

FSB Continuity of Access to FMIs for Firms in Resolution

Streamlined information collection to support resolution planning



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Executive summary

In May 2019, the FSB held a workshop with industry on continuity of access to FMIs for firms in resolution¹ to discuss possible actions that could be taken to assist authorities and firms in implementing the FSB Guidance on Continuity of Access to Financial Market Infrastructures (FMIs) for a Firm in Resolution of 2017 ('Guidance').²

The Guidance sets out arrangements and safeguards to facilitate continuity of access to FMIs for a firm in resolution. Authorities and firms face similar information needs as they develop their resolution plans and engage with FMIs on arrangements and safeguards to address continuity of access in resolution issues.

As one of several outcomes of the workshop, to reduce the burden of duplicative information gathering efforts, it was suggested that the process of collecting certain baseline information relevant to continuity of access in resolution could be streamlined through the use of a common template or questionnaire for gathering the relevant information. This could reduce the "many to one" nature of inquiries from banks and authorities to FMIs, streamline the provision of this information from FMIs to firms and authorities, and streamline the information gathering process for firms who are members of multiple FMIs.

In the second half of 2019, the FSB's Cross-border Crisis Management Working Group for banks (bankCBCM), in consultation with FMIs and banks, developed a draft questionnaire and consulted relevant FMI oversight authorities with the assistance of CPMI-IOSCO Secretariats. The FSB then finalised the attached questionnaire.³

All FMIs are encouraged to complete the questionnaire and to publish their responses, or to make them available in other ways to FMI service users and resolution authorities to inform their resolution planning. As the relevant authorities of firms and those of FMIs play a significant part in facilitating the continuity of access to FMIs of a firm in resolution,⁴ it is important that relevant authorities, including those of FMIs, be informed and involved in the process as needed.

This questionnaire is a living document. The experience will be evaluated after the first iteration, in the course of 2021. FMIs and banks, as well as other stakeholders, will then have the opportunity to provide feedback and suggestions on the questionnaire itself and the process.

¹ FSB (2019) *Industry workshop on continuity of access to FMIs for firms in resolution - Informal Summary of the Workshop*, May.

² FSB (2017) *Guidance on Continuity of Access to Financial Market Infrastructures (FMIs) for a Firm in Resolution*, July.

³ This questionnaire focuses on FMI participants that are banks subject to resolution planning, but relevant authorities could also use it as a basis for resolution planning interaction with other FMI participants.

⁴ See Section 3 of the Guidance, Co-operation among authorities and communication between authorities, firms and providers of critical FMI services".

Process and tentative timeline

The FSB encourages FMIs to consider the below indicative timeline for providing a standardised set of responses. Along the way, the FSB will offer to hold information sessions where industry will be welcome to ask questions about content and process.

Timing	Action
August 2020	Publication of the questionnaire
September 2020	Q&A session(s) through webinars
October/November 2020	FMIs liaise with their overseers/supervisors on publication process
November/December 2020	Finalisation of questionnaire responses and submission to authorities and FMI participants; publication of the responses or 'presumptive path' summaries
2021	Evaluation of the experience so far and possible adjustment of the process/questionnaire Update of questionnaire responses as appropriate Taking forward the further recommendations from the workshop

Questionnaire for FMIs

1. Overview

A key objective of effective resolution is to maintain financial stability and the continuity of a bank's critical functions. This requires a firm in resolution to maintain continued access to critical clearing, payment, settlement, custody and other services provided by financial market infrastructures (FMIs).⁵ Access to FMIs is essential for banks⁶ to be able to continue performing their critical functions⁷ under all circumstances, including in cases where banks need to be resolved. Potential loss of access to any of the FMI's services is thus considered a key impediment to resolution. Three levels of access are to be kept in mind: 1) membership/participation (maintaining a valid contract with the FMI); 2) ability to send new transactions; and 3) ability to use ancillary services.

The Financial Stability Board's (FSB) *Guidance on Continuity of Access to Financial Market Infrastructures (FMIs) for a Firm in Resolution of 2017* ('Guidance')⁸ sets out arrangements and safeguards to facilitate continuity of access to FMIs for a firm in resolution. These apply at the level of the providers of FMI services (FMIs), at the level of FMI participants (firms, banks, participants, members, or service users) and at the level of the relevant resolution authorities (RAs) and supervisory authorities.

The FSB made a commitment to consider what further actions could be taken to assist authorities and firms in implementing the Guidance. Authorities and firms face similar information needs as they develop their resolution plans and engage with FMIs on arrangements and safeguards to address continuity of access in resolution issues.

The use of a common questionnaire for collecting certain baseline information relevant to continuity of access in resolution should help reduce the burden of information gathering and unnecessary duplication. FMIs will be encouraged to publish their responses to the questionnaire, taking into account any confidentiality concerns, to ensure that all participants/members and RAs have access to the same baseline information. (See Section 3 below, "Publication of the responses to the questionnaire").

The questionnaire should help authorities and firms to understand, and to the extent possible anticipate, the potential action that FMIs could take in a resolution or in the lead-up to resolution, and how FMIs can support resolution actions where necessary and possible.

The information collected should serve as a basis for and supplement to an appropriate level of direct engagement between firms and/or resolution authorities and FMIs regarding actions

⁵ FMIs include payment systems, securities settlement systems, central securities depositories, and central counterparties. While questions in this questionnaire could also apply to FMI intermediaries, at this stage the latter are not in scope. Development of a questionnaire aiming more specifically at FMI intermediaries is under consideration.

⁶ Some participants of FMIs may not be banks. While this questionnaire focuses on bank participants, relevant authorities could use it as a basis for interaction with FMIs on non-banks.

⁷ Activities performed by a firm for third parties, the sudden discontinuation of which may lead to financial instability or impact the real economy. Examples of critical functions may include, but are not limited to, deposit-taking, lending, payment and settlement services, capital market activities and wholesale funding.

⁸ See FSB *Guidance on Continuity of Access to Financial Market Infrastructures (FMIs) for a Firm in Resolution*, 2017 (July).

in recovery and resolution of firms, or any other resolution planning requirements for firms in any jurisdiction.

The questionnaire is not exhaustive. Authorities and firms may require additional FMI-specific information for purposes of resolution planning.

As stated in the FSB Guidance, whether or not an FMI service user (or its parent or affiliate) is in resolution, the FMI should “retain the ability, as specified in its rules or contractual arrangements, to terminate, suspend or restrict participation or continued provision of critical FMI services where the firm fails to meet payment, delivery or other obligations or where the safe and orderly operations of the provider of critical FMI services could be compromised.” Nothing in this questionnaire should be read as seeking to modify the Guidance. An FMI’s responses to this questionnaire should be considered indicative and not as a firm commitment to how the FMI may or may not use any discretion under its rules or contractual framework.

2. Structure of the questionnaire and instructions for completion

The questionnaire is composed of five parts covering:

1. general information on the FMI and its legal structure;
2. information on the rulebook / contractual provisions regarding termination;
3. the phase prior to resolution, during signs of distress at the FMI participant;
4. the resolution phase; and
5. arrangements and operational processes to facilitate continued access in resolution.

When responding to the questionnaire