in accordance with an internal set of policies and procedures. CNV's inspections are compliance-focused but risk analysis is used in considering the scope of activity conducted on-site and whether to expand such scope. CNV does not receive financial reports from intermediaries of *mercados de valores* and so cannot do off-site reviews of those entities as part of its scope setting process.

### **Market oversight**

The CNV has excellent mechanisms to conduct market surveillance, though the modern real time stock watch system it has in place is brand new. This stock watch system is proprietary and includes various alarms and alerts designed particularly by the CNV. These alerts are adjustable and adjusted based on experience. CNV also requires every market to submit its trading data in a particular electronic format set out in an Annex to its General Resolutions and in addition to provide access by the CNV to its regular trading screens through a trading terminal located in CNV offices. The common transmission format permits CNV to analyze the trading in common products across its multiple markets and to detect aberrations. An added benefit of this system is that it creates incentives for further consolidation and harmonization among the multiple markets. Six staff, in conjunction with one experienced manager, review trading data in real time as well as examine exception reports and alerts. The regulator states that it is in constant communication with the securities markets and the markets in turn confirm that this is in fact the case. All market participants complimented the *Autopista Financiera* and CNV information systems in general.

### ***Transparency***

The CNV's sanction procedures and results are very transparent. Both the initial resolution or charges and the final resolution and sanctions, in summary form and in the form of a complaint and opinion are posted on the CNV website. Both the charges and the opinions must be grounded. This type of transparency sends a message to the market that the regulator is taking action and as to the types of conduct that constitute violations.

### ***Examples of results***

Between 2009 and the first quarter of 2011, the CNV analysed 98 complaints. CNV opened 38 actions in 2009; 19 in 2010; and 3 to date in 2011. CNV also concluded 43 enforcement actions between 2008 and the first quarter of 2011. CNV did not revoke any licenses, but it assessed 1 suspension, 28 fines, 17 warnings, and 3 prohibitions. In sum, the fines totaled:

2008: 245,000 Argentine pesos

2009: 1,818,000

2010: 2,485,000

2011: 2,020,000<sup>14</sup>

<sup>14</sup> These monetary penalties are comparatively small; though the exchanges can also take actions.

	<p>CNV also issues observations from inspections or analyses of complaints that need not be passed by the Board sanctioning process.</p> <p>Those enforcement actions, which have been concluded, relate primarily to irregular public offers, enforcement of currency restrictions, and matters concerning “verifications,” or inspections of accounts. There have been no manipulation or insider trading cases brought recently, but the CNV has taken aggressive action in specific cases, for example suspending the Mendoza exchange for 30 days in January 2010 (the maximum suspension time authorized by Section 13 of Law 17 811) due to issues related to concerns about the integrity of the market during the introduction of a new electronic trading platform. The CNV also has conducted a long process in one misuse of insider and abuse of minority shareholders action (a decade) where post multiple appeals the Supreme Court has affirmed the CNV’s administrative authority (Terrabussi case).</p> <p>In assessing the CNV’s enforcement program, the context must be taken into consideration. The market is comparatively small in value and volume and, although the average is higher, the float of listed companies can be as small as 5% according to one market participant issuer. Further the CNV has no authority to directly discipline intermediary members at the grandfathered exchanges (on one of which 90+% of all transactions occur) and only limited means to attempt to make <i>gr mercados de valores</i> take such action.</p> <p>Additionally, all retail participants and institutions with primarily retail participants or obligations must participate in the matching market where time price priority is the rule.</p>
	Partly Implemented
Comments	As previously stated, the CNV should have the power to directly sanction all licensed intermediaries under applicable law and the offenses of manipulation and insider trading should be criminalized as well as subject to administrative sanction. While administrative sanctions may be more expeditious to conduct than criminal procedures, and the CNV may be more expert than commercial courts, the fact of criminalization sends a message as to the gravity of the offense.
<b>Principles for Cooperation in Regulation</b>	
<b>Principle 11.</b>	The regulator should have authority to share both public and non-public information with domestic and foreign counterparts.
Description	<p><b>Scope</b></p> <p>The CNV collects substantial information and all public information can be freely shared. For example all enforcement charges and complaints are public and are posted; all licensing determinations are public and are posted; information on market conditions and events is regularly produced and is public; and the <i>Autopista Financiera</i> makes all material event information on issuers and substantial information on mutual funds portfolios readily and timely available on-line, free of charge. Indeed, more information is available publicly and timely than in many other mature jurisdictions.</p> <p><b>Domestic</b></p> <p>The CNV can protect information from being shared that is received from foreign authorities from exposure to other domestic authorities as IOSCO requires, except in the case of directly related criminal proceedings and in the case of the tax authorities. However, there remain obstacles to the sharing of information among domestic regulators addressing supervision of a group of companies. The CNV under Decree 677/2001 also must share certain information with the UIF. However, as stated above, in Principles 8, 10 and 12, the CNV cannot share information on transactions and accounts with any person, except for foreign regulators, even to other domestic regulators for</p>

	<p>regulatory purposes. Additionally as noted in Principle 8, 9, 10, 12, and 13 banking deposit information is totally protected by the Bank Secrecy law (sections 39 and 40 of the Law 21 526 – <i>Ley de Entidades Financieras.</i>) The BCRA is thus similarly restricted in sharing account information.</p> <p>CNV is precluded by law from sharing information related to securities brokerage accounts to domestic authority except pursuant to a court order and the <i>mercados de valores</i> are similarly restricted. Additionally, under the Securities Law (Articles 46 and 48): stockbrokers must maintain the secrecy of all transactions that they perform for others as well as their name, and may only provide these by order of the court in a criminal proceeding related to such transactions; securities markets may inspect broker books and records and request any kind of report, however this information may only be disclosed under the circumstances set forth above.</p> <p>In contrast, there are no restrictions on the sharing of information by the insurance regulator with other domestic regulatory authorities other than the general prohibitions of bank secrecy. Insurers are a major institutional user of the capital markets. And, in the case of mutual funds, the other major user, the CNV can obtain information on AUM and confirm their custody even within bank custody accounts.</p> <p><b>International</b></p> <p>The CNV can respond to international requests for information in its files without the intervention of a court or the approval of a Minister or other official of the Executive. Further CNV can provide information to foreign authorities without regard to whether the information is requested with respect to an action that would not be a violation in Argentina. If the applicable MoU executed by CNV permits the offer of unsolicited information about someone doing business in Argentina with related business outside Argentina, the CNV could provide information under the MoU, but CNV states that this would be unlikely---as the basic legal authorization to share information is to share information in response to a request. Information on banking records would today have to be directly requested from the BCRA and the Banking Secrecy laws do not now permit international information exchange on deposits, though other information may be available.</p> <p><b>Investigations</b></p> <p>As a matter of due process, information on ongoing investigations cannot be made public.</p>
Assessment	Not Implemented
Comments	<p>The various secrecy provisions encumber the overall ability of the CNV to work with other regulators and for all domestic regulators to have the correct picture of the marketplace in that much of the marketplace is composed of banks and banking groups of which the securities brokerage or depository operation forms a small part. Banks also may be listed companies. The inability to trace funds from brokerage transactions into and out of bank accounts also renders it difficult to prove many securities market abuses, which depend on the ability to “follow the money.” These issues would be remedied by the pending project of law reform, which should be expedited.</p>
<b>Principle 12.</b>	Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.
Description	<p>The extent of the CNV’s power to share information domestically and with foreign authorities has been assessed in Principles 1, 8, 11, and 13.</p> <p><b>Domestic cooperation arrangements</b></p>

The CNV works with several internal bodies, including the UIF, the tax authorities and the BCRA. CNV does not now have the power to share securities transactional and account information with the BCRA and the SSN, but has submitted a draft project of law to the MECON, that would both expand CNV's authority to share information for regulatory and enforcement purposes domestically and would remove impediments to its ability to obtain banking records. CNV represents that at present it has good informal operating arrangements with the BCRA to the extent of its powers, and that the two agencies are in frequent communication with each other. In response to the recent receipt of augmented AML authority, the CNV has just now put into a place an MoU, as of May 10, 2011, with the BCRA to implement its expanded authority to share information related to securities accounts in connection with the AML requirements and otherwise to support each other's regulatory program to the extent of the currently limited powers. The intention expressed will need to be developed further in practice (See Principle 1). The CNV also entered into explicit agreements in June with the UIF and the SNN. By law the UIF coordinates information sharing among the BCRA and the CNV with respect to AML that is not limited in the same way that the exchange of other information is.

***International cooperation arrangements***

CNV has executed MoUs with most countries in Latin America, as well as with all of the jurisdictions in which Argentine securities are cross-listed. For example, it currently has 26 such arrangements, including Bolivia, Brazil, Colombia, Costa Rica, Chile, Ecuador, El Salvador, the United States, Mexico, Panama, Paraguay, Peru, Quebec, Dominican Republic, Germany, Spain, France, Italy, Poland, Portugal, Great Britain, Israel, Malaysia, Thailand, Taipei, and South Africa. All of these MoUs are posted on its website. Notably the first such MoU was executed with the U.S. Securities and Exchange Commission. Certain Argentine securities are listed in the U.S. and Argentine investment banks have made ample use of Rule 144A to make private placements to sophisticated US investors. The existence of an MoU, with reciprocal powers to exchange information, is a pre-requisite to the exchange of regulatory information internationally. The restriction in Securities Law 17811 does not apply to requests for foreign assistance. Such assistance is permitted by Executive Decree 2284 (1991) as ratified by Section 29, Law 24-307, on the exchange of securities transactional, account and other information relative to securities law enforcement with foreign authorities appurtenant to an MOU. The CNV advises that it has the authority to enter such an MoU without the approval of any other governmental authority and could do so were a jurisdiction not included on this list to seek enforcement cooperation. For example, it is currently assisting the Hong Kong authorities with respect to a matter affecting a rating agency. In this case the information is public, but the CNV is compiling the information as a courtesy to progress the other authority's investigation more efficiently.

CNV is also a signatory to Annex B to the IOSCO MMoU, which represents its commitment to seek law reform to remedy those deficiencies, such as Bank Secrecy, that inhibit it from becoming a full signatory. CNV has communicated with IOSCO that it is the course of modifying the Securities Law (17.811) in order to comply with the Principles of IOSCO to determine that the revisions to its legislation will permit it to become a full member of the IOSCO MMoU.

***Confidentiality of shared information***

CNV can protect all information that it receives from foreign authorities with respect to a request for information by a third party and maintains the same confidentiality for such information as it maintains with respect to its own information. However, by law CNV cannot protect information from disclosure to a criminal court (pertinent to the case), nor can it protect information from disclosure to the tax authorities.

***Examples of information exchanges***

	<p>The CNV indicates that it works with the BCRA on a routine basis, and that it expects to develop efficient means to use its new powers with respect to AML and CFT information, having already constituted an inter-sectoral working group.</p> <p><b><i>Requests to the CNV</i></b></p> <p>In the last three years, the CNV has received 11 requests for the exchange of information from foreign authorities. These requests primarily related to the background of certain intermediaries agents, issuers, and mutual funds, mutual fund depositories or related entities. Some of these requests originated in the course of licensing proceedings and others were related to enforcement actions. For example, in 2010 the CNV responded to a request from the U.S. SEC, which was investigating a fraud. The CNV determined that the referenced company had never been registered with the CNV, that none of the persons listed by the SEC appeared in any record of the stock exchanges (board of trade), securities or futures market, the securities depository or other registered depository entity, mutual fund management company or trust. Two names were identified in the issuer data base and were shared with the foreign authority.</p> <p><b><i>Requests from the CNV</i></b></p> <p>The CNV has requested transactional information in a specific security in a case commenced in 2008, in which transactions from October 1, 2007 through January 31, 2008 in File No. 476/2008, related to the intermediary through whom the transactions were made and the client.</p> <p>The CNV has also requested and received assistance in serving a customer located in Brazil with notice of a hearing in Argentina.</p>
Assessment	Fully Implemented
Comments	<p>The CNV makes active use of the powers and resources it has and shares to the extent of its powers including the ability to obtain information indirectly. The CNV nonetheless should be granted expanded authority to obtain information on banking records and to share information Domestically (See Principles 8, 9, 11 and 13). CNV has communicated with IOSCO that it is the course of modifying the Securities Law (17.811) in order to comply with the Principles of IOSCO to determine that the revisions to its legislation will permit it to become a full member of the IOSCO Multilateral MOU.</p> <p>CNV should continue to take active steps to meet the pre-conditions to join the IOSCO Multilateral MoU as a full signatory, which is one objective of the Project of Law now pending. In this connection, CN should pursue explicit authority to protect information received from foreign authorities consistent with that MoU and should consult with the screening committee.</p>
<b>Principle 13.</b>	The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.
Description	<p><b><i>Scope</i></b></p> <p>The CNV can provide foreign assistance to the full extent of its powers and can and has provided effective and timely assistance to other authorities (See Principle 12). The CNV is not prevented from providing assistance to foreign authorities by the lack of dual criminality or of an independent interest in a particular foreign inquiry. And, critically, the restrictions with respect to the exchange of information on securities contained in the Securities Law 17811 are specifically disapplied to exchanges of information with foreign regulatory authorities pursuant to a reciprocal MoU (see Decree 2284/1991 Art. 82, as ratified by Law 24307 . This means that the CNV can share with a foreign regulator, pursuant to an MoU, information relating to securities transactions and accounts. However, the CNV remains subject to bank secrecy and therefore cannot trace transactions into banking deposit accounts. The impediment to obtaining bank records would be removed if a</p>



