

Implementation of the Principles for Oil Price Reporting Agencies

Report



OICU-IOSCO

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I. Introduction

This report (Report) sets out the findings and conclusions of the review by the International Organisation of Securities Commissions (IOSCO) Committee 7 on Commodity Derivatives Markets, in collaboration with the International Energy Agency (IEA), International Energy Forum (IEF), and the Organisation of the Petroleum Exporting Countries (OPEC), of the implementation of IOSCO's *Principles for Oil Price Reporting Agencies* (IOSCO PRA Principles or PRA Principles).¹ This review follows a previous implementation review that was published in September 2014.²

Background

On 5 October 2012, the Board of IOSCO published its final report on IOSCO PRA Principles, which set out principles intended to enhance the reliability of oil price assessments that are referenced in derivative contracts subject to regulation by IOSCO members. IOSCO worked collaboratively with the IEA, IEF, and OPEC over a two year period of significant stakeholder engagement and comprehensive analysis to develop the PRA Principles. The PRA Principles were therefore developed with due regard for the specific nature and dynamics of price assessments in the physical oil market.

The PRA Principles specified implementation within one year of publication, *i.e.*, by October 2013. IOSCO committed to a review of implementation eighteen months after publication. IOSCO stated that such a review will evaluate the degree to which the PRA Principles have been implemented by PRAs and their impacts.

IOSCO, in collaboration with the IEA, IEF, and OPEC, published its first report on the *Implementation of the Principles for Oil Price Reporting Agencies* on 9 September 2014, following approval by the IOSCO Board and presentation to the G20 Energy Sustainability Working Group (ESWG) in August 2014.³ The review focused on the four main PRAs that were deemed to be most important in terms of impact on the global oil market.⁴

IOSCO's 2014 report concluded that, based on ongoing engagement with the PRAs, stakeholder outreach (meeting and request for public comment) and assurance reviews, the PRAs have instituted processes and procedures to implement the principles and good progress has been made. The external assurance reviews that were conducted corroborated IOSCO's view at the time that PRAs had policies and procedures in place that are consistent with the PRA Principles. The assurance reports also confirmed that all of the PRAs instituted rulebook and policy changes aligned

¹ *Principles for Oil Price Reporting Agencies*, Final Report of the IOSCO Board (October 2012), available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD391.pdf>. Those Principles were prepared in response to a request from the G20 Leaders at their Cannes Summit in November 2011 in relation to price reporting agencies (PRAs), that "IOSCO, in collaboration with the International Energy Agency (IEA), International Energy Forum (IEF), and the Organisation of Petroleum Exporting Countries (OPEC), prepare recommendations to improve their functioning and oversight...." G20 Leaders' Cannes Summit Final Declaration, available at <http://www.g20.org/images/stories/docs/eng/cannes.pdf>. This work was further encouraged by the G20 Leaders' Los Cabos Declaration. http://g20.org/images/stories/docs/g20/conclu/G20_Leaders_Declaration_2012_1.pdf.

² *Implementation of the Principles for Oil Price Reporting Agencies*, Final Report of the IOSCO Board (September 2014), at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD448.pdf>.

³ *Implementation of the Principles for Oil Price Reporting Agencies*, Final Report of the IOSCO Board (September 2014), at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD448.pdf>.

⁴ While developing the IOSCO PRA Principles, IOSCO undertook to identify which PRAs were most relevant for its work and identified the following four main PRAs as most important to the global crude oil market, namely Argus Media, ICIS, OPIS and Platts.

with the PRA Principles, and instituted changes to supervisory lines of control, training standards for assessors, record keeping practices, and conflict of interest and complaints processes. The details of each of these 2013 findings can be viewed in the individual PRA assurance reports.⁵

IOSCO recognized that its 2014 report's conclusions were preliminary due to the fact that the PRAs had devoted their primary efforts to aligning their procedures with the PRA Principles. The PRAs were engaged in a continuing process of implementation and change in their policies and practices, so many important policies had not yet been tested by stakeholders. IOSCO, in collaboration with the IEA, IEF, and OPEC undertook to carry out further examination and monitoring in this regard (including outreach to stakeholders) and report again on implementation efforts in 2015.

Accordingly, throughout 2014-2015 IOSCO, in collaboration with IEA, IEF, and OPEC, undertook a further implementation review that took into account the results of the PRAs' second year assurance reports,⁶ operational changes that the PRAs have implemented, and the solicitation of public comment on the continuing implementation of the PRA Principles.⁷ IEA, IEF, and OPEC also independently undertook, in liaison with IOSCO, a review of the impact of the PRA Principles on the physical oil markets.

II. PRA Implementation Efforts

In response to inquiries made by IOSCO Committee 7 to the four main PRAs, the PRAs described the following highlights of significant operational and governance changes that have been made in 2014, as well as the impact of those changes on their operations.⁸

Operational, methodological and governance enhancements.

