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CHAPS Co

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To Financial Stability Board (FSB)

From CHAPS Co Legal & Regulatory Unit

RESPONSE TO CONSULTATIVE DOCUMENT DATED 16TH DECEMBER 2016: GUIDANCE ON CONTINUITY OF ACCESS TO FINANCIAL MARKET INFRASTRUCTURES ("FMIs") FOR A FIRM IN RESOLUTION

CHAPS Clearing Company Ltd (hereinafter "CHAPS Co" or "the Company") welcomes the opportunity to respond to the above Financial Stability Board (hereinafter "FSB") Consultation. As communicated during the FSB roundtable attended by CHAPS Co on 8th February 2017, attendees have been provided with an extended deadline of 17th February 2017 for responding.

CHAPS Co is the UK electronic Payment System for high value and systemically important transactions which settle across the Bank of England's Real Time Gross Settlement (RTGS) system, thereby achieving irrevocable finality at the point of settlement.[1] Daily average settlement values exceed £299 billion with a direct participant base of 24 major financial institutions whom, in turn, service over 5,000 other financial institutions on an indirect basis (primarily via international Correspondent Banking relationships).

The CHAPS System is a central bank money settlement system and wholesale payments system. As such it processes 92% of the value of all Sterling payments, but only 0.5% of the volume of all Sterling payments. Whilst the major volumes of Sterling payments are predominantly processed by the retail payment and bulk payment clearing systems, CHAPS Co is, and always has been used for retail transactions. Additionally, because it removes settlement risk from payments, it is the preferred mechanism within the house conveyancing market.

[1] Finality of settlement is underpinned by CHAPS' designation as a "system" by the Bank of England, as the relevant designating authority under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (the "SFRs"), which implement the EU Settlement Finality Directive 98/26/EC in the United Kingdom.

CHAPS Co

CHAPS Co is a Recognised System under the 2009 Banking Act[2] and is thereby supervised by the Bank of England in its statutory supervision capacity. Since 1 April 2015, CHAPS Co is also supervised by the Payment Systems Regulator (PSR) by virtue of HMT's Designation Order of 19 March 2015.

At a governance level, CHAPS Co operates as a standalone company which is limited by shares. These are issued on an equal basis to each of the financial institutions which directly participate in the CHAPS system. CHAPS Co's Board is currently comprised of an Independent Chairman, Independent Directors and CHAPS Co Participant Directors.

Response to Consultation Questions

1. *Does the consultative document appropriately address the tensions that may arise between the various financial stability objectives, with regard to the safety and soundness of providers of critical FMI services on the one hand and to the orderly resolution of the recipients of such services on the other?*

CHAPS Co agrees that the consultative document appropriately addresses the tensions that may arise as outlined in the question above. As a systemically important payments system, provisions contained in the CHAPS Reference Manual (CRM)[1] allow CHAPS as a designated FMI to exercise its discretion in managing its risks and protecting its Participants whilst also supporting continuity of payment services as may be directed by our resolution authority.

2. Do you agree with the overall scope of the guidance and the proposed definitions, in particular the services and functions captured in the definition of 'critical FMI services'? Should any of the definitions be amended? If so, please explain.

CHAPS Co agrees with the overall scope of the guidance and the proposed definitions as outlined in the question above. We would suggest that, where appropriate, it might be helpful to reference the fact that in some cases, the provider of the "Critical FMI services" may be separate and distinct from the manager or operator of a payment system.

3. What are your views on the proposal in sub-section 1.1 of the consultative document that providers of critical FMI services clearly set out in their rulebooks or contractual arrangements the rights, obligations and applicable procedures in the event of an FMI participant entering into resolution?

See our answer at Q1 above. Our publicly available CRM clearly and transparently sets out the key rights and obligations in the event of an FMI participant entering into resolution.

4. Sub-section 1.1 of the consultative document proposes that the exercise by the provider of critical FMI services of any right of termination or suspension of continued access to critical FMI services arising during resolution of an FMI participant be subject to appropriate procedures and adequate safeguards. What are your views on those procedures and safeguards? In your answer, distinguish where relevant depending on whether the firm that enters resolution continues or fails to meet its payment, delivery and collateral provision obligations to the FMI or FMI intermediary.

See our answer at Q1. Additionally, given that CHAPS payments settle across the Bank of England's Real Time Gross Settlement Service, we will we have to work closely with the Bank of England in any such situation.

5. Sub-section 1.2 of the consultative document proposes that the general rights, arrangements and applicable procedures of a provider of critical FMI services that would be triggered by entry into resolution of an FMI participant, its parent or affiliate, should be the same irrespective of whether the firm entering into resolution is a domestic or foreign FMI participant. What safeguards should be considered and what measures are needed to ensure a consistent approach is taken across providers of critical FMI services to these safeguards?

Whilst we agree in principle to this proposal, any implementation of it will ultimately depend on clarity and communication between the FMI, the FMI's resolution country, the FMI Participant and the FMI's home country

[1] Found at http://www.chapsco.co.uk/sites/default/files/documents/chaps_reference_manual_13_feb_2017.pdf

resolution authority.

6. What are your views on the proposal in sub-section 1.4 of the consultative document that providers of critical FMI services should engage with their participants regarding the range of risk management actions and requirements they would anticipate taking in response to the resolution of an FMI participant? Does this strike the right balance between the objectives of orderly resolution and the FMI or FMI intermediary's prudent risk management?

CHAPS Co has no comment.

7. Do you agree with the proposal in section 2 of the consultative document that firms should be required to develop contingency plans to facilitate continuity of access in both the lead-up to, and upon entry into, resolution? Does the consultative document address all aspects of the information and analysis that may be required for such contingency plans?

We are supportive of contingency plans facilitating continuity of access not just in resolution, but in the lead up/runway period where recovery activities are ongoing. In previous financial crises, market counterparties reduced exposure to perceived weaker institutions, exacerbating financial stress and ensuring that whilst firms technically remained active participants in payments systems, their settlement volumes and values reduced. Contingency plans and stress/scenario analyses should cover the impact of such counterparty behavioural changes in the run up to a resolution event.

8. Are there any aspects of the proposed guidance that should apply differently according to whether access to a critical FMI service is provided directly by an FMI or custodian, or indirectly by an FMI intermediary? If so, please describe with reference to the particular section(s) of the proposed guidance, and include your views on how that section(s) should differ.

CHAPS Co has no comment.

9. Does the consultative document identify all relevant requirements and pre-conditions that a firm may need to meet to support continuity of access in both the lead-up to, and upon, resolution? What other conditions or requirements, if any, should be addressed?

CHAPS Co has no comment.

10. Does the consultative document identify appropriate methods for providing the information and communication necessary for key decision making during the resolution of an FMI participant? Are there additional safeguards that could be put in place that would ensure adequate levels of transparency in the lead-up to, and upon resolution?

CHAPS Co has no specific comment but welcomes any initiative that would allow FMIs and critical FMI service providers to have adequate levels of transparency and information sharing protocols to assist in this respect.