	<p>pending project of law, currently with the MECON were to be adopted. This deficiency is also discussed in Principles 8 and 11.</p> <p><b>Tracing securities transactions</b>  The <i>libros obligados (libros legales)</i> of electronic markets and electronic systems used within Argentina maintain an electronic audit trail of all transactions, including changes, and contain a customer ID, a broker ID and other transactional information, including an electronic time stamp. With the exception of some residual business at the Mendoza exchange and the cash commodities markets, that are commercial markets regulated by the Department of Agriculture, there are no floor markets in Argentina. The CNV also requires that the ultimate owner of a security be shown on the trading record as well as on the ledger maintained in the office of the intermediary. The FATF has suggested added emphasis on assuring that the beneficial owner is recorded.</p> <p>Additionally, the <i>Caja de Valores</i>, which is the only central securities depository in Argentina, maintains a record of each intermediary and a list of sub-accounts under that intermediary that are immediately accessible for review by the customer electronically as of 2010, although the <i>Caja de Valores</i> relies for its information on its members..</p> <p><b>Authorization information for products, intermediaries, and markets</b>  The CNV is highly transparent and maintains information on products and intermediaries subject to its direct regulation, as well as information registered with the SROs, on-line on its website, and all material events and issuer information and other required regulatory information. For example, information on mutual funds portfolios is provided weekly on its <i>Autopista Financiera</i>.</p> <p><b>Records, statements, and testimony of domestic persons</b>  CNV can produce all records, including statements, that it has obtained voluntarily or pursuant to its own regulatory activities to foreign authorities., It can also institute a proceeding to assist a foreign authority for any purpose, and in such a case can compel testimony ..</p> <p><b>Conglomerates</b>  The capital requirements of conglomerates, their structure, their ownership, and their management and control are obtainable from BCRA by CNV through its ongoing working arrangements, and its own activities with respect to those portions of a banking group that are directly licensed with the CNV, as this information is not protected, as are deposit records, by banking secrecy. Nonetheless further power to cooperate to facilitate the appropriate regulation of conglomerates should be obtained and a law reform to do so as discussed in several Principles would do so.</p>
Assessment	Partly Implemented
Comments	<p>CNV's authority to assist a foreign authority in obtaining an injunction, freezing assets without the need to commence its own investigation should be clarified. A number of jurisdictions make the generic ability to so assist a regulator a specific power under law. CNV should take all necessary steps to join the IOSCO MMOU and pursue the legal changes, many of which are incorporated in the proposed legal reform, to achieve that end. CNV has communicated with IOSCO that it is the course of modifying the Securities Law (17.811) in order to comply with the Principles of IOSCO to determine that the revisions to its legislation will permit it to become a full member of the IOSCO MMOU.</p>
<b>Principles for Issuers</b>	
<b>Principle 14.</b>	There should be full, accurate and timely disclosure of financial results and other information that is material to investors' decisions.

Description	<p><b>Prospectus</b></p> <p>All publicly offered products require the filing of a prospectus or other approved offering document in the case of mutual funds (See Principle 17). The contents of the prospectus are specified by General Regulation Chapter 8 and in the related annexes. The differences among the disclosures required to be made about any offering would depend primarily on the product, that is, on whether it was an equity share, a corporate bond, an issue of small and medium enterprise or PYME, [short term debt] or a collective investment such as a mutual fund or a trust or <i>fideicomiso</i>. The prospectus review conducted by the CNV is disclosure based.</p> <p>In order for an issuer to conduct a public offering (there is no concept of a private placement for highly capitalized participants, such as the US 144A process for foreign issuers), it must submit a prospectus for CNV review. CNV reviews prospectuses for consistency and completeness but does not give any opinion on the merit of the public offer. In fact, the prospectus must contain a disclaimer that the information contained therein is the sole responsibility of the issuer. If the issue is cross-listed in another jurisdiction, any additional information required for a public offer in that jurisdiction must also be disclosed in Argentina. Certain types of offers, such as those with no financial history must carry a high risk warning. The CNV has full power to request additional disclosure and in practice does so. It is unlawful for anyone to act or omit to act in a way that would adversely affect the transparency of the offering information (see General Regulations, Chapter 21 Article 1). Prospectus information must be published on the issuer's website, the SRO websites where the securities are listed, and the company's registered office.</p> <p><b>Disclosures</b></p> <p>Initial disclosures must contain general information about the company and its management, and strategy. Such disclosure must also contain risk factors, such as the possible lack of liquidity in the capital market, experience of management, potential loss of patents or exclusivity, unusual conditions of competition, dependence on particular clients or venders, et cetera. Required information also would describe the enterprise, its legal form, its principal places of business and management, descriptions of major shareholders and information on their last three business ventures, statement on sources of financing and expected cash flows etc. Shareholders with 5%+ interests must be disclosed. In order for an issuer to be listed, its prospectus must be approved by the CNV (See Securities Law 32). Listing rules also must be approved by the CNV. These are posted on the websites of the various <i>bolsas de comercios</i> that are the listing agents for the <i>mercados de valores</i>. For example, the <i>Bolsa de Comercio de Buenos Aires</i> has a staff of 80 persons that review listing applications and quarterly financial information.</p> <p><b>Ongoing disclosure</b></p> <p>Under Executive Decree 677 (2001), there is an ongoing duty to disclose any event that is unusual or material that could have an impact on price or could affect an investor's view of the value of a publicly offered security. This disclosure obligation is also contained in the General Resolutions in Chapter 21. Section 1 of that Chapter provides a general overall duty to disclose. Section 3 contains a list of reportable matters for continuing immediate disclosure, prefaced by the statement that the fact an item of information is not listed does not mean that information need not be disclosed if it is price sensitive. Information is required to be entered immediately, directly onto the <i>Autopista Financiera</i> (AIF) on the CNV website. Financial information, including a full statement of financial condition is required quarterly and the required annual audited report is posted there. All credit ratings are similarly posted and must be updated every quarter. In the case of mutual funds, the contents of the portfolio are posted monthly. All the information in the AIF is available over the internet to the general public free of charge. Information is also required with respect to the Annual Meeting and the distribution of dividends and other corporate rights, the handling of which is managed through the CSD, that is, the <i>Caja de Valores</i>.</p>
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	<p>All market participants interviewed with respect to this assessment had high praise for the overall usefulness, functionality and currency of reportable information. There are no apparent derogations under Argentine law from prompt disclosure, but the CNV advises that the exchanges can halt trading in an individual equity or bond to assure equitable distribution of breaking news or to assure orderly markets. Market stabilization activities are not regarded as manipulation. Trading halts occur automatically for a price change in either direction of 10%.</p> <p><b>Accountability</b></p> <p>The failure to provide proper and timely information is an administrative violation and the CNV can issue observations, warnings, or commence a proceeding to enforce the obligations from a regulatory perspective. The management board and supervisory council of listed companies have accountability for information contained in the Prospectus and other disclosures, and therefore potentially could also be sued privately for disclosure failures.</p>
Assessment	Fully Implemented
Comments	Even though it is no longer required by CNV for a listing, 99% of bonds are rated. The CNV used to require two ratings, but now it is those institutional investors buying securities that require ratings either by their by-laws or as a matter of law by their primary regulator. Some of these requirements persist though ratings for regulatory purposes tied to the capacity to take positions or for capital purposes have been discouraged globally following financial reform, especially to the extent to change by-laws there must be a vote. For example, the ANSES, which manages the public pension funds, may require ratings of public debt as private pension funds were required to invest in investment grade instruments.
<b>Principle 15.</b>	Holders of securities in a company should be treated in a fair and equitable manner.
Description	<p><b>Code of governance</b></p> <p>The governance requirements generally are intended to parallel international standards. For example, the CNV requires public issuers to provide an annual “comply or explain” statement that indicates whether the firm adheres to the 28 principles contained in the Corporate Governance Code that CNV adopted in General Resolution 516/07, which take into account IOSCO and OECD guidance. Compliance with the Code is optional, but the annual report of a listed company must state if a principle is not followed, what the reason is. Since the adoption of Executive Decree 677 (2001) the CNV also has required an internal audit function and prescribed standards of independence, which require the function to be staffed by at least two independent board members. The structure of the typical Argentine board (which is a two tier system) may raise some issues as to how this requirement is implemented in practice; like other authorities, the CNV may need to evaluate whether further guidance or flexibility is necessary. There are specific provisions about advance notice of meetings (not less than twenty<sup>15</sup> and not more than 45 days) and other provisions intended to protect shareholders and the value of companies.</p> <p><b>Share registry</b></p> <p>The vast majority of shares of customers of intermediaries are held in book entry subaccounts at the intermediary. These accounts, since 2010, are available to inspection by customers on-line through a protected ID. The ability to investors to review their own accounts can be a significant protection to shareholders if they in fact take advantage of it. The use of sub-accounts provides</p>

<sup>15</sup> This is comparatively short.

additional protection by identifying customers in the event of a bankruptcy proceeding. Shares that are held in the name of the sub-account holders should be identified as property of the ultimate customer and not liabilities of the intermediary. However, the repositioning of shares from intermediaries accounts into sub-accounts is done by the intermediary not the settlement system, and therefore there must be adequate controls at the regulatory, SRO and intermediary level, to assure that reconciliations are timely and that allocations are properly handled. (See discussion of Principle 29 and 30 below). All shares are held in the same central securities depository irrespective of where traded. The use of a single share registry also provides additional efficiency and security.

***Changes in controlling interests and interests in large shareholdings***

Interests of holders of 5% or more of securities are required to be disclosed. In addition, once this threshold is crossed, all changes in those holdings must be immediately reported, as well as reported on an annual basis. Directors and officers with interests of less than 5% need not make disclosures of their trading activities<sup>16</sup>. The disclosure requirement can be triggered, however, if more than one person is acting in concert.

***Related party transactions***

Related parties are defined by the law and special proceedings are required including the keeping of board minutes and votes and the requirement that transactions above a specified size be either on a market or separately evaluated by an independent third party. Board minutes also must be filed with the CNV. The requirements are contained in Article 73 of Executive Decree 677 (2001).

***Tender offers and take-over bids***

Executive Decree 677 (2001) also creates a process for an *Oferta Publicida Adquisicion Obligatoria* (OPA) in Sections 23 and 24. These sections establish a new mandatory tender regime, but provide that a currently listed company can opt in or opt out. The process which is spelled out in Chapter 27 of the General Resolutions, indicates how the tender must be made and the means of pricing to be used. The new OPA procedure, would require a public tender, and a filing of the offer and the price with the CNV, at a level above a “significant stake (35% or above as specified by the CNV). The current threshold has been set at 35%.

If the listed company intends to opt out of the mandatory tender offer regime, it must hold a special meeting, adopt a special bylaw, which requires a shareholder vote and highlight this disclosure prominently in its disclosures generally. Those firms that have opted out also are identified on the websites of the applicable *Bolsa de Comercio*. The project of law will reform this tender procedure by making the mandatory tender procedure mandatory for all listed companies by eliminating future use of the opt out provision. However, the opt out will remain for all companies listed as of the time of the effective date of the reform if they have already adopted a bylaw to this effect. The issue, however, is that mandatory offers are protections for minority shareholders, so that therefore a vote does not address the consequence of not extending an acquirer’s offer to all shares.

If a person acquiring a controlling interest obtains more than 95% of an issue, the majority holder can execute a mandatory close out of the remaining minority interest. If an issuer is to close out the then remaining shareholders, they must be offered a fair price, which is subject to review by the

<sup>16</sup> Comparatively all insider transactions to be disclosed is the more usual approach.