The self-reports by the PRAs, when read in conjunction with the conclusions of the second year assurance reviews (see below), reveal that the four PRAs have continued to structurally align their management policies and operational procedures, as described in IOSCO's first implementation review, with the PRA Principles.⁹ Enhancements included areas such as:

⁵ The 2013 external assurance reviews are available at: Argus: <http://www.argusmedia.com/About-Argus/How-We-Work>; ICIS: <https://www.icis.com/compliance/documents/icis-audit-report-2013/>; OPIS: <http://notices.opisnet.com> (free access but registration required); and Platts: <http://www.platts.com/regulatory-engagement> .

⁶ In October 2014 Argus Media, ICIS, OPIS and Platts completed their second annual assurance reviews under the *IOSCO PRA Principles*. The Argus, ICIS and OPIS assurance reviews were conducted by PricewaterhouseCoopers LLP. Platts' assurance reviews were conducted by Ernst and Young LLP. See Argus media (<http://www.argusmedia.com/About-Argus/Press-Releases/2014/Third-IOSCO-PRA-Review/>); ICIS (<http://www.icis.com/press-releases/icis-meets-the-iosco-pra-principles-for-second-year-running/>); OPIS (<http://www.opisnet.com/about/press-releases.aspx>); Platts (<http://www.platts.com/press-releases/2014/103014/no>). Platts also voluntarily included an assurance review for its non-oil derivatives contracts, which was issued in April 2015. <http://www.platts.com/pressreleases/2015/042215/no>.

⁷ IOSCO/MR/04/2015 IOSCO Requests Public Comment on Continuing Implementation of PRA Principles (February 12, 2015). <https://www.iosco.org/news/pdf/IOSCONEWS365.pdf> .

⁸ The enumerated observations are highlights drawn from individual PRA responses. A detailed review of changes will be found in each PRA's assurance review.

⁹ *Implementation of the Principles for Oil Price Reporting Agencies*, Final Report of the IOSCO Board (September 2014), pp. 8-9, at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD448.pdf> .

- Electronic technology - management systems and controls were enhanced through the further application of technology, such as permission-based auditable review processes, that electronically bar an assessor from publishing or changing an assessment; electronic monitoring of instant messaging (a key means of communication between assessors and data submitters); electronic logs of data exclusions, corrections, assessment rationales, complaints and their resolution; and an electronic central depository accessible globally by assessors for sharing documents.
- Policy documentation – continued refinement of internal management policies.
- Compliance – expansion of compliance teams and enhancement of compliance policy documentation and processes to ensure responsibility for specific PRA Principles; establishment of internal quarterly auditing to ensure adherence to the PRA Principles.
- Training – mandatory annual competency testing on market knowledge as well as the PRA Principles.
- Methodology – establishment of open seasons for methodology input; posting of comments on company websites; extension of the PRA Principles to commodities other than oil.
- Scope of application – all four PRAs stated that they either now apply the PRA Principles to all of their physical commodity price assessments or have committed to do so in planned phases.

All of the PRAs indicated that their managements are committed to the continued alignment of their management policies and operational procedures with the PRA Principles and will continue to enhance their policies and procedures. PRAs noted that the process of aligning their policies and operations with the PRA Principles has improved their operational effectiveness and that they expect the continued alignment with the Principles will in turn result in further operational improvements.

Experiences under new complaints procedures, policies for alerting subscribers to changes in any methodologies, and approach to disclose to subscribers how a PRA has applied a methodology to individual price assessments.

All of the PRAs reported receiving positive feedback regarding the changes the PRAs had implemented as well as suggestions from their subscribers and commercial users of benchmarks. Some PRAs stated that they had taken on board some suggestions with regard to their methodologies. Several PRAs attributed the low level of formal complaints to their enhanced outreach and formal and informal procedures to address questions concerning price assessments.

The PRAs reported continued progress on implementation of their formal and informal complaints handling processes. None of the PRAs indicated that there were any increases in complaints from existing low levels. The PRAs previously had noted that they often would attempt to deal with queries or complaints through informal procedures. None of the PRAs reported the referral of a complaint to an independent third party.

Each of the PRAs described procedures to actively alert subscribers and stakeholders of potential changes to methodologies, including the use of internet, electronic media, and telephone. These communications extended to notification of potential changes to complaints procedures, the institution of scheduled reviews of their methodologies, outreach to subscribers, including bilateral meetings where requested, in which stakeholders could suggest changes to the methodologies or otherwise discuss any concerns, the use of an independent third party under a PRA's complaint management process, holding formal consultations, and the use of proactive alerts to all subscribers.

Some PRAs described holding numerous consultations that resulted in the PRAs accepting suggested changes to their methodologies.

The PRAs have implemented the requirement to describe how a methodology was applied to a particular assessment by using both descriptive market commentaries and/or a system of codes representing standard explanations.

Unintended consequences with respect to the amount or quality of data reported to a PRA.

In its first implementation review IOSCO noted that some stakeholders suggested that the composition of participation in the price submission process had altered somewhat, but that overall the general volume of submissions and the quality of resulting price assessments themselves remained unchanged. There was general consensus that the pool of available data provided to PRAs for their assessments had not been reduced.¹⁰

In view of the critical importance of maintaining and enhancing the amount and quality of reporting to the PRAs, IOSCO has continued to question the PRAs on this issue. The PRAs have once again noted that they had not experienced any significant reduction in data submissions since the implementation of the PRA Principles.