	CNV. Decree 677/2001, Chapter VIII, Article 32 establishes four different indicators of a fair price and requires a formula that results in a price that is no less than the average price for the last six months of trading. The CNV has contested a price where although the firm had followed the formula, there were special circumstances. The firm was told to raise the price.
Assessment	Partly Implemented
Comments	<p>CNV and Argentina have adopted a complement of laws and rules intended to protect shareholders rights, in particular those of minority shareholders. These are written with an eye to international standards, but raise some areas of concern.</p> <p>Ordinarily a tender offer would be mandatory at a pre-specified level without any option on the part of the tendering party to avoid a tender and thus effectively permit an orchestrated squeeze out of minority interests, potentially at an inequitable price. The CNV and the Decree have put in place protections intended to assist existing shareholders, and issuers, in the form of requiring a special meeting for opt outs and to assist subsequent shareholders in the form of enhanced disclosure. Nonetheless, as the tender offer is relevant to secondary trading and as there is often very little float in Argentine companies, the lack of an appropriate close out provision is a potential deterrent to use of the market at best and at worst an insufficient minority shareholder protection. The Merval maintains on its website a list of listed companies that have and have not opted out. Of the total of 118 listed companies on all Argentine markets, as of 2011, 79 had opted out of the mandatory tender offer regime, which means that mandatory tender offers are effectively inoperative. Going forward, it is contemplated that the tender system will eliminate any possibility of an opt out, except for those companies that have previously opted out before the effective date of the reform. Equitable treatment of shareholder participants is relevant to the public interest in maintaining confidence in the market and the CNV should seek authority to terminate entirely the opt out from the automatic tender rule when a take-over seeks a particular percentage of shares. On the other hand, it is positive that Argentina permits the sale of control with appropriate customer protections. The grandfathering provision, even with notice may raise issues, with respect to subsequent purchasers of shares who may not be aware of the different treatment among listed companies.</p> <p>Separately, substantial concern has been expressed within the community of market participants, about the ability of government- sponsored investment enterprises that hold listed companies for investment to take active positions on boards. Some expressed the view that such government activism could have a further chilling effect on the market by discouraging public offers and portfolio investment more generally. Others felt the taking of such positions raised questions of various type of conflicts of interest that are not currently addressed by international standards or law, but are relevant in many jurisdictions as a result of the recent financial rescues by government funds in so many jurisdictions. The ANSES-FGS believes on the other hand that it should have the ability to be represented as a shareholder for its interests in a manner equivalent to other shareholders, in respect of its own fiduciary duties. They believe that overall the representation is not significant in terms of the overall numbers of directors---for example, in Banco Macro, S.A., where the FGS interest is 30.9%, they would have a representation of 2 in a board of 12 and in Gas Natural BAN, where the FGS interest is 26.63%, they would have 1 director in a total of 9. Ordinarily, how governance is exercised will be evaluated over time in practice and reflected in the pricing of shares.</p> <p><b><i>Pricing of close out transactions</i></b></p> <p>CNV reviews the prices for a close out offer. Adoption of clear pricing requirements in markets that tend to be illiquid is recommended and indeed was one objective of the “whereas” clauses of Executive Decree 677.</p>

<b>Principle 16.</b>	Accounting and auditing standards should be of a high and internationally acceptable quality.
Description	<p><b><i>Contents of Financial Statements</i></b></p> <p>The contents of financial statements are spelled out in the General Resolutions. Listed companies must file all reports on the <i>Autopista Financiera</i> and non-listed companies must file with a registrar, the <i>Inspección General de Justicia</i> (<a href="http://www.jus.gov.ar/igj">http://www.jus.gov.ar/igj</a>). The statements include a balance sheet, a result of operations and changes in equity and are required quarterly. Quarterly reports must contain a full balance sheet, not a short form report. Annually an audited report is required, which contains a Board discussion or Management Discussion and Analysis.</p> <p><b><i>Accountability for financial statements</i></b></p> <p>The supervisory Board and Management (the preparer) are responsible for contents and the reviewer or auditor is responsible for the review.</p> <p><b><i>Oversight</i></b></p> <p>CNV received the authority to oversee auditors and to require independence in Executive Decree 677 (2001) Articles 13 and 14. The CNV is even granted express authority to request and receive audit work papers of listed companies. Under the Decree, the CNV can monitor periodic reports, investigate issues of concern, impose fines and apply other disciplinary or regulatory measures, including requiring restatements and disqualifying auditors from practice on public offers. Currently the CNV maintains a registry of qualified auditors (General Resolution 504/07) and a module for quality assessment (General Resolution 505/07). Such auditors must be used for audits of listed companies. Currently, CNV may take a closer look at an auditor as a result of a complaint or review of a periodic report and in fact certain investigations are ongoing that have not yet come to fruition. The CNV, however, has underway a project to conduct routine as well as incidental quality control. The full effectuation of this project will require sufficient resources and approval of a new structure within CNV to manage the work flow.</p> <p>There are also professional associations of public accountants, province- by- province, to which accountants are obligated to belong in order to practice. All auditors must be accountants. And all accountants must be members of professional associations without regard to their CNV registry.</p> <p><b><i>High quality accounting standards</i></b></p> <p>CNV has issued General Resolution 562 fully adopting International Financial Reporting Standards (IFRS) for listed companies and corporate bonds (ONs) to assure that required financial reports would be consistent, comparable, reliable, objective and “relevant at the international level.” CNV has also prepared a road map for the transition. The CNV and the industry have been discussing this transition for many years and preparing. The process is proceeding according to the “road map,” that has deadlines, and starting in 2012 all companies subject to the CNV reporting requirements will be reporting in accordance with IFRS. Chapter 23 of the General Resolutions contains the regime for periodic financial reporting. The format and the content is contained in Annex 1 to the same Chapter.</p> <p>As many Argentine issuers issue outside the domestic market as well as within (in that the size of the market is too small to absorb a placement of more than 100 million USD), particularly in Europe and in the United States, they are looking forward to the ability to report without reconciling their accounts to more than one standard. These reports will apply to all listed companies, corporate bonds, funds and intermediaries except for intermediaries that are banks or insurance companies, which will continue to report using CBRA accounting standards and <i>Pequeñas et medianas empresas</i> or PYMES, that is small and medium enterprises, with capitalizations of less than 15 million pesos.</p>

	<p><b>High quality auditing standards</b> A plan to move to international auditing standards (IAS) is also in preparation and is expected to be approved in 2011 for a transition to occur in 2013.</p> <p><b>Independence</b> Chapter 3, in particular Article 18, of the General Resolutions of CNV applies to auditors the independence criteria of the professional accounting association at the Federal level and also adopts Technical Resolution 7 of the Argentine Federation of Professional Associations of Economic Science Practitioners or <i>Federación Argentina de Consejos Profesionales de Ciencias Económicas</i> (FACPCE), which is aligned with similar requirements of the International Federation of Accountants or IFAC which contains a code of ethical conduct and quality control, which audit firms must incorporate in their own internal procedures. These include annual certifications of compliance, rotation requirements, procedures related to identifying and mitigating conflicts, and a process for internal monitoring. The members of any professional association or audit firm, all their employees, and any other person used for purposes of undertaking financial audits must observe the standards of independence provided by CNV rules. The Chapter also contains requirements for internal audit committees.</p>
Assessment	Broadly Implemented
Comments	<p>The movement to new standards, particularly audit standards is a tremendous project. A major challenge associated with this will be capacity building. The Accounting and Auditing ROSC published in 2009 noted the prestige of the industry in Argentina and also the commitment to move to international standards. CNV and the industry both agree that they are prepared and that the work has proceeded with extensive dialogue among all affected parties: issuers, public accountants and auditors, professional associations, and intermediaries being in constant contact with the CNV. In order to assure quality control there will be a need for the CNV to have sufficient qualified staff. A new structural plan to accommodate the new powers and responsibilities has been prepared. A discussion of resources can be found at Principle 3 and it will be important to assure that these remains sufficient to the task. The CNV also has taken an active role in overseeing Credit Rating Agencies, even to the extent of attending <i>consejos</i> or rating meetings and requirements for ongoing updating quarterly.</p>
<b>Principles for Collective Investment Schemes</b>	
<b>Principle 17.</b>	The regulatory system should set standards for the eligibility and the regulation of those who wish to market or operate a collective investment scheme.
Description	<p>The collective investment laws are: Law 24083 (mutual funds); Law 24441 (<i>fideicomisos</i> which are trusts of securitized assets); and Executive Decree 174/93. In the case of trusts, Title VII, Book III of the Civil Code also applies. The General Resolutions for mutual funds are found in Chapter 11 and for <i>fideicomisos</i> in Chapter 15. In the case of Mutual Funds, by regulation the fund must be managed by a licensed entity (<i>sociedad gerente</i>), the depository (<i>sociedad depositaria</i>) must be a licensed entity, the fund must be registered with the CNV, and sales agents of the foregoing licensees must be listed with the <i>Camara Argentina de Fondos Comunes de Inversion</i>. The <i>Camara</i> also manages a program of administering proficiency exams for persons who operate/sell mutual funds.</p> <p>In the case of <i>fideicomisos</i>, the fiduciary must be registered with the CNV, except in the case where it is a bank, which is licensed by the BCRA. To obtain this registration the fiduciary must submit an application that contains all the necessary information and provide a certification of no criminal record from the <i>Registro Nacional Estadística Criminal y Carcelaria</i> (the National</p>

	<p>Register of Criminal and Prison Statistics) (Chapter 15, Article 9). Registration is accomplished on the papers submitted. The application requires the applicant to demonstrate operational capacity and such capability is also reviewed on-site. The same procedure applies to fiduciaries (see <i>Texto Ordenado</i> Chapter 11).</p> <p><b><i>Fitness standards</i></b></p> <p>The standards are applied in the case of legal entities to senior management and Directors. While the “statutory disqualifications” appear to apply to controlling interests and are referred to in the law and resolutions, there is not a clear vetting process.</p> <p><b><i>Marketing</i></b></p> <p>In the case of mutual funds, the manager, the depository, or an authorized intermediary can sell interests. The fiduciary, who has “legal title” to the res, and the grantor or <i>fiduciante</i> may sell <i>fideicomisos</i>. The management company for a mutual fund and a fiduciary must maintain capital requirements that expand relative to their assets under management. The public offer of securities in any capacity must be in accordance with rules of the CNV. (Securities Law, Article 7)</p> <p><b><i>Oversight</i></b></p> <p>The CNV carries out an oversight program that includes onsite investigations and offsite review of periodic information. The program also makes use of the periodic regulatory reports of external auditors of the authorized entities.</p> <p><b><i>Conflicts</i></b></p> <p>Prohibitions related to conflicts of interest are discussed below in the discussion of structure under Principle 18.</p> <p><b><i>Delegation</i></b></p> <p>Certain functions may be delegated, such as servicing in the case of loans held in trust by the fiduciary of a <i>fideicomiso</i>; however, the fiduciary retains accountability for performance of its fiduciary functions.</p>
Assessment	Broadly Implemented
Comments	The CNV should review its authorization procedures and augment the types of review that are done <i>vis a vis</i> controlling interests. In particular more content may be provided with respect to the marketing of collective investments. Further, the monitoring program for <i>fideicomisos</i> , that directly relates to the collection of funds due and the disposition of funds to unit holders should be enhanced.
<b>Principle 18.</b>	The regulatory system should provide for rules governing the legal form and structure of collective investment schemes and the segregation and protection of client assets.
Description	<p><b><i>Investment structures and legal recognition of structures</i></b></p> <p>There are two types of collective investment vehicles in Argentina that are provided for by law. These are the <i>fideicomisos</i>, that is investment trusts, and the <i>fondos comuns de inversion</i> or mutual funds. Each of these structures, which are established by contract, is supported by specific legal requirements as to the structure and related contractual agreements.</p> <p>Further, there are two types of <i>fideicomisos</i>: financial (FF) and public; and two major types of mutual fund: open-end, closed-end. CNV has authority over those FFs that are publicly offered. FFs can have a term of up to 30 years, but most are of much shorter duration; in contrast open-ended funds have no term, or a term of 99 years for the sake of legal validity. Currently, due to</p>



changes in the tax laws there are only a few residual closed end funds. There are additional criteria for mutual funds that are money market funds, fixed income funds, variable income funds, and mixed funds. Funds of funds are not permitted. There also are no privately placed hedge funds. CNV maintains a registry of all fiduciaries, except banks.

*Fideicomisos* may include portions that are debt (*Valor Representativo de Deuda*) y capital), that is equity (*Certificados des Participación*). The equity portion is required by CNV to be rated by a rating agency. When purchased under the pension fund law, the debt portion of a *fideicomiso* would also have to be rated as a matter of law<sup>17</sup>. Ratings might be required under the investment policies of mutual funds and possibly also might be required by the insurance regulator. It is unlawful to market a *fideicomiso* as a mutual fund (Article 46, Law 24441). There are many, relatively prescriptive requirements for mutual funds, including diversification requirements among other things. *Fideicomisos* are potentially more flexible.

With respect to financial funds, of some 562 FF, 184 are active. As of April 29, 2011 there were Assets Under Management (AUM or *bienes bajo gestión*) 25,759.1 million pesos in mutual funds. The tranches of *fideicomisos* can be negotiated in the market, but interests in mutual funds must be redeemed.

#### ***Enforceability of property rights in structures***

In civil law countries, the use of contractual structures to establish collective investment vehicles is common, but puts a premium on the enforceability of the structures in practice. The structures in Argentina have been used for many years, and the commercial courts (or *camaras*) have supported the provisions they contain to achieve bankruptcy remoteness of mutual fund participants from the management company and the depository, and purchasers of interests in FFs from the trustee, which is the legal owner, or representative, of the funds. Argentina has additional requirements in the applicable laws and the General Resolutions that not only legally recognize these specific structures, but, in effect, apply some standardization to the creation documents or contracts creating the rights of interest holders. These documents spell out the rights and obligations of all the parties, and recognize, in the case of FF tranches that they may be traded within a *mercado de valores*. Because *fideicomisos* and mutual funds are public offers they must be registered/listed with a *Bolsa de Comercio*, in the case of the former or the CNV. The *fideicomiso* must have a document that is part of the offer that indicates explicitly the “fate of the property at the end of the trust,” (See Annex 1 to Chapter 15 of the General Resolutions) and mutual funds must address how management would be changed.

#### ***Management, operation, and custodianship of assets***

Mutual funds must have a *sociedad gerente*, or portfolio manager, that advises the investment and a depository (*sociedad depositaria*) that holds the shares. Different requirements pertain to a depository that is a financial institution and one that is not. The portfolio manager and the depository may not be under common control. The management company, must have a qualified public accountant to certify the financial statements of the fund. Fees are limited by law.

#### ***Units of interest***

FFs have a trust grantor (or settlor or *fiduciante*) who contributes property, such as consumer

<sup>17</sup> At this moment there are no private pension funds though the ANSES FGS follows the law applicable to the investment of the funds of the same.