Nonetheless, the PRAs continued to emphasize the critical need for maintaining voluntary submission of data in order to ensure robust price discovery. Some PRAs voiced concern that increased regulatory scrutiny of physical markets had caused (or might cause) some data submitters to adopt compliance restrictions on the information or data they provide to a PRA. These PRAs suggested that, given the G20's goal of enhancing transparency in the global oil markets, regulators should encourage physical commodity market participants to provide market information to PRAs.

Adherence to the PRA Principles going forward.

All of the PRAs indicated their continued adherence to the PRA Principles. One PRA noted the possibility that national regulation might conflict with the PRA Principles, which would require compliance with the national regulation. IOSCO notes that the IOSCO PRA Principles were adopted to apply in the first instance as a framework for PRAs. Nothing in the IOSCO PRA Principles should be construed as intended to supersede national laws.

III. Second Year Assurance Reviews

The PRA Principles require that the PRAs undertake annual reviews by appointing independent external auditors to review and report on the PRAs' adherence to the requirements of the PRA Principles. Technically, these external reviews proceed under assurance standards as the term audit is reserved for the examination of financial statements.

The first external reviews were conducted in late 2013 by PricewaterhouseCoopers LLP (PwC) for Argus Media, ICIS, and OPIS, and by Ernst & Young LLP (EY) for Platts, in accordance with the *International Standard on Assurance Engagements 3000*, as issued by the International Auditing and Assurance Standards Board (IAASB).¹¹ Because the first external reviews in 2013 were conducted under two different assurances: reasonable assurance and limited assurance,¹² IOSCO reviewed the objectives and criteria of the two standards and concluded in 2014 that second year reviews should be conducted under the reasonable assurance standard in order to provide the most

¹⁰ *Implementation of the Principles for Oil Price Reporting Agencies*, Final Report of the IOSCO Board (September 2014), p. 13, at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD448.pdf> .

¹¹ IOSCO understands that the assurances undertaken also conformed to ICAEW's then-draft guidance for commodity benchmarks' assurance on PRA Principles.

benefit in terms of reviewing actual implementation practices. Specifically, IOSCO concluded that a reasonable assurance standard provides a more comprehensive basis for demonstrating adherence to the PRA Principles as it requires a larger evidentiary base and more testing than a limited assurance.¹²

At the same time, IOSCO concluded that the limited assurance would remain appropriate for Principles 2.2(e), 2.2(f), and 2.4(c), which call for actions by third parties that are not under the control of the PRA and beyond the power of the audit practitioners to obtain information.

The second year assurance reviews provide independent corroboration of the operational changes noted above that the PRAs have described to IOSCO.

The second year assurance reports of the four major PRAs were all completed covering a period ending 30 September 2014. The precise periods that the reports cover vary slightly, depending upon the date at which the initial review was completed during 2013. All reports are publicly available and may be downloaded from the PRAs' websites.¹³

As was also the case with the 2013 assurance reports, three reports were produced by the PRAs in conjunction with PwC and one report was produced by a PRA in conjunction with EY. All assurance reports contain the same broad contents and follow the same broad structure:

- Price assessment methodology overview;
- Directors' statement of adherence;
- Independent assurance report; and
- Principles and responses.

Within each report a listing is given by each of the PRAs of the specific products and assessments that the PRA Principles have been applied to, and are, therefore, covered by the scope of the assurance review. This gives information to third parties to enable them to consider whether an assurance report is relevant to a particular product in which they are interested.

The assurance reports all contain, to a significant level of detail, explanations of the management arrangements, systems, controls, policies, and procedures that are in place to ensure that the PRA meets its obligations under the PRA Principles. These typically cover areas such as the treatment of conflicts of interest, segregation of duties, ownership, training and methodology adjustments.

All four assurance reports contain an opinion from the external audit firms that states that the PRAs' descriptions of their compliance with the PRA Principles is fairly described, at the level of a reasonable assurance. Three of the PRAs are subject to a limited assurance in respect of certain Principles. This is a response to the difficulty in gaining sufficient assurance of certain factors that are under the control of third parties and not directly of the PRA itself. Overall, the assurance reports reflect a higher level of assurance in the second year review than was found in the initial implementation reviews conducted in 2013.

¹² *Implementation of the Principles for Oil Price Reporting Agencies*, Final Report of the IOSCO Board (September 2014), p.7, at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD448.pdf> .

¹³ See links to the 2014 assurance reviews at . www.argusmedia.com/About-Argus/Press-Releases/2014/Third-IOSCO-PRA-Review; www.icis.com/compliance/icis-audit-reports-2014; <http://notices.opisnet.com/IOSCO>; www.platts.com/regulatory-engagement

IV. Public Comment

IOSCO issued a call for public comment on the continued implementation of the PRA Principles on 12 February 2015. Responses were requested by 12 March 2015.¹⁴ After the response period closed, IOSCO had received a total of six written submissions. This level of responses was significantly less than the number received in response to both earlier IOSCO consultations on this subject and to the IEA-IEF-OPEC review of the impact of the PRA Principles on the physical market.

Responses were received from one physical producer, one derivative markets group, three trade associations, and one state regulator.

A common theme in the responses was a determination to support the goal of IOSCO in achieving integrity and reliability of price assessments, along with a recognition of the benefits that the implementation of the PRA Principles had achieved. Comments were made that noted a heightened level of transparency that had delivered benefits for the users of PRA data. Conversely, respondents did not identify any unintended negative consequences that have arisen from the implementation of the PRA Principles.

Respondents noted that they experienced variability in the responsiveness of different PRAs in dealing with questions, enquiries and complaints. This covers the factors of both speed of response and the level of detail and transparency that is given in the PRAs responses.

The trade associations focused on assessments on specific products, rather than the complete spectrum of oil products. For example, one response raised issues to IOSCO that are perceived to exist regarding the completeness and transparency of the PRA methodology for certain products. Some respondents expressed concern that subjectivity continued to be a characteristic of the assessments produced by PRAs. This theme was also echoed in a call for a greater standardization of factors and data used by PRAs or the use of a formulaic approach in the preparation of price information. IOSCO notes these comments and observes that the inherent nature of the work of the PRAs in producing assessments will involve a subjective element. Moreover, the PRA principles contemplate that there will be variations in the methods by which an individual PRA implements the Principles.¹⁵ The PRA Principles require explicit procedures be adopted by the PRAs for stakeholder consultation about methodologies, and IOSCO would expect that these are the appropriate mechanism by which suggestions for improvements to the assessment process are discussed.

One respondent remarked on the absence of independence in the process for handling complaints made to the PRAs. IOSCO notes that arrangements for access to an independent third party that has been appointed by the PRA to handle disputed complaints are required under Principle 2.18(g). These arrangements are subject to the external assurance review that is undertaken annually and publicly reported.

Respondents also noted that the major PRAs had extended the implementation of the PRA Principles to assessments covering physical asset classes beyond the core class of oil products. This development was well received by one respondent in particular and was felt to add value and integrity to the pricing of these products, increasing end-user confidence in the assessments. As a caveat to this extension, it was noted that further extension of the PRA Principles should be based on their

¹⁴ IOSCO/MR/04/2015, IOSCO Requests Public Comment on Continuing Implementation of PRA Principles (February 12, 2015). <https://www.iosco.org/news/pdf/IOSCONEWS365.pdf>.

¹⁵ Although the PRA Principles articulate uniform expectations, the Principles do not contemplate a “one-size-fits all” method of implementation. See *Principles for Oil Price Reporting Agencies*, Final Report of the IOSCO Board, (Oct. 2012), p.8. <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD391.pdf>.

appropriateness to the particular characteristics of a product and its market, and that there should be a cautious approach used in seeking a universal application of the PRA Principles across all asset classes.

V. Impact of the PRA Principles on the Physical Oil Market

The G20 Finance Ministers Final Communiqué at their Mexico City meeting (November 2012) asked IOSCO to liaise with the IEA, IEF, and OPEC to assess the impact of the PRA Principles on physical markets and report back.¹⁶ This work has been taken forward under two parallel work streams by IOSCO and the IEA, IEF, and OPEC, working in liaison.

IOSCO

IOSCO's first implementation report examined the impact of the PRA Principles on oil market participants as it related to participation in the price submission process and on derivatives markets.¹⁷ IOSCO's review was qualitative, and conducted through the solicitation of written stakeholder comment and at a stakeholder meeting.¹⁸

The results of that outreach revealed that although some stakeholders suggested that the composition of participation in the price submission process had altered somewhat, overall the general volume of submissions and the quality of resulting price assessments themselves remained unchanged. There was general consensus that the pool of available data to PRAs for their assessments had not been reduced, because, where some types of price submissions had been scaled back (*e.g.*, concluded trades), other types of data (*e.g.*, bids and offers) were being submitted as an alternative. Feedback also suggested that there were some changes to the profile of market participants in this regard, with some stakeholders noting the broad market trend of reduced participation in the commodity markets from investment banks.¹⁹

¹⁶ Final Communiqué Meeting of Finance Ministers and Central Bank Governors Mexico City, 4-5 November 2012, available at <http://www.treasury.gov/resource-center/international/g7-g20/Documents/G20%20Ministerial%20Communique%20November%204-5-2012-Mexico%20City.pdf>.

See also Communiqué issued by Finance Ministers and Central Bank Governors, Moscow, February 2013, which, among other things, looked forward to IOSCO's report, in cooperation with IEA, IEF, and OPEC, of the impact of the PRA Principles on physical markets, available at https://www.g20.org/sites/default/files/g20_resources/library/Final_Communique_of_FM_and_CBG_Meeting_Moscow.pdf.