	<p>credit or debt to the trust. Certificates of participation or the equity interest are issued by the Trustee (See Article 20 Law 24441); debt can be issued by a third party or a grantor. The trustee/fiduciary cannot be related to the settlor or to shareholders who own more than ten percent of the grantor's stock. Fiduciaries or grantors cannot have ordinary shareholders who own ten percent or more of the trustee or grantor or either of their parent companies. The FF interest expires at maturity or when revoked by the <i>fiduciante</i> or grantor. (See Article 25 of 24441). At expiration, there is a process for distribution, which requires a special meeting. Ideally, the trust would provide some specificity about liquidation in the disclosures required to be made about liquidation contained in the General Resolutions.</p> <p>In the case of mutual funds, the certificate of participation (<i>certificado de condominio</i>) whether paper or electronic is subject to a type of registration with the CNV and the record of its existence is maintained by the depository. Certificates must be fully paid upon subscription. Net asset value must be computed daily. (See also Principle 20).</p> <p><b>Form of contract— <i>reglamento gerente or the management contract</i></b> The General Resolutions provide a template for a management contract that covers among other things, investment policies, rights and obligations of the parties, provision for redemption and suspension of redemptions, the transfer to another manager or depository if necessary, and provisions for the cancellation of the offer and the liquidation and winding up of a fund. (See also Article 11, Law 24083)</p>
Assessment	Broadly Implemented
Comments	<p>The collective investment laws were adopted to create contractual structures that in the case of either mutual funds or <i>fideicomisos</i> are robust. Coupled with disclosure and other customer protections, including required rating of any equity participation to give a third party view of the risk<sup>18</sup>, the relevant law should create a protectable set of customer interests in the trust <i>res</i> in the case of <i>fideicomisos</i>. The courts have to date upheld that these structures transfer a legal interest to the unit holders. Similarly, mutual funds structures are supported by the Law 24083 and are subject to a large complement of requirements. As in the case of the trust <i>res</i>, the interest of individual participants in the pool of securities held in the mutual fund in the case of a mutual fund should be protected by law.</p> <p>The characterization of a <i>fideicomiso</i> and of other investment contracts as a security is contained in Executive Decree 677/2001. That decree confirms that such structures are investment contracts and applies all the requirements of the Securities Laws to them as such (See Preamble, Section 2, and Section 11 re negotiation). The project of law proposes to have this decree ratified in law. This should be progressed.</p> <p>Due to the variety of <i>fideicomisos</i> and the fact that various different types of assets are transferred to these trusts, the CNV should continue to test on a random basis, as well as for cause, the extent to which the rules CNV has adopted relative to the prompt delivery of funds due to the fiduciary on trust and the disposition of assets at the expiration of trusts are consistent with the rights of the parties. The procedures for liquidation of assets should be clear to trust participants. In this regard the Project of Law explicitly states that when there is no deficiency in the trust (a matter already</p>

<sup>18</sup> The rating agencies have commented that rating this type of equity is not really consistent with their business model, which is rating debt and raises some issues as to the appropriateness of available methodologies. Though methodologies are submitted to the CNV and the CNV can sit in on rating *consejos* as an independent observer, regulators do not endorse actual ratings.

	treated by law), changes in the terms must be by agreement of all the interest holders. CNV has recently added up to date information <i>fideicomisos</i> on its website.
<b>Principle 19.</b>	Regulation should require disclosure, as set forth under the principles for issuers, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investor's interest in the scheme.
Description	<p><b>Mutual funds</b></p> <p>The disclosure regime for funds is very substantial. In addition to providing specific and comprehensive guidance on the <i>reglamento de gestión</i> or management contract that should be given to unit holders, it provides for computation and publication of a daily net asset value, monthly statements as to the contents of each portfolio and the ratings of rated securities if applicable, the number of investors and the amount under management, which must be made public on the <i>Autopista Financiera</i>, quarterly statements by an external auditor with respect to the fund, the manager and the depository, and a yearly balance sheet and income statement in constant value currency together with an itemized list of the fund assets.</p> <p>The template for the management agreement that is contained in the General Resolutions is comprehensive, easy to read and must be filed with the CNV. The manager may also use a prospectus. All the information referred to in the IOSCO standards is covered, a general obligation to make disclosure, the date of issuance of the document, information on structure, rights of unit holders, information on the manager and its principals, information on asset valuation, procedures for purchase, redemption and pricing of units, information on the depository, investment policies, fees and charges, and so forth. Advertising also is explicitly covered by applicable regulation. Sales agents must be either a depository, a member of a <i>Bolsa de Comercio</i>, the manager, or another person authorized by the CNV. Funds can also be sold directly by banks.</p> <p><b>Fideicomisos</b></p> <p><i>Fideicomisos</i>, and the interests that the holders (debt and equity) of <i>fideicomiso</i> interests, or beneficiaries, hold in the trust as a matter of law constitute an equity separated from that of the trustee or <i>fiduciario</i> and of the <i>fiduciante</i> or grantor (Article 14, Law 24441). Financial <i>fideicomisos</i> are public offers, must be listed in the appropriate <i>Bolsa de Comercio</i>, and can be issued under a global program that permits a series of issues. The primary offer document requirements are contained in Article 20 and 21 and there is a further template in an Annex to Chapter 15 of the <i>Normas</i>.</p>
Assessment	Fully implemented
Comments	See also Principle 18.
<b>Principle 20.</b>	Regulation should ensure that there is a proper and disclosed basis for asset valuation and the pricing and the redemption of units in a collective investment scheme.
Description	<p>Mutual funds must keep the following books and records.</p> <p>Subscriptions and redemptions.</p> <p>b) Determining the value of unit shares.</p> <p>c) Determining the value of the portfolio.</p> <p>d) Issuance of certificates.</p> <p>e) Inventories and balances.</p> <p>f) General Journal.</p> <p>Approval to keep these books electronically is given to the <i>Gerencia de Productos de Inversión Colectiva</i>.</p>

	<p>In the case of open-ended mutual funds, the shares must be valued daily. Upon redemption the value of the fund must be paid in 3 days, unless the management contract establishes a longer period. By law the shareholders must be able to request redemption at any time. (Mutual Fund Law 24,083) See also General Resolutions Chapter 11. The redemption value will be a weighted average closing price. A full complement of provisions for valuing securities has been added to the General Resolutions. These require the depository to value the fund if traded in either the Merval (for shares and convertible securities) or the MAE (for <i>Obligaciones Negociables</i>, that is ON or private, corporate debt); if the interest is traded on both, the evaluator should pick one, but then has to be consistent, and if the security did not trade at either market then on the market with the highest volume for the last 90 days. See Article 18 of Chapter 11 for a list of how to value several types of securities based on their maturity, taking into account the level of liquidity in the market. Almost all securities offered in the market are short term. The valuations are checked in connection with quarterly reports of the fund, the management, and the depository that are required to be signed by an external auditor. (See Chapter 11, Article 23 c)</p> <p>In a market that may not be deep and liquid the diversification requirements can be viewed as a protection of the market as well as of the fund itself. The concentration rules limit the amount of government debt with the same terms and conditions to not exceed 30% of a fund assets, or investment in publicly traded shares to not more than 10% of the capitalization of the company, and securities of the same issuer or issuers in the same group to not more than 20% of fund assets. Additionally no investment may be made in securities or financial instruments issued by the portfolio manager or the depository. At least 75% of securities must be traded in the Argentine market.</p> <p>In an FF, the trustee or fiduciary may not be released from accountability (fiduciary duty to the beneficiaries), gross negligence or willful misconduct, or the prohibition on purchasing trust assets for his own benefits. Some functions may be delegated but accountability cannot. According to the Law 24441, Section 16: “The trustee’s property shall not be liable for any obligation arising from the execution of the trust, which shall only be met by the trust property. The insufficiency of the trust property to meet these obligations shall not lead to the bankruptcy thereof. In said case, and due to lack of other resources provided by the grantor or the beneficiary under the terms of the contract, the liquidation of the trust property shall proceed, which shall be in charge of the trustee. In such case, the trustee shall sell the assets making up said trust property, and shall deliver the proceeds to the creditors according to the order of privileges established for bankruptcy. In the case of a financial trust, the provisions of Section 24 shall apply.” The Trustee must indicate in the trust documents that the beneficiary is remitted only to the property of the trust (see Article 13 and 15 of Chapter 15). So the fiduciary is not guaranteeing that the funds will be in the trust.</p>
Assessment	Broadly Implemented
Comments	<p>The structural protections provided are broader than in many civil law countries. While, the use of pricing models appears generally sound, they should continue to be monitored in practice. For example, certain securities that do not trade can be valued on the amortization method, but if they are not liquid that price may not be a price achievable in the market. CNV rules require substantial transparency and should assist in assuring that redemption and NAV pricing is made in the most liquid market. The investment restrictions, which are really concentration requirements should be tested over time but appear designed, to the extent followed, to prevent a single fund from overwhelming the market when handling redemptions or otherwise.</p>
<b>Principles for Market Intermediaries</b>	

<b>Principle 21.</b>	Regulation should provide for minimum entry standards for market intermediaries.
Description	<p><b>Entry standards</b></p> <p>The Securities Law sets some very general standards, “without prejudice to any other standards that the relevant market may establish,” that would disqualify the authorization of stockbroker intermediaries. These are: that they must have reached their majority, that they are a shareholder of the relevant market and have posted security, that they are a shareholder of the board of trade or <i>Bolsa de Comercio</i>, with which the market is affiliated, and that, “according to the relevant <i>mercado de valores</i> judgment,” they are fit and proper, that is, they have “professional competence, moral integrity, and financial solvency.” (Securities Law Section 41). The law further proscribes bankrupts, criminal offenders barred from holding public office or “convicted for profit seeking,” employees of listed corporations, paid employees and officials of national and local governments, and persons engaged in “tasks declared to be incompatible with a stockbroker’s functions under the securities markets’ regulation.” (Securities Law 42). Article 1, Chapter 19 of the General Resolutions also requires that the SRO comply with all the standards of the relevant self regulatory organization.</p> <p>For example, the <i>Mercado de Valores of Buenos Aires</i> sets out several additional requirements in its rule, which can be found in English on its website. These require completing a competency exam, having the professional requirements including a high school degree required by the board of the market, providing a sworn statement that they are not subject to a statutory disqualification under the Securities Law or other laws. In the case of a firm seeking authorization, it must provide evidence of registration with the Department of Commerce, a list of directors on the supervisory council and [on the audit committee] and the controlling interests, not defined, must also not be disqualified. The market can decide whether activities are compatible with the market; in principle the rules require that the brokers limit activities to being broker/dealers on the Buenos Aires exchange and other exchanges within the country. For example, banks qua banks cannot operate directly on the securities markets as opposed to the MAE bond market. A bank must constitute a securities subsidiary, with its own capital, to so act. There is no operational, due diligence inquiry by CNV with respect to brokers which are members of the <i>mercados de valores</i>—but the CNV can examine their operations in their annual onsite reviews.</p> <p>The CNV can set criteria for the participation as an intermediary on futures and options exchanges and other markets, such as the <i>Mercado Abierto Electronico</i>, where primarily banks that are directly authorized to act on that market trade. While brokers must not be subject to statutory qualification, the vetting process is done by the exchange (per delegation of the CNV).</p> <p><b>Standards for agents or equity raisers</b></p> <p>The CNV has required the SROs to adopt rules that set criteria for the authorization of producers/associates who refer business (like an introducing broker) to the exchanges.</p> <p><b>Investment Advisors</b></p> <p>The CNV does not have a separate category of investment advisors, although this has been discussed in the past. The CNV however regards as holding oneself out to provide advice for compensation as to the offer of securities as an activity that must be conducted within a registered entity, which could be either a broker or an entity registered with respect to the sale and/or portfolio management of a collective investment vehicle.</p> <p>Anyone who holds himself out as publicly offering securities (which means encouraging negotiation in the primary or secondary market) must be an authorized member of an exchange. The exchanges report their members in good standing to the CNV and CNV’s website maintains a link to all exchange members. There are about 132 registered intermediaries at the Merval and 500 registered intermediaries on all the various exchanges in Argentina.</p>

	<p>The CNV, therefore, neither licenses intermediaries on the <i>mercados de valores</i>, nor expands the statutory standards for their licensing, nor does it receive periodic accounting reports from such intermediaries<sup>19</sup>. The CNV has no power to refuse licensing nor to require the securities market to discipline the broker. Effectively the CNV must approach the court for this purpose if the market refuses to enforce its rules (See Securities Law Section 11). CNV does however have full authority to conduct inspections.</p> <p><b>Approval of exchange rules</b></p> <p>CNV also has full authority to approve, or disapprove exchange rules, since the adoption of Executive Decree 677. CNV has the full authority to register the intermediary members of the futures and options exchanges and the electronic markets, but has delegated this to the markets, which are self-regulatory authorities, to maintain a level playing field among exchanges. The CNV nonetheless reports that the futures and options markets are more amenable to addressing regulatory issues raised by the CNV. CNV attributes this fact to their power to withdraw the delegations that they have made to the exchanges or to directly enforce exchange rules.</p>
Assessment	Partly Implemented
Comments	<p>The CNV is well aware that the law with respect to the power to authorize and refuse to authorize or to revoke market intermediaries of the <i>mercados de valores</i> is non-compliant with IOSCO standards. Moreover, the CNV reports that it has experienced difficulty in enforcing the law where a <i>mercado de valores</i> and the CNV take a different view on the conduct of a broker. The terms of the law for example, prevent the CNV from directly bringing a manipulation action or an insider trading action against a member of a <i>mercado de valores</i> (see discussion in Principle 1, 3, and 9 for example). As stated in the discussion on Principles 6 and 7, this is not an appropriate construction of self-regulation. Proper self-regulation is not in derogation of direct regulation or enforcement by the regulator if the SRO fails to act. The CNV has drafted a project of law that would allow it to keep the registry of all intermediaries, develop more substantial fitness criteria, conduct due diligence as desirable, and receive periodic reporting. The CNV should also have expanded authority to penalize the failure of intermediaries to cooperate with inspections and investigations. (See current requirement in Executive Decree 677 (2001).</p> <p>The CNV could choose to delegate certain of these powers subject to the ability to reverse the delegation at any time, or with respect to any particular action, in its discretion. While substantial business does occur in futures and options and the MAE, retail, equity trading, and private debt are handled on the <i>mercados de valores</i> and are the principal focus of IOSCO requirements and benchmarks. The fact, therefore, that the CNV has appropriate powers with respect to futures and options markets and has exercised these to provide authorization criteria for the registration functions it has delegated is not a remediation of this lack of power.</p> <p>The exchanges themselves, however, do keep close watch over the financial capacity of their members and administer their own more stringent admission criteria. In this regard, there is no appeal to the CNV for an access denial by the exchange (See Principles 4 and 7). The following two Principles (22 and 23) are similarly deficient.</p>
<b>Principle 22.</b>	There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.