¹⁷ *Implementation of the Principles for Oil Price Reporting Agencies*, Final Report of the IOSCO Board (September 2014), pp. 10-12 at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD448.pdf>.

¹⁸ *See* IOSCO/MR/51/2013 *IOSCO Requests Public Comment on Continuing Implementation of PRA Principles*, IOSCO Media Release 18 December 2013 at: <https://www.iosco.org/news/pdf/IOSCONEWS313.pdf>. In February 2014, IOSCO, the IEA, IEF, and OPEC organized a stakeholder meeting. Invited attendees included the four main PRAs, oil majors, national oil companies and other physical and financial market participants, trade associations, other regulatory bodies and key derivatives exchanges.

¹⁹ *Implementation of the Principles for Oil Price Reporting Agencies*, Final Report of the IOSCO Board (September 2014), pp. 10-12 at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD448.pdf>.

As noted above, comments received in response to IOSCO's 2015 request for public comment on implementation of the PRA Principles²⁰ further supported the 2014 report's findings that there has been no observable decrease in either the quality or quantity of reporting to the PRAs.

IEA- IEF-OPEC

The IEA, IEF, and OPEC's parallel work focused on both the qualitative and quantitative aspects of the impact of the PRA Principles on the physical oil markets.

IEA, IEF, and OPEC first conducted a survey of oil market participants²¹ and received more than 50 responses from companies primarily in the exploration and production sector, thereby gathering a broader sample of the physical oil market participants than had responded to IOSCO's request for comment.²² The IEA, IEF, and OPEC published their qualitative report on April 27, 2015.²³

In summary, the IEA-IEF-OPEC report concluded that:

Based on the survey responses, physical oil market participants generally consider the Principles for Oil Price Reporting Agencies to have had a positive impact on the activities of Price Reporting Agencies. Improvements have been seen in the following areas: the functioning of PRAs; confidence in price assessments; transparency regarding changes to methodologies; and dialogue with PRAs surrounding methodological changes. The implementation of the Principles was not seen to have given rise to any new concerns, or to have materially impacted the engagement of physical market participants in the price assessment process so far in the period immediately following implementation.

The specific summary of findings set out by IEA, IEF and OPEC is as follows:

Observed Impact of the Principles on Price Assessments and Price Reporting Agencies Policies

More than half of the respondents characterized the overall services performed by the Price Reporting Agencies as 'acceptable, but with some room for improvement' while over a third chose the higher rating of 'satisfactory'. Only a few respondents characterized the services provided by PRAs as 'unsatisfactory'.

The vast majority of the respondents stated that the PRAs had provided sufficient transparency regarding the changes made in implementing the PRA Principles. A majority of

²⁰ See IOSCO/MR/04/2015 *IOSCO Requests Public Comment on Continuing Implementation of PRA Principles*, IOSCO Media Release 12 February 2015. <https://www.iosco.org/news/pdf/IOSCONEWS365.pdf> .

²¹ See *IEA-IEF-OPEC Survey on the IOSCO Principles for Price Reporting Agencies*. <https://www.ief.org/iea-ief-opec-survey-on-iosco-principles.aspx> .

²² Physical oil market participants comprise, for the majority of respondents to the IEA, IEF, OPEC survey, companies in the exploration and production sector. Responses also were received from physical market traders; companies engaged in with transportation storage and other logistics; investment banks and funds; industrial consumers; and the refining and petrochemical sector. The vast majority of respondents said they were subscribers to the services of one or more price reporting agencies. *Joint IEA-IEF-OPEC Report on the IEA-IEF-OPEC Survey of Oil Market Participants regarding the impact of the IOSCO Principles for Oil Market Price Reporting Agencies on the Physical Oil Market* (April 27, 2015).

²³ *Joint IEA-IEF-OPEC Report on the IEA-IEF-OPEC Survey of Oil Market Participants regarding the impact of the IOSCO Principles for Oil Market Price Reporting Agencies on the Physical Oil Market* (April 27, 2015).

the respondents stated that prior to the publication of the Principles they had concerns regarding oil price assessments by Price Reporting Agencies, although a significant share of respondents noted that they had not. Of the respondents that had concerns, a slight majority (55%) of respondents noted that the changes made by Price Reporting Agencies upon the implementation of the principles had not addressed their concerns, while a sizeable proportion (45%) said that they had. This response may appear inconsistent with the overall positive opinion regarding the impact of the Principles expressed throughout the survey. In the subsequent question, respondents state that prior concerns were related to assessments for crude oil and jet fuel, followed by diesel and naphtha and that the degree of existing concern corresponds to a rating of “somewhat concerned” or less. In this regard, the findings would be consistent with IOSCO’s evaluation of stakeholder feedback²⁴ which confirmed its “overarching conclusion that the initial efforts by the PRAs have brought significant changes to their policies and procedures” although there were some “residual concerns” that would be examined further in 2015 as the Principles take effect.