<sup>19</sup> In this respect it should be noted that none of the intermediaries are public listed companies.

Description	<p>The <i>mercados de valores</i> are permitted to set their own capital requirements for their members autonomously, subject to the CNV's framework capital rules under Chapter 19 of the General Resolutions. These requirements found in Article 5 and 6 contain a net worth (2.7 million pesos) and a net assets requirement of (1.7 million pesos). The net assets requirement is a "paid-in" capital requirement in liquid assets that must be immobilized and the net worth requirement permits the counting of illiquid assets, such as an office at 50% under certain circumstances. Capital is adjusted upward based upon the number of branches, by an augmentation of 20% per branch. This capital requirement would pertain to any broker, in that a public offer constitutes an offer into the secondary market for purposes of this provision. (See Executive Decree 677/2001 Section 11). However, it could not be directly applied to exchange members unless the exchange adopted its own rule.</p> <p>The Merval for example requires compliance with minimum capital and net worth requirements set by the Board of Directors (that are not posted on the website), on the firm having the technical and operational capacity to trade, and the broker or firm maintaining specified books and records. Records must be retained for 6 years as required under general law.</p> <p>Brokers that fall below CNV capital requirements must suspend doing business and must report this to the CNV. There does not appear to be an early warning requirement, and in fact the financial oversight of market members is done by the SRO, which receives periodic financial reports from its members, but CNV does not have such off-site information with respect to intermediaries filing with the <i>mercados de valores</i>.</p> <p>CNV also does not adopt requirements for the MAE, in that all the participants are banks, and the banks capital requirements are set by the BCRA. Transactions in the MAE are interdealer transactions.</p> <p>The CNV requirements apply to futures and options markets, which have their own enhanced requirements by rule.</p> <p>The CNV also has financial requirements for the exchanges. Those for the <i>mercados de valores</i> have been in place for some time (See Chapter 18, <i>Texto Ordenado</i>); in June 2011 the CNV adopted Resolution 588/11 which set capital in the form of net worth (and liquid net worth) requirements for the futures and options exchanges that are equivalent; that is, 10 million pesos for the market itself and 6 million pesos for the affiliated clearing arrangement.</p>
Assessment	Partly Implemented
Comments	<p>Counting immobile capital as part of an intermediary's capital requirement is unusual. Ordinarily in securities markets, where the capital of a firm must be accessed immediately, capital requirements are liquid or net working capital requirements. The requirements set by CNV, while in some ways higher than some jurisdictions (1.7 million pesos must be liquid), do not explicitly address credit, market, and other risks referred to by the IOSCO Principles. Assessing capital is a matter partly of experience and there have not been defaults in Argentina, even during the crisis in 2001. Nonetheless the assets which are counted to meet the total requirement are not haircut (valued at a percentage less than market value to reflect the liquidity risks related to converting them to cash), which means the amount may be counted at too high a value to be realizable in a default situation. As many assets are short term in Argentina, it is hard to calibrate how substantial an issue this is. Nonetheless, markets do not typically accept liquid assets at full value, depending on their maturity and specific risks. The draft legal reform sought by CNV contains power in the CNV to set capital standards. The CNV should make a study of the types of standards used in similar markets when doing so to assure that the standards address fully the risks undertaken in the</p>

	<p>market. These risks differ based on the type of trading. For example, there is no naked short selling in the Argentina securities markets, the CSD provides a stock loan facility to avoid fails and the statutorily required guarantee protects the completion of transactions in the <i>mercados de valores</i>, all of which measures reduce the risk to capital from settlement and other exposures. Similarly, the margining and other requirements for the futures markets (which are gross upfront payments) are added protections; and the market imposes higher requirements than would the CNV.</p>
<b>Principle 23.</b>	<p>Market intermediaries should be required to comply with standards for internal organization and operational conduct that aim to protect the interests of clients, ensure proper management of risk, and under which management of the intermediary accepts primary responsibility for these matters.</p>
Description	<p><b><i>Conduct of Business</i></b></p> <p>The CNV has adopted several requirements for intermediaries. These are found primarily in Chapter 21 of the General Resolutions. In fact the section on stock broker intermediaries indicates that they are subject to those public offering rules contained in Chapter 21 that also include the duties of disclosure the prohibition against insider trading and manipulation.</p> <p>This chapter also includes a series of operational and customer protection requirements, which reflect a duty of primary loyalty to the client. The requirements include, for example:</p> <ul style="list-style-type: none"> <li>• the duty to record transactions immediately,</li> <li>• the duty not to front run,</li> <li>• the duty not to engage in dual trading when holding a standing order,</li> <li>• the duty to indicate whether the broker is trading for his own account or for customers,</li> <li>• the duty not to churn an account,</li> <li>• the duty to know the customer and make suitable recommendations,</li> <li>• account opening requirements which include an agreement that must indicate the obligations of the broker and the rights of the customer,</li> <li>• requirements relative to the establishment of discretionary accounts,</li> <li>• the prompt execution of transactions in accordance with their terms,</li> <li>• the maintenance of current books and records,</li> <li>• a duty of confidentiality, and so forth.</li> </ul> <p>The CNV in the case of futures and options also monitors, for example, margin levels and takes other actions intended to protect customers and the integrity of the markets. The exchanges may have additional requirements such as mark-up limitation requirements.</p> <p><b><i>Complaints</i></b></p> <p>The CNV has a very robust regime for the treatment of customer complaints but not for the compensation of injured customers. The CNV investigates all complaints. The CNV appears to also require that those intermediaries for whom it has authority actively review customer complaints. The CNV can also appear in an action by a third party.</p> <p><b><i>Compliance function</i></b></p> <p>As a matter of governance, firms must have internal audit capacity. However, the CNV does not require a separate compliance function other than for AML, CFT compliance and the CNV does not require periodic financial reporting and an independent review of internal controls of an intermediary by its auditors, but relies on the <i>mercados de valores</i>. The exchanges themselves have financial compliance regimes. They receive financial reports quarterly or more frequently (see, e.g., ROFEX) and also review audited returns. The exchanges are astute to the monitoring of financial matters in that in both the futures markets and the securities markets the exchanges or a related clearing organization CCP guarantees completion of trades. The one market in which the</p>



	trades are based instead on the creditworthiness of the individual counterparties, is the MAE or interbank, interdealer market. This market and the continuous market (or bilateral market) at Merval have aspects of cleared over the counter markets. In Argentina, retail customers and institutions like mutual funds and insurance companies must use the matching markets. Again, the CNV cannot enforce these rules against the <i>mercados de valores</i> intermediaries. This must be done by the exchange itself and the exchange disciplinary panels are not regulated by the CNV, and are composed of other intermediaries.
Assessment	Partly Implemented
Comments	The deficiency of being unable to directly discipline the <i>mercados de valores</i> member intermediaries would be removed by a pending project of law. The CNV also might explore requiring a special report from external auditors to confirm the proper treatment of customer funds and the sufficiency of internal controls to protect customer assets. This is a means of augmenting limited resources in many jurisdictions. The report can go to the intermediary and only be filed with the regulator if the matters noted are not remedied. Other jurisdictions have self-regulatory systems; what is important is the ability to reinforce these at the level of the regulatory authority in egregious cases or if the exchange itself fails to do so.
<b>Principle 24.</b>	There should be a procedure for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.
Description	<p>The CNV does not have articulated arrangements of its own to deal with the default of a market intermediary. Instead, the market/clearing procedures to deal with such eventualities must be submitted to the CNV and the CNV must in its turn approve such exchange and clearing organization rules and procedures. Operationally, it is the markets themselves that either wind down a troubled firm and suspend trading in the traditional markets or close a firm out of its positions in the case of futures markets. The CNV has not provided any criteria for intermediary management of defaults, but the Securities Law provides a statutory requirement for the size of the clearing guarantee fund based on retention of half of revenues. The markets' procedures typically are posted on their websites. In the case of the Merval of Buenos Aires, the treatment of the guarantee is displayed in English. From an operational perspective, this type of system has worked well internationally, particularly in futures markets.</p> <p>The CNV however does not receive financial reports from exchanges, nor does not it receive early warning notices from the market or from the stock broker, nor does the CNV have its own market or firm disruption plan. The exchanges do all the financial surveillance of their members. The CNV does have the authority under Executive Decree 677 (2001) to interrupt trading in the event a serious financial threat is identified. A suspension cannot exceed 30 days without the agreement of the Executive Branch.</p> <p>The <i>mercados de valores</i> also have special bankruptcy protection that supports the conclusion of trades in the market. The futures and options markets do not have that type of protection, but they effectively update margin every 30 minutes on ROFEX, use central counterparty systems, which settle price changes routinely intraday, and have received a legal opinion that their solvency and default arrangements are robust under Argentine law. The margins are adjusted to address volatility and these margins must be passed by the CNV.</p>
Assessment	Partly Implemented
Comments	To date there have been no failures of securities intermediaries where customers have lost funds due to the failure or default as opposed to in the market due to trading losses or due to the decision to "de-dollarize" the economy. The CNV should adopt early warning requirements for those

	intermediaries over which it has authority, or require the exchange SROs to do so. CNV also should develop a contingency plan for various types of market disruptions and firm failures. CNV should make sure exchanges post their own plans, and also work with the other sectoral regulators to develop modules for mitigating risks flowing from one sector to another, such as, in the case of markets, abrupt changes in price, a clearing default or reallocations of capital.
<b>Principles for the Secondary Market</b>	
<b>Principle 25.</b>	The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.
Description	<p>The <i>mercados de valores</i> were given the role of SROs by law and authorized to register and discipline their own members. The CNV, however, has powers to directly oversee the members of the new markets that became subject to its jurisdiction subsequently as the basic legislation pertaining to markets was amended. The CNV also has the authority to both authorize and revoke the new markets, rather than recommending such action to the President (National Executive). All exchanges have self-regulatory obligations, either directly or by delegation from the CNV, and are obligated to oversee their markets and members.</p> <p><b>Requirements</b></p> <p>The markets must have adequate capital and resources, must provide periodic and annual financial reports to the CNV, must apply discipline over their agents and interveners in the markets, must submit their rules for approval, and must respect the Securities Law requirements (Article 42) on the statutory disqualifications for membership. Capital requirements are specified by CNV Resolution.</p> <p><b>Trading systems</b></p> <p>All trading systems of existing markets must be submitted to the CNV for review (General Resolutions Chapter 17 Article 11) See also Executive Decree 677 (2001). The review consists of an examination of the architecture, the files, the screens, and the procedures manual. The purpose, as set out in the regulations, is to permit the CNV to assure appropriate investor protection, equitable execution, transparency, and the reduction of systemic risks. All changes in the systems also must be presented 30 days before their implementation. In addition an annual audit of system integrity by an external auditor is required that must be posted on the <i>Autopista Financiera</i> (Chapters 18 (stock exchanges), 19 (electronic markets) and 24 (futures and options), articles 23, 24, 25; 14, 15, and 16; and 12, 13, and 14 respectively). The audit requirement was added to the General Resolutions of the CNV in March 2011. The Board of the markets must review the audit and the “management advice” from the auditor, even if the audit detects no deficiencies, at a meeting, and provide for follow up. The minutes of these meetings, a copy of the audit report, and the proposed response of the Board to the report, must be provided to the CNV. The CNV does not directly review the algorithm, but they review trading in real time and the markets (with the exception of the continuous bilateral inter-dealer debt market of the Merval) require time price priority.</p> <p><b>Trade monitoring and surveillance systems</b></p> <p>The data on trades that must be collected is explicitly specified by the CNV. Each trading system must file reports with the CNV in real time in a particular specified format for purposes of permitting the CNV to properly oversee trading activity. The format is specified in Annex 1 to Chapter 17. The data format is the same for each exchange to facilitate monitoring issues traded on more than one market and to attempt to incentivize harmonization or consolidation of the markets. Intermediaries also must keep a record of orders in a ledger in addition to entering them into the trading system. The CNV has also mandated that all markets put in place a FIX protocol messaging system by June 2012.</p>

**Products**

The markets trade a number of instruments and the Decree 677/2001 contemplates that more negotiable instruments could be created. Equities and bonds must be listed. In the case of futures and options, the CNV must approve the terms and conditions of the products as rules of the exchanges. In the case of equities, the CNV approves the listing particulars and also must approve the prospectus for the product to be listed. *Obligaciones Negociables*, (ON) which are corporate (or private) bonds have different criteria. Additionally the exchanges list the products below.

**Special products**

*Financial Fideicomisos* are listed and *cheques de pago diferido* (deferred payment checks) are traded in the public market. These products present some unique challenges and the CNV should take particular steps to assure that monitoring measures are adequate to the trading activity and any financial risks posed to users. The CNV recently (July 2011) has made information on *fideicomisos* more transparent by providing for inclusion of specific information about each type on the *Autopista Financiera*. The deferred payment obligations are like checks in that they are physical paper. They are permitted by Executive Decree 386/2003, and regulated under Chapter 17, Article 13 et. seq. The law requires the *Bolsa de Comercio* to address the integrity of the signature and the *Mercado de Valores* to assure the proper custodianship of the paper.

The *fideicomisos* have equity and debt tranches, which theoretically can be traded separately. All persons queried indicated that the interests rarely trade but are either held to maturity in the case of the debt or retained by the grantor or fiduciary in the case of equity. In fact, these would not be well suited to a matching market.

The deferred payment checks, in contrast, are actively issued in the markets. They are similar to commercial paper, which in most major jurisdictions is issued primarily by highly creditworthy issuers. Commercial paper typically is defined as: An unsecured, short-term debt instrument issued by a corporation, often used for the financing of accounts receivable, inventories and meeting short-term liabilities. Maturities on commercial paper rarely range any longer than 270 days. The debt is usually issued at a discount, reflecting prevailing market interest rates. Such debt is popular as in the US and other markets as it does not have to be registered as a security, provided it is used to finance short term current assets. If fixed assets are financed, then the securities regulator typically would have a role. In Argentina, 90% of deferred checks are issued by PYMES and are guaranteed by mutual insurance providers known as a *Sociedades Garantías Reciprocas*. SGRs are a vehicle established by law 24467 that is intended to facilitate access to capital for PYMES. The SGR's purpose is to endorse only, so SGRs cannot operate in all stages of intermediation, but only in the final stage--the assumption of risk. The SGR is like a mono-line insurer: it is a mutual organization that provides a guarantee. These products have traded since 2003 without adverse incident. As in all guaranteed arrangements, the risk management of the guarantee is also a matter for regulatory oversight.

**Customer property/funds protection**

All securities, including securities posted as margin in futures markets are held in the single CSD, the *Caja de valores*, which maintains sub-accounts within intermediary accounts on behalf of each individual client. The MERVAL has a settlement account at the CSD where it settles trades on a net basis. Clients have access to these accounts on-line in real time.

Additionally, each market has a clearing arrangement. For the major markets, the arrangements are as follows. The MERVAL acts as the central counterparty (CCP), which guarantees all trades in its concurrent or matching market, and trades that are pre-matched in the *rueda continua* (or

	<p>continuous bilateral over-the-counter market) and submitted for guarantee by election. In effect Merval, then, has a cleared over-the-counter as well as a cleared exchange market. MATba, the futures exchange related to the Merval, also has its own clearing facility. MAE, the electronic debt market, uses Argenclear to clear its trades and net cash flows, but settles without a guarantee. MAE's members are almost all banks, trading as banks.</p> <p>ROFEX, which is a futures market, has its own clearing affiliate, Argentina Clearing. Argentina Clearing is a CCP, which settles variation payments in cash, and collects margin on a gross basis. Money, securities and property deposited to support trading is maintained on trust—with a separate trust for each of house and customer trading. These trusts are structured to separately protect the property of customers as a class and individual customers and are certified as creating a property interest for customers, that is separate from that of their intermediary or the clearing organization for bankruptcy purposes by PWC, despite the lack of a particularized bankruptcy treatment as a matter of law for futures.</p> <p><b>Dispute resolution</b></p> <p>Both the <i>Bolsas de Comercios</i> and the <i>Mercados de Valores</i> must provide an arbitration forum for dispute resolution. See Executive Decree 677(2001) Article 38. The arbitration rules provide for some independent panelists.</p> <p><b>Disciplinary Procedure</b></p> <p>The process for conducting disciplinary procedures is specified by the CNV and the observance of this process is necessary to avoid the contesting of the process by the CNV in its oversight reviews or in having an action disregarded or set aside by the courts.</p> <p><b>Procedures to deal with disorderly trading</b></p> <p>The CNV (as well as the markets) have procedures to halt trading if it is disorderly. (See Amendments to 17811 in Executive Decree 677 (2001) Article 39, Section 13, relating to “interruption” of the market.)</p> <p><b>Access</b></p> <p>The CNV has adopted a rule that would permit <i>mercados de valores</i> to offer direct market access (DMA) sponsored through an intermediary member under appropriate risk management and other conditions. ROFEX is the only market that has implemented such a system to date. Otherwise all trading access to the <i>mercados de valores</i> is by licensed, non-listed intermediaries; with DMA it is still through a licensed clearing arrangement.</p>
Assessment	Fully Implemented
Comments	<p>The CNV has strong powers over exchanges and a robust methodology for approving trading systems, despite the fact that it is not authorized to revoke the authorization of the <i>mercados de valores</i> or directly address their members. It does have review over the trading venue and related transactions, approves all rules, and imposes requirements on the markets as to its operational processes. The CNV should keep in view ongoing international discussions on best practices with respect to DMA arrangements and market structure and products more generally.</p>
<b>Principle 26.</b>	<p>There should be ongoing regulatory supervision of exchanges and trading systems, which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.</p>
Description	<p><b>Ongoing surveillance and monitoring</b></p> <p>The CNV has a robust system for the oversight of trading. CNV both receives actual computer</p>

	<p>access to each market's trading system and also collects information for Stock Watch purposes in a common format across all markets. This information is reviewed on a real time basis within the offices of CNV. The CNV has a team of four economists which are dedicated to surveillance and monitoring activities. The CNV is able to set its own alerts and exception reports on the Stock Watch system and to adjust them as it obtains experience with particular markets and products. It also receives information from Bloomberg on market data and breaking news and has processes for comparing the data for domestic and non-domestic trading in Argentina-listed securities.</p> <p>If the monitoring team is unable to understand price moves or sees unusual activity not in line with tolerance for particular intermediaries or markets, it can commence an investigation.</p> <p><b>Submission of rule amendments</b></p> <p>All rule amendments must be submitted to and reviewed by the CNV. CNV also gets periodic financial reports from the markets, reports on exchange sanctions or irregularities pertaining to trading or to its member's financial capacity. In the case of futures exchanges, the submission of rule amendments extends to the terms and conditions of contracts.</p> <p><b>Suspension of operations</b></p> <p>The CNV also has the authority to suspend trading at an exchange and did so in 2010 with respect to the Mendoza market with respect to certain electronic irregularities. Mendoza securities trading was moved to the Rosario exchange during the period of the suspension and no customer complaints were received.</p> <p><b>Continuing review of the obligations of exchanges and trading systems</b></p> <p>The CNV also, through imposing a combination of self-regulatory obligations on exchanges with affiliated trading markets (<i>Bolsa de Comercio autorizadas a cotizar títulos valores y mercado de valores</i>), including, self-reporting, use of external audits, and its own review processes, takes a close look at exchange IT and financial condition to help assure that the IT capacity, security and integrity, is adequate to the products traded and functions as advertised. The CNV also does an overview of each market on site, yearly and produces a report on compliance. As an SRO, the <i>mercados de valores</i> monitor the compliance of their intermediary members on an ongoing basis, and the <i>Bolsas de Comercios</i> monitor continuing compliance of listed companies with listing particulars requirements.</p> <p>The markets report that they are in constant communication with the regulator. They also indicate that if they consider the regulator has exceeded its authority they will seek a declaratory judgment from the courts to that effect.</p>
Assessment	Broadly Implemented
Comments	<p>With some period of experience applying Stock Watch, this rating should be upgradable. The ability of the CNV to be more persuasive with the <i>mercados de valores</i> would be enhanced if it had the power to revoke without approval of the President. (See discussion in Principle 7). Such a reform might also give additional power to move toward a more consolidated exchange structure over time. The CNV has proposed such a reform, in the project of law discussed herein, which is part of a pending proposal to improve the CNV's overall program. This reform should be progressed. Nonetheless, the explanatory note to the methodology acknowledges that staged abilities to address the market could be sufficient to maintain appropriate monitoring.</p>
<b>Principle 27.</b>	Regulation should promote transparency of trading.
Description	In Argentina, institutional end users with obligations to underlying customers, such as mutual

	<p>funds and insurance companies must use the electronic matching markets, where time price priority appertains.</p> <p>The electronic systems for each market provide for all bids and offers and quantity to be disclosed on the trading screen. Hidden quantity orders are not permitted and the entire depth of the market is disclosed on SINAC, the auction matching electronic system used by the Merval. Trades must be immediately registered and reported. Intermediaries see real time prices; the general public receives the opening price, the last trade price, and the last bid and ask. Prices are published in newspapers, by the <i>mercados de valores</i>, and also on the Internet. On the Internet, there are continuous prices but they are delayed by 15 minutes, which is currently typical of many markets though reforms continue to be pending to further increase transparency.</p> <p>There is not a single platform for the same products, which can be traded in more than one venue in Argentina, nor is there a “consolidated tape,” reflecting all prices across markets as is the case in the US and is being contemplated in Europe. Therefore there can be different prices for the same product in different markets. . Every listed product is passported from Buenos Aires to other provincial markets, but the reverse is not true. Nevertheless, intermediaries must be accredited to each market on which they wish to directly trade. Typically most are only accredited to one market, as they must buy shares (and thereby deposit capital) at each Mercado de Valores to which they belong. Members of one market also could participate through a local broker as a customer of course. The Merval’s <i>rueda continua</i> just trades bilaterally matched bond transactions between banks. These are reported post trade to Merval, and to the CNV — there is no opportunity for other customers to intervene—as in a block trading system, though there do not appear to be volume/value requirements.</p> <p>Crossing trades within the intermediary account at the CSD without taking the trade to the market is prohibited by exchange rules. The MAE trades public and corporate bonds in a matching environment. Banks and end users, such as mutual funds and insurance companies can trade on the platform. Some of the market is a spot market in currency which is not regulated by the CNV, but is under jurisdiction of the BCRA. The main auction market operates on a time price priority system with an anonymous match. The non-bank institutional investors are required to use this market. The MAE also operates a short term fixed income market under the BCRA, where trades can be matched outside the matching engine.</p> <p>All retail orders and institutional orders (such as mutual fund orders) must be placed on the matching systems rather than over the counter.</p>
Assessment	Broadly Implemented
Comments	With the same products trading in multiple related markets, the issue of best execution for customers should be kept under close review. The duty of loyalty to customers should be interpreted to include a duty of best execution. (See Executive Decree 677 (2001) Article 8 re the duty of loyalty). See also the Investor Protection Code at General Regulations 529/2008, with respect to the handling of customer orders.
<b>Principle 28.</b>	Regulation should be designed to detect and deter manipulation and other unfair trading practices.
Description	<p><b>Applicable law</b></p> <p>Argentina has broad prohibitions against manipulation and insider trading and other abuses contained in Executive Decree 677 (2001). Chapter 2, Section 7 prohibits “any person who, by virtue of his position or activity, has information with regard to an event that has not been publicly disclosed and that, due to its importance, may affect the underwriting or negotiations of negotiable</p>

securities in an authorized public offering or forward contracts and options, shall be strictly confidential and shall refrain from negotiating [trading] until such information is publicly disclosed.” Section 21 prevents disseminating false information, whether or not for personal gain. Section 23 prevents any insider as set forth broadly to include advisors to use non-public information about an issuer for their own benefit or benefit of third parties. Section 34 prohibits manipulation, in any market, by any person taking part in the markets directly or through an intermediary, to alter the price of a security by altering the normal development of supply and demand. Deceitful or fraudulent practices undertaken to manipulate a market or security is also prohibited.

### ***Applicable Rules***

The General Resolutions also contain the various market abuse violations in Chapter 21. Chapter 21 contains a requirement that the self regulatory organizations have a system to oversee, monitor, and surveil for the enforcement of their rules and the obligations set forth in 21, which are to be incorporated in their rules. In particular, Article 27 refers to insider information and Article 28 to manipulation and fraud. Article 23 of the Securities Law requires exchanges to be accountable for the genuineness of trades.

### ***Sanctions***

There are special sanctions for insider trading that take away the profit obtained by the transaction if trades are purchased and sold within six months and use of nonpublic information is proved.<sup>20</sup>

The size of imposed monetary sanctions generally may seem relatively small and the treatment of cases in the courts has generally been quite lengthy, to date, with a recent case prosecuted to conclusion being in litigation for a decade.

The CNV has nonetheless taken active steps to combat manipulation and has in fact prosecuted to conclusion a *Summario*, the *Sevel Argentina, SA* case, on manipulating the price of an offering in the primary and secondary market to the benefit of selling insiders, which contains a public exposition of the considerations related to having a fair market and a 58 page opinion that addresses all of the claimed defenses, CNV jurisdiction, and the value of a fair market in general. Such a speaking order sends a strong statement of will to the market.

The new stock watch facility will permit more targeted deterrence by the CNV, but some further experience will be necessary to test that remedies are proportionate and dissuasive. (See Principle 9, where CNV is rated down in this regard). Nonetheless, all initial charges and final decisions including a report to the penal authorities if a penal offense is found is fully public and places a high reputational cost on non-compliance.