At the same time, when asked to rate the degree in which the PRA Principles had addressed specific concerns, respondents indicated that their concerns had been broadly addressed with regard to PRA’s responsiveness to questions; methodological transparency; logical reasoning when judgment is made; and details of underlying data. In describing concerns that had not been addressed and improvements that should be implemented, only a few responses were received and these generally called for greater granularity regarding individual assessments as well as further engagement with the market on methodologies.

The vast majority of respondents expressed the view that the PRA Principles had led to an improvement in activities of the PRAs, in terms of engagement with the subscribers, submitters and other market participants. More than half characterized this improvement as satisfactory and more than a third said that there was still room for improvement but no need for further action at this time. Only a few respondents said that there was need for further improvements, with one highlighting the need for greater consistency of approach among the various regions by the PRAs.

In terms of whether the Principles had given rise to any new concern in the physical market, few respondents believed that they had. Of those that did, areas identified included the quality of the data, followed by the quantity of the data, and increased regulatory burden and risk.

With regard to the complaint policies of PRAs, physical market participants considered policies for handling complaints to be adequate in overall terms of fairness, timeliness and transparency, although only a minority of respondents had filed complaints with the Price Reporting Agencies since the implementation of the Principles. The majority of physical oil market participants that had filed such complaints were satisfied with the procedures followed.

Regarding the level of transparency provided by Price Reporting Agencies, the vast majority of respondents rated PRA transparency as either satisfactory or acceptable. The main area in which there was room for improvement was seen to be the use of ‘reasoned judgment’ in the assessments, whereas consistency and data transparency were seen to be less of a concern. Moreover, the price assessments provided by the Price Reporting Agencies were largely viewed to be reliable indicators and representative of the physical market in which these physical market participants operated.

Overall, physical market participants stated that the implementation of the PRA Principles had positively impacted the following areas: transparency regarding changes in PRA methodologies; dialogue with PRAs

²⁴

See Implementation of the Principles for Oil Price Reporting Agencies.

surrounding methodological changes; confidence in price assessments; and the functioning of PRAs. On a whole, the implementation of the Principles had not led to a shift in the price references used by the respondents.

Observed Impact on Submissions to Price Reporting Agencies

The majority of survey participants stated that they had not previously provided information regarding their physical trading activities to Price Reporting Agencies and a large portion stated that implementation of the Principles had not changed their company's participation in the prices assessment process. However, a sizeable portion of respondents stated that the implementation of the PRA Principles had caused them to be more engaged in the price assessment process. The recent attention given to Price Reporting Agency assessments specifically, and other benchmarks more broadly, had so far had only a neutral impact on the willingness of respondents to provide trade data and/or market commentary to Price Reporting Agencies' price assessment processes. The effect of these developments on the volume of physical oil market participants' activities had also been neutral for the vast majority of respondents.

Overall, the impact of the Principles on the physical oil market trade activities of respondents was considered to be neutral to beneficial.

This qualitative assessment was further informed by a quantitative analysis completed by IEA, IEF and OPEC on 22 July 2015 and circulated to IOSCO Committee 7 for information and submission to the 3rd Energy Sustainability Working Group and the G20 Leaders' meeting taking place on 1 and 2 September in Izmir, and 15 and 16 November in Antalya, Turkey, respectively. The report consists of two parts: Section I provides descriptive statistics based on the whole time series giving the average and standard deviation of the differences between the daily assessments; Section II provides an inferential statistical analysis that focuses on a comparison between Platts and Argus price assessments. The conclusion of the report states the following:

Taken together, the results of both the descriptive statistics and the inferential statistical analysis find that the PRA assessments have seen a greater convergence for the crudes considered in the period since the implementation of the PRA Principles and can be considered to be broadly comparable.

It is important to note that the PRA assessments are the product of three independent organisations assessing, in a competitive setting, inherently complex heterogeneous physical grades that are traded in active international markets. Given that there are a range of equally valid methodologies for identifying prevailing open-market price levels, some degree of difference between PRAs' price assessments is likely to persist.

Having said that, the overall comparability of these independently arrived assessments, and the degree of convergence seen since the implementation of the PRA Principles, can be considered as a positive development for energy market transparency.

VI. Meeting with Four Main PRAs

At a meeting on May 29, 2015, IOSCO Committee 7, IEA and IEF²⁵ met with the four main PRAs, Argus Media, ICIS, OPIS and Platts for a question and answer session to review progress in implementing the PRA Principles.

All of the PRAs commented that they had continued to embed the PRA Principles into their operations and that the responses from their subscribers were positive. The general view was that the changes made over the past year provided the PRAs themselves with stronger management and operational controls, which in turn provided subscribers with clearer and more accurate information about the methodologies and individual price assessments, PRA procedures and avenues for engagement with the PRAs.

The PRAs also stated that they viewed the PRA Principles as appropriate to be applied across all commodities.

The PRAs spoke frankly about the cost of compliance, which included the additional technology needed to institute the controls called for by the PRA Principles, the annual external reasonable assurance reviews, as well as the staff time needed to prepare for those assurance reviews. The PRAs generally asserted that the benefits of implementation were a net positive. Several of the PRAs, however, suggested that IOSCO consider whether the continued use of the higher standard reasonable assurance reviews provided sufficient benefits going forward. Several PRAs suggested that they were comfortable with the higher reasonable standard, but thought that a audit schedule of once every two years would be appropriate, particularly now that the PRAs' implementation of the PRA Principles has been corroborated by two assurance reviews. All of the PRAs thought that conversion to such a once every two year assurance review cycle would moderate the cost of compliance by freeing up staff who otherwise are devoted to preparing for the now yearly assurance reviews.

Several PRAs discussed the competitive issues surrounding assurance standards. One PRA stated that it did not think that a higher reasonable assurance standard hampered competition; nor should IOSCO take on the role of a competition authority in such matters. Another PRA suggested that while it was content to have assurance reviews at the higher reasonable standard, IOSCO might consider whether there should be a threshold trigger applied to smaller, specialized or new entrant PRAs (e.g., perhaps by trading volume) before the higher standard applied. Another PRA noted that the logic of such a trigger threshold could also apply to newly developed benchmarks that were just reaching some degree of market acceptance.

Several PRAs stated that as the PRA Principles are a global standard, fairness dictated that every PRA should be treated equally. One PRA was concerned that if users could go to a smaller competitor, who had an accommodation on assurance review standards, it would give the smaller competitor a cost advantage.

The PRAs discussed the impact, if any, of the PRA Principles on the willingness of submitters to submit data to the PRAs. Although no hard evidence of any inhibition of submissions was presented, some PRAs felt that the general regulatory environment was inhibiting the willingness of some submitters to contribute data. One PRA noted that it had discussed holding a conference with major submitters to discuss concerns, but that a major oil company was concerned about the legal exposure of attending and making public its views. Another PRA corroborated that it too had a similar

²⁵ Due to scheduling issues, Committee 7 was unable to hold a meeting at a time that was available for OPEC to attend. Although OPEC was unable to attend the meeting, OPEC representatives were provided with the meeting materials and post-meeting drafts. The current report has taken into account OPEC's comments and suggestions.

discussion with a major submitter. All of the PRAs urged IOSCO to issue a statement to urge market participants to submit data as it would improve the overall reliability of assessments.

VII. PRAs under Review

IOSCO notes that when it published the PRA Principles, it called for the voluntary adoption and implementation of the PRA Principles by PRAs without distinction as to the identity, size, or market impact of particular PRAs.²⁶ To date, IOSCO's implementation review has focused on the four main PRAs that initially voluntarily adopted and implemented the PRA Principles.²⁷ In its 2014 implementation report, IOSCO determined that it should examine the extent to which entities other than those four main agencies, which also perform PRA activities, produce assessments that are referenced by oil derivatives contracts, and whether it is appropriate to bring these other entities within the scope of IOSCO's review of implementation of the PRA Principles.

A survey conducted by IOSCO Committee 7 revealed that only a small number of PRAs, other than the four main PRAs, were producing oil and oil-product assessments that are referenced in commodity derivatives. However, currently available data reveals that trading volume in those listed derivatives is minimal.

Given the minimal level of price assessment activity in listed oil and oil-product derivatives by PRAs other than the four main PRAs, IOSCO concludes that a formal review of those entities is not merited. IOSCO notes in particular that information provided by a PRA indicates that exchanges in the US, UK, and Singapore are requiring a successful assurance review or audit either before listing a physical commodity derivative or shortly thereafter. Moreover, at least one of the other PRAs identified by IOSCO indicates on its website that it intends to follow the IOSCO PRA Principles and has engaged an audit firm to provide external assurance of compliance.²⁸ This information suggests that the IOSCO PRA Principles are recognized as a global standard and that market forces are operating to encourage PRAs that produce price assessments in oil and oil products to comply with the PRA Principles. Although no further action is contemplated at this time, IOSCO will continue to monitor the situation.

VIII. Conclusion and Next Steps

IOSCO's implementation review has drawn on a variety of inputs: IOSCO's engagement with the four main PRAs, responses from stakeholders to requests for public comment, external assurance reviews and the survey conducted by the IEA, IEF, and OPEC. IOSCO's objective in conducting its review was to determine whether it reasonably can conclude that the four main PRAs have taken the necessary management actions, and adapted their operational policies to conform to the IOSCO PRA Principles such that the structure envisioned by the PRA Principles has become an integral part of the PRAs' management policies and operational practices. Based on the totality of inputs considered, and in particular the external assurance reviews conducted under the higher reasonable standard, IOSCO concludes that the PRAs have made the PRA Principles an integral part of their management policies and operational practices.

²⁶ *Implementation of the Principles for Oil Price Reporting Agencies*, Final Report of the IOSCO Board (September 2014), pp. 19-20 at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD448.pdf>.

²⁷ Argus Media, ICIS, OPIS and Platts.

²⁸ RIM Intelligence indicates that it has engaged an auditor to ensure compliance with the IOSCO PRA Principles. See <https://www.rim-intelligence.co.jp/contents/info/PraEn.pdf>. Following this action, a report on some commodities has been published and disclosed on its website <https://www.rim-intelligence.co.jp/contents/info/prainfoEng20150811.pdf>

IOSCO's evaluation of stakeholder feedback indicates stakeholders generally consider the PRA Principles to have had a positive impact on the activities of the PRAs. This feedback is also corroborated by IEA-IEF-OPEC's review which reflects a broad sample of physical oil market participants. The most recent stakeholder comment and the IEA-IEF-OPEC review indicate a general level of satisfaction regarding the modalities by which the PRAs notify stakeholders of changes to methodology and provide opportunity for comment and, where exercised, the operation of the complaints process by which issues may be raised. The IEA-IEF-OPEC review notes that the majority of physical oil market participants that had filed complaints were satisfied with the procedures followed.

The 2014 implementation review noted that stakeholders discussed whether there was sufficient transparency in the changes the PRAs had made to their price assessments and whether this process provided sufficient opportunity for stakeholders to engage and influence the outcome in a productive and transparent manner. However, stakeholders also noted a counterbalancing fear of anti-trust issues arising when proposed changes to price assessments are discussed with PRAs, in the context of both open and closed meetings. These stakeholders considered that this was particularly important where changes impacted derivative markets, because, given the potential effect on financial markets, they thought it necessary to be able to share views and ideas without such risk arising. IOSCO notes this perspective and remains open to future dialogues regarding issues that are relevant to any future development of the PRA Principles.

Next Steps

Further Reviews of the Four Main PRAs

This review has addressed the implementation of the IOSCO Principles for Oil Price Reporting Agencies by the four main PRAs (Argus Media, ICIS, OPIS and Platts). Given the progress that has been evidenced to date, the commitment by the four main PRAs to continue adhering to the PRA Principles, and to undergo independent external assurance reviews, IOSCO, IEA, IEF and OPEC do not believe that further annual implementation reviews will be necessary at this time.

However, IOSCO, IEA, IEF and OPEC will continue to monitor the PRAs' activities primarily through monitoring the results of subsequent external assurance reviews, ongoing communication with the PRAs and interested stakeholders. IEA, IEF and OPEC will continue to be alert for continuing impacts, whether positive or negative, of the PRAs activities on the physical oil markets.

IOSCO concludes that an opportune time to take stock of the application of the PRA Principles, should evidence warrant this, would be in conjunction with its planned second formal review of implementation of the Principles for Commodity Derivatives Markets.²⁹ IOSCO will keep IEA, IEF and OPEC informed of any plans to conduct such a further review.

Concerns Raised by the Four Main PRAs

²⁹ In 2012 IOSCO published its *Survey on the Principles for the Regulation and Supervision of Commodity Derivatives Markets*. <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD393.pdf>. In 2014, IOSCO prepared an update report for the G20 Brisbane Summit. *Update to Survey on the Principles for the Regulation and Supervision of Commodity Derivatives Markets*. <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD449.pdf>. In that report, IOSCO noted that because a number of initiatives remain under development and/or in various stages of implementation, a more definitive analysis of those initiatives will be provided through further work that will be conducted in due course when the majority of the most significant initiatives reach key milestones.

As discussed above, at IOSCO Committee 7's most recent meeting, the four main PRAs raised a number of concerns regarding the timing of audits, as well as the appropriate standard, particularly in light of national or regional regulation of benchmarks that in their view could conflict with the IOSCO PRA Principles annual assurance requirements."

With respect to concerns about a possible conflict between the IOSCO PRA Principles and national law, IOSCO confirms that PRA Principles are not intended to supersede existing laws, regulations or relevant regulatory or supervisory frameworks in specific jurisdictions, including any IOSCO Principles or undertakings agreed with regulatory authorities relating to a specific type of benchmark, or a related activity.³⁰

The remaining issues raised by the PRAs concerned the impact of compliance on PRAs generally, the appropriateness of the reasonable assurance standard and what action, if any, IOSCO should take with respect to encouraging oil market stakeholders to submit data. These will be reviewed by IOSCO in liaison with IEA, IEF and OPEC for further consideration.

Other PRAs

As discussed above IOSCO, IEA, IEF and OPEC have concluded that based on information received to date, there are no other notable PRAs that conduct price assessments in oil and oil-products towards whom IOSCO's attention should be specifically directed. This conclusion is based primarily on the minimal level of activities detected with respect to the very small number of other PRAs in oil. IOSCO, in consultation with IEA, IEF and OPEC, will however continue to monitor whether the oil price assessments of other PRAs achieve a material volume in derivatives instruments.

³⁰ This position is similar to the position taken with respect to the interaction of the IOSCO Principles for Financial Benchmarks with national law. See *IOSCO Principles for Financial Benchmarks* (2013) page 8, in which IOSCO stated: "The Principles are not intended to supersede existing laws, regulations or relevant regulatory or supervisory frameworks in specific jurisdictions, including any IOSCO Principles or undertakings agreed with regulatory authorities relating to a specific type of benchmark, or a related activity. Rather, these Principles are intended to provide guidance to Administrators, Submitters and regulators and supplement existing IOSCO Principles."