### ***Monitoring by the CNV and the Exchanges***

Both the CNV and the exchanges have systems for monitoring trading activity. The CNV reviews trading activity using its new system of stock watch alerts, the information from the exchange in the format required on a real time basis, and Bloomberg reports and other media. Staff follow-up on trends, alerts and abnormal quantities and types of trading. If aberrations appear, the staff can follow through to see who is behind the trading activity by going into the offices of the intermediaries on the exchange and identifying the persons behind transactions. If there are further concerns, the CNV can direct questions to the customers whose trading is at issue or can commence a *sumario* (administrative sanction procedure) against a customer (who would not be a member subject only to exchange sanctioning jurisdiction).

<sup>20</sup> This is similar to short swing profits in some jurisdiction.

	<p><b><i>Self regulating organizations</i></b> Executive Decree 677 (2001) requires all exchanges to have systems and controls to comply with its terms, which include the prevention of insider trading, introducing false information in the market and manipulations (see Section 10).</p>
Assessment	Broadly Implemented
Comments	<p>The CNV, and under its ambit, the <i>mercados de valores</i> have appropriate insider trading and market manipulation law, rules, and procedures. The CNV can take a case against any third party market participant. It, however, cannot bring a case against an intermediary at the <i>mercados de valores</i>. It can only request. While there are recent some investigations of manipulation ongoing there have been no recent market manipulation cases that have been processed to conclusion and the insider case known as Terrabusi, which was addressed in the Supreme Court took a decade to confirm the <i>sumario</i> taken by the CNV. The CNV has however published a so-called “speaking order” in a manipulation case which lays out explicitly its view of the offense, its powers, and the value in a fair and equitable market in a growing jurisdiction. The SROs believe that they are not well placed to undertake insider trading cases, in light of the fact that the CNV would have the capacity to address any person in the market while the SROs are more directly responsible for disciplining their own members. There have, however, been very few IPOs or combinations in the last decade in Argentina, and much of the trading is concentrated in short term instruments or rated securities or bonds for which insider information is less relevant (other than for example advance notice of a rating change); or futures, where for example a firm can trade on one’s own hedging needs and intentions but cannot misappropriate the firm’s intentions for personal gain. By decree, “short swing profits” of insiders can be voided by the issuer; which also is a strong potential deterrent. Consideration nonetheless is being given to criminalizing manipulation and insider trading as a further message to the investing public.</p>
<b>Principle 29.</b>	Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.
Description	<p>In the futures markets, position limits, price limits, and margin limits are imposed by exchange rules. The CNV has the capacity to review both levels of margin and the underlying methodology for all markets. The CNV also has the capacity in an emergency to intervene in the market to suspend trading.</p> <p>The ROFEX has a robust methodology for assessing margin and controlling large exposures effectively in real time. For example, it computes risk over a short time frame in real time, and will call for additional collateral if it does not have enough on deposit. ROFEX has attempted to create a bankruptcy remote clearing arrangement that protects the interests of futures customers event absent an explicitly supportive bankruptcy regime—and its system is intended to address volatility and to permit same day or better funding of market moves. It seems that, in the case of Merval, the settlement period is effectively margined at the market. The process however is not completely clear from the published documents. There is a required member guarantee deposit, and there is a statement in general of how the guarantee under Part 35 (b) of the exchanges By-laws is assessed and applied. Part 35b, however, does not appear to be posted on the market’s website.</p> <p>Contracts are guaranteed from the point that they are registered on the monitor in the case of the matching system, and from the point that they are reported, if they are reported, with respect to the continuous quoting system. The process for handling defaults, which can be handled initially by the market, and the waterfall of resources available to defray a default, is not clear from the</p>



	<p>website. There are contractual provisions in place intended to protect the market from contagion in the event of a default: in the case of securities, these are a statement in the law (which however does not bind the courts), and in the case of futures the process is by contractual trust (which is not endorsed in the law).</p> <p>There have not been many recent IPOs, but there may need to be exposure limits relative to how the underwriting exposure is handled.</p>
Assessment	Partly Implemented
Comments	<p>The methodology for managing sub-accounts is intended to provide customer protections. To see that these are observed recent amendments, this year, have permitted customers to have direct access to their accounts in the CSD, in addition to the periodic statements filed with the CNV. The Caja de Valores has to file financial statements with the CNV. The external auditors must test the IT systems of the CSD. However, it is not clear how the promptness of reconciliations and the balances in customer accounts are tested from time to time in that the Caja de Valores only has accountability to its broker members.</p> <p>Furthermore, in the case of intermediaries, such as those in the MAE that are banks, it is not clear to what extent the sectoral regulators can talk to each other in order to resolve a default situation that has implications for the market and its participants more broadly absent conclusion of the pending project of law to remove banking secrecy for these, and enforcement, purposes. The CNV should develop a program to assure it has sufficient comfort that reconciliations are promptly and accurately made to customer accounts. Argentina should pursue appropriate bankruptcy protections to underpin the protection of customer creditor accounts in law and mitigate contagion in financial failures. The CNV should expedite the adoption of its project of law and develop contingency plans, with its sectoral colleagues to help mitigate market and firm financial disruptions (See also Principles 22, 24, and 30).</p>
<b>Principle 30.</b>	Systems for clearing and settlement of securities transactions should be subject to regulatory oversight, and designed to ensure that they are fair, effective and efficient and that they reduce systemic risk.
Description	<p><b><i>Regulatory oversight</i></b> The CNV has oversight over clearing and settlement facilities and also oversees margin setting. It requires a risk based assessment of rules as part of the rules submission.</p> <p><b><i>The clearing structures for futures and securities</i></b> Clearing and settlement and the appurtenant protection of customer funds and corporate rights are critical to market confidence, financial integrity, and market development. There are three clearing organizations: Merval clears for transactions on that exchange, MAE uses Argenclear, and ROFEX uses Argentine Clearing. Argenclear is not a central counterparty, it merely nets transactions for settlement. In consequence, MAE transactions are only guaranteed to the extent of the capital of its members. Moreover, as MAE is not protected by the special bankruptcy provision of the Securities Law, the conclusion of transactions would not precede the claims of other creditors.</p> <p>Merval is a central counterparty, but it only guarantees transactions on the concurrent market (that is the matching market) or matched transactions that are submitted from the continuous market that seek the guarantee by election. MATba is a separate entity for futures trading of the Bolsa de Comercio de Buenos Aires. It performs its own clearing functions, like Merval. The guarantee fund for the Merval is based on 50% of annual revenues. There is also a fund of 8%</p>

	<p>that is for compensating investors for various types of misconduct. The application of the Merval guarantee fund to consummate transactions in the market is supported by relevant law (See Securities Law, Section 53 and 57). The same requirements in percentage of revenues to be applied to guarantees and protection of the conclusion of transactions in the event of a default or insolvency apply to the provincial <i>mercados de valores</i>. However, there is no corresponding law to underpin the clearing arrangements of the futures markets. In the case of the other markets, customers for futures would be treated the same as other customers with creditor's claims. The settling of variation (gains and losses daily) is a substantial protection if the funds gained are held apart from those of the intermediary. Argentine Clearing, a clearing facility which is separate from the futures exchange, appears well designed to be able to return funds to customers through a trust arrangement, though has not been tested in fact.</p> <p><b><i>The settlement structure for securities</i></b></p> <p>The Caja de Valores is the central securities depository for all the <i>bolsas de comercios</i> and affiliated markets in Argentina. It is a mutual organization (<i>sociedad comercial</i>) owned primarily by Merval and the Bolsa de Comercio de Buenos Aires..</p> <p>The interests in the CSD are fully dematerialized and book entries are kept in sub-accounts of the intermediaries in the name of individual customers to maximize protection of customer property post- settlement. This structure puts a premium on how net positions are recorded in the books of intermediaries and in the sub-accounts, as the CSD takes no accountability for the settlement into the sub-accounts. It is this repositioning that is backed by guarantees under market rules, which appear on the website, but are not of enough detail to determine the process.</p> <p>The CSD has a lending facility to loan securities in the event of settlement fails, registers securities, provides IDs or ISINs, and manages the delivery of funds or securities pursuant to dividends or other corporate actions. All <i>mercados de valores</i> belong to the <i>Caja de Valores</i>, which is the single settlement depository. The CSD takes no liability for the conclusion of transactions. In that Argentine securities trade outside the US, and by non-Argentine nationals, the <i>Caja de Valores</i> in turn has linked accounts with clearing facilities in Brazil, with DTCC in the U.S. and with Euroclear.</p>
Assessment	Not Rated
Comments	<p>This principle is by custom assessed by a CPSS/IOSCO assessor in accordance with a methodology which contains several additional benchmarks. Nonetheless, the Argentine market would benefit if there were a clearer legal basis for existing mechanisms intended to protect customer funds and the clearing and settlement system in the event of an intermediary insolvency or a customer insolvency that exceeds the intermediary's capital. The specific provisions that should be supported by law are (i) the irrevocability or finality of instructions, (ii) enhanced protection of customer funds and property, as a first priority over general creditors, and (iii) protection from interruption of the process of settlement by injunctive actions. Further, the law would benefit from further support for "close out" netting of positions that are taken between dealers over the counter, subject to a protocol that balances the interests of intermediaries and end-users. The mitigation of systemic risks can be expected to be increasingly a focus of financial regulators and supervisors. In this regard, the treatment of funds in default and in the event of insolvency and the ability of the system to craft adequate protections for the market and its participants to prevent contagion from failing companies will be of interest to market participants, international standard setters, and the public more generally. Although insolvency reform is always difficult, clear rules of burden sharing are important underpinnings of market integrity, market confidence and risk management of market risks. (See also discussion under Principles 29, 24, and 18.)</p>

### III. AUTHORITIES' RESPONSE

#### A. Part I. Introduction

26. **It has been almost eleven years since Argentina's last engagement with International Organizations took place regarding a financial sector assessment.** The FSAP conducted in 2001 was interrupted and suspended once the crisis entered in its worst stage and was never resumed. The world is currently witnessing a new phase of the systemic crisis that erupted in 2007 in advanced economies, which so far, has shown many phases and which consequences are being felt in every part of the globe.

27. **The policy response to this crisis in central countries and the persistent uncertainty around future developments in the euro zone, has led to massive swings in capital flows, which have made it necessary to implement measures that attenuate their impact on the exchange rate and domestic monetary conditions.**

28. **In addition, Argentina's authorities found worrisome that the current strategies adopted by most countries in distress is being centered on fiscal consolidation and labor flexibility, instead of focusing in growth oriented policies, like the ones Argentina imposed after experiencing its worst crisis in decades.** Furthermore, we are concerned about the fact that international organizations are recommending countries the same policy programs that were applied before in our country. If we have learnt something from the 2001/2002 crash is that, without programs aimed at promoting growth in aggregate demand, job creation and economic growth, debts become unsustainable and difficult to pay.

29. **The authorities acknowledge that important challenges remain, and the assessments were noteworthy to identify many of them.** The reinforcement of the supervision powers in accordance to international standards represents an immediate task. The effective identification, regulation and supervision of financial groups and/or conglomerates is presented transversally throughout the three assessments, and is a key challenge.

30. **The report takes many elements under consideration while assessing the preconditions that each market should have so as to develop.** Nevertheless, the mission arrives at some conclusions that need a more objective approach. In this line, the Authorities believe that the views regarding the pension system reform should be revised. Moreover, some points ought to be remarked and some processes further described in order not to fall under subjectivism, particularly regarding the facts and consequences of the State's recovery of the pension system management.

**The 2001/2 crash left deep wounds, not only in an economic sense but also in the social and political spheres.** The country's economy had been driven to unsustainability after years of, overall, current account and fiscal deficits and an increasing dependence on external financing of both the public and the private sectors. The lack of competitiveness, coupled with overindebtedness and an extremely rigid macroeconomic framework finally led to a financial debacle and to a dramatic unemployment rate of 21.5% in May 2002. The financial system collapsed and government institutions suffered a sharp down on credibility. Social instability impacts and consequences didn't take long to come out.

31. **The economic policy framework applied during the decade before the crash, which was acclaimed and praised by International organizations,** led the country to a point of no return, which no one (neither the Government, nor the International Organizations, and Credit Rating Agencies or consultants) could predict until the crunch became present, and with all type of warnings and downgradings nothing but procyclicality emerged.
32. **Argentina started to recover when the Government put in place the backbone of a new macroeconomic architecture, characterized by abandoning convertibility and by implementing a flexible exchange rate regime, measures which, significantly,** made it possible to recover the central bank's capacity to implement monetary policy and the institution's role as a lender of last resort. In parallel, getting primary and current account surpluses, tackling unsustainable public debt levels and composition (cancelling with the IMF and international creditors who were defaulted), and strongly underpinning social safety nets, made it possible to reacquire competitiveness and to reach a sustainable path of growth.
33. **Figures from 2003 onwards show that Argentina's recovery was overarching, reflected by GDP growing hand in hand with job creation.** This process has been achieved without any assistance from International organizations (in fact net disbursements were negative) and by, crucially, not heeding these institutions policy advise, which with the benefit of hindsight were definitely wrong. Needless to say, the sovereign debt restructuring was fundamental for Argentina's recovery and growth.
34. The inclusive growth path that Argentina started to transit would not have been possible to continue without recovering the administration of pension funds.
35. **As mentioned before, the report arrives at certain conclusions that not only are influenced by a subjective or even dogmatic view, but also are simply wrong.** In particular, the assertion that links the creation of the public countercyclical pension fund (*Fondo de Garantía de Sustentabilidad -FGS-*), with the lack of availability of long term financial resources for banks and other players, or with the low liquidity and depth of the capital markets needs to be reconsidered under the light of empirical data.
36. **By analyzing the involvement of the Fund and the World Bank in the adoption and implementation of the flawed 1994 social security reform one can hint this involvement as being at the inception of one of the drivers of the ROSC characterization of the 2008 reversal, recovering the administration of the pension funds.** In effect, the 1994 reform not only was continuously praised by the Fund and the World Bank, but also its adoption constituted a structural performance criterion for the program supported by the extended arrangement approved by the Fund in March 1992.
37. **In this regard findings of the Independent Evaluation Office' Report on the Evaluation of the Role of the IMF in Argentina 1991-2001 (Chapter 2 Surveillance and Program Design) are telling<sup>21</sup>.**

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21 "... The fiscal imbalance created by the social security reform was significant. From 1994 on, government revenues from social security payroll taxes gradually declined, with the revenue gap in 2001 estimated at 2.9 percent

38. **One of the main unfulfilled promises of the 1994 reform was that the private administrators (AFJPs) would contribute to the stock markets development. Between June 2000 and June 2007, before the onset of the global financial crisis, the balance managed by the AFJPs was multiplied five-fold, from \$18,714 to \$95,871 million and the ratio Balance of the Retirement Fund/GDP rose 1.8 times, from 6.4% to 11.5%.** However, in the same period the domestic market capitalization was multiplied only 3.5-times, from \$51,979 to \$179,771 million, and in terms of GDP it increased only by 1.3 times, from 17% to 22%. Figures from December 2011, show that financing through the local capital market grew by 3.6% y/y. In comparison to 2009 and 2008, was 108% and 92% above them respectively<sup>22</sup>.

39. **What's more, it's important to analyze the effect that administration fees and insurance premiums which the AFJPs charged their affiliated have over the development of the markets.** Those fees as well as premiums for insurance accounted, in average, 35% of the contribution made by the affiliated workers per month. This fact was provoking significant asymmetries between nominal gross profits presented in the AFJP's balance sheets and what was actually reflected in the workers capitalization accounts. Between 1994 and 2008 the AFJP's gross notional revenue average reached 8.27% while the income after fees and premiums was 2.4%. As an immediate consequence, the pension funds had less availability of liquidity to invest, affecting the individual workers account. Since the pension system returned completely to public management, no fee or premium is collected, allowing the FGS to have more resources available to invest and a more rapid growth of capital. In fact, AFJP's funds presented a growing trend since 1994 (when they were created) accounting 13% of GDP in June of 2007. Between 2008 and 2011 the FGS' capital went from \$ARS 98.000 to \$ARS 199.490, reaching 10.2% of GDP, figures that reflect a more rapid growth than the AFJPs could get in a period of 13 years since their creation in 1994.

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of GDP. Of this, 1.5 percent was due to the transfer of workers' contributions from the social security system to individual accounts in the new private pension funds, a direct effect of the reform, and the remaining 1.4 percent resulted from the reductions in payroll tax rates. On top of this, the federal assumption of the liabilities of the provincial systems added another 0.9 percent of GDP annually to expenditures by 2001. Against this, there were offsetting reductions in social security expenditures as a result of the reform; an estimate by Rofman (2002), which may be optimistic, is that annual expenditures were smaller by 1.1 percent of GDP in 2001. Taken together, the reform and accompanying policy changes worsened the annual overall fiscal balance of the federal government by at least 2.7 percent of GDP.

The role of the IMF: The social security reform was initiated and in large part designed by the Argentine authorities, with the World Bank providing some technical assistance. In retrospect, most observers (the IMF, the World Bank, local commentators, and the administrators of the new private funds) overemphasized the potential benefits of the new system and failed fully to anticipate its severe fiscal consequences. Part of the problem was that it overestimated the self-financing component of the reform, without recognizing the imperfections of capital markets that would create an immediate burden on the government's borrowing requirements. The increase in fiscal deficits arising from the reform was considered simply as an explicit recognition of already existing implicit debt, which the markets should be willing to finance..."

<sup>22</sup> See the chart in CNV's DAR.

**Effective Profit for Affiliated Workers, 1994 - 2008\***

Profits from incomes after management fee

AFJP	Annual Rate of Return	
	Nominal	Effective
Arauca Bit	8,28%	2,41%
Consolidar	9,25%	3,33%
Futura	7,92%	2,07%
Máxima	8,58%	2,69%
Met**	8,93%	3,02%
Nación	10,97%	4,95%
Orígenes	7,98%	2,12%
Previsol	8,89%	2,98%
Profesión + Auge	8,09%	2,23%
Unidos	7,55%	1,72%
<b>AVERAGE</b>	<b>8,27%</b>	<b>2,40%</b>

Assumption: A worker that start into the system in 1994, with a salary of \$1.000, adjusted since 2001. This calculation was made in October 2008, near the half of the 30 years old worker's horizon. The attribution of the AFJP's fee as a % of the total worker contribution decreases during the time

40. **In addition, since the FGS was born, the resources previously managed by private pension funds started to be invested in a vast kind of infrastructure projects, including roads, energy and social housing, mainly through the capital market.** By November 2008, the private pension system had invested just 0.63% of their assets in project financing. Those investments were allocated **only in two projects**, one of which represented 96% of the total. Today, under the investment policies described, the FGS enhanced the previous scheme of investment in relation with longer terms and a more effective impact on the real economy, taking the infrastructure and developing share of the Fund portfolio up to 13.9%<sup>23</sup> by December 2011, given, since 2008, a context of global crisis where confidence in financial markets is at stake.

41. **Regarding the availability of funding for the banking sector, we must note that the FGS augmented its share of term deposits in banks from 9.1% at its inception to an average of 11% in the period December 2011 - April 2012, maintaining at the same time a significant degree of diversification.** In addition, the FGS launched open auctions to allocate its deposits, where the best bank offer would result in the cheapest financing to small and medium enterprises productive projects.

42. In conclusion, with respect to the depth of the domestic capital market, we must say that the Argentine stock market has historically been small in relation to GDP. Moreover, it has always had a limited degree of diversification across sectors and a low number of listed companies. In addition, the exceptional macroeconomic instability suffered by the country after WWII has generated a pattern of behaviour on the part of economic agents that has for a long time been part of our "culture", a factor which exacerbates the domestic repercussion of any negative external development. Consequently, to blame the creation and operation of the FGS for

<sup>23</sup> We should highlight that investments in public instruments (including debt issued by public entities) remain at similar levels in relation with the holdings managed by the AFJPs; in average, all AFJPs had a share of 54.4% of their portfolio invested in public instruments by November 2008, while the FGS held by December 2011 public assets which represented 58.2% of its investments.

the adverse evolution of the local stock market in 2008/2009 is a mistake. The evolution of the depth and liquidity of the local stock market has been affected by structural and historical factors; nothing has to do with the creation of the FGS in 2008. On the contrary, investment policies taken by the FGS were aimed at boosting long term financing through the banking sector and the stock exchange market, by supporting the developing of both. Penetration in relation to GDP has never been over 20%, being particularly affected by the 2001/2002 collapse, which has had a profound impact on the collective memory of economic agents.

43. **Concerning statistics, the Authorities want to remark that the institutions involved in the ROSC processes use only data provided by the National Institute of Statistics and Censuses (INDEC), an institution which has elaborated and published statistics in Argentina since 1968; no province or private agency has the ability or the resources to publish a representative CPI index.** Notwithstanding, the Government is currently in the process of developing an enhanced CPI index with the technical assistance of the IMF. This new indicator will have, for the first time a national coverage and will collect data from all over the country, in contrast to the current index, which is constructed based on data from the city of Buenos Aires and the Greater Buenos Aires area.

## **B. Part II. Detailed response to the principles adherence assessment.**

### **IOSCO OBJECTIVES AND PRINCIPLES OF SECURITIES REGULATION COMISIÓN NACIONAL DE VALORES**

44. **Argentine's securities market is a small but relatively old financial market were some institutions, like Bolsa de Comercio de Buenos Aires, were founded in the mid-nineteenth century.** These institutions were unregulated until the issuing of the main securities law (Law 17.811) in 1968, which creates the Comisión Nacional de Valores (CNV) with almost the same functions and enforcement powers as it has today.

45. **Regulations have enacted many improvements aimed at having the CNV with the appropriate powers of control, supervision, regulation and enforcement over all actors under its supervision.** Notwithstanding, the Authorities are well aware, as the Assessment mentioned clearly in point A.3, that more needs to be done.

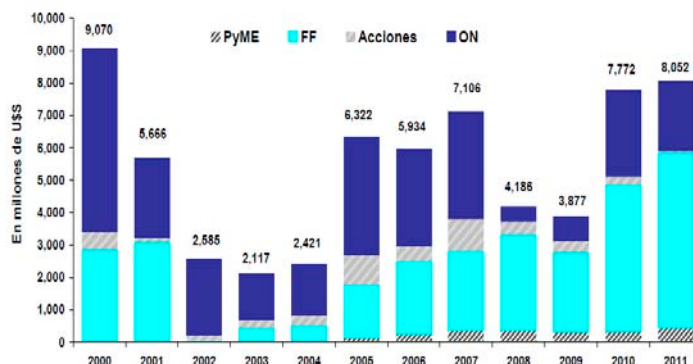
46. **Having that as a policy, two important steps are in process: a substantial amendment of the capital market main law, and a proposal for a new CNV structure, which will allow putting into practice the new functions and powers.** We agree with the assessment that with these two main initiatives will ensure the compliance with IOSCO Objectives and Principles.

Nonetheless, in order to have a complete picture of the reality and the market, following are a few comments on some of the issues pointed out in the assessment.

IOSCO ROSC	Authorities' response															
<p><i>A.11 - "During the past years subsequent to the crisis in 2001, market capitalization (equity value) has varied as a percentage of an also variable GDP, as depicted below, and is currently recovering from the 2008-9 crisis, though not totally back to pre-crisis levels" ... "So far, the FGS has invested proceeds from the liquidation of foreign assets into domestic infrastructure projects and has not actively traded domestic securities".</i></p>	<p>As was mentioned above in the <i>Introduction</i> section the FGS investment policy privileged the investment through the capital market in infrastructure projects and other private trusts and debts, reverting the deficit on medium and long term financing.</p> <p>Besides, the declination in financing through securities market in 2008/9 has multiple causes, but, as shown by subsequent year's numbers, the international financial crisis was the fact affected the market, and not the FGS.</p> <p>See the graph "Total financing by type of instrument. December y/y" below.</p>															
<p><i>C.13. "...Public policy recently has focused on exchange rate stability and beginning in 2003 on developing tailored means to facilitate infrastructure investments and access to finance for small and medium enterprises, that is, pequeñas y medianas empresas or PYMES rather than creating long term investment incentives for private capital formation."</i></p>	<p>The participation of PYMES in the capital market before 2003 was almost null. As PYMES are the main source of job creation that situation required urgent action and support. On the other hand, an active financial policy in favor of PYMES didn't avoid growth and development of the main market for bigger companies. A better interpretation should be constructed as PYME's supportive policies were "besides" instead of "rather than" creating long term investment incentives</p> <p style="text-align: center;">Financing 2011 capital market Source: CNV</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th style="text-align: right;">EN</th> <th style="text-align: right;">MM</th> </tr> <tr> <th></th> <th colspan="2" style="text-align: right;">US\$</th> </tr> </thead> <tbody> <tr> <td>Big Companies</td> <td style="text-align: right;">7614</td> <td style="text-align: right;">94.</td> </tr> <tr> <td>SMEs (Pymes)</td> <td style="text-align: right;">438</td> <td style="text-align: right;">5</td> </tr> <tr> <td><b>TOTAL</b></td> <td style="text-align: right;"><b>8052</b></td> <td style="text-align: right;"><b>100</b></td> </tr> </tbody> </table>		EN	MM		US\$		Big Companies	7614	94.	SMEs (Pymes)	438	5	<b>TOTAL</b>	<b>8052</b>	<b>100</b>
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**“Total Financing by type of instrument. December y/y**



Source: CNV

<p><i>E.25. Principles for secondary markets (Principles 25-30): “... The law, by Decree, and the regulations also establish insider trading and manipulation as administrative violations, which can attract monetary penalties, but they are not independently defined penal offenses, separate from fraud.”</i></p>	<p>Congress has enacted market manipulation and insider trading by Law 26.733, dated december 28, 2011.</p>
<p><i>Table 1A Summary - Principle 9- Not Implemented.</i></p>	<p>Authorities consider the conclusion has nothing to do with the assessment construction. The evaluation clearly shows that CNV complies with most of (4 out of 5) the Principle's points regarding the powers required by IOSCO standards. Thus, we understand that a “Partly Implemented” would have reflected better the reality. In addition, the limitation signaled has been included into the law reform draft bill.</p>
<p><i>II. Principle 2, detailed assessment page 33: “...The nationalization of private pension savings during the 2008 crisis has led to uncertainty in the marketplace as to the stability and integrity of the rules/terms of market-related products...”</i></p>	<p>The birth of the Public Pension System did not negatively affect capital market's rules nor the products negotiated in. It was indeed the global crisis what brought uncertainty to the markets.</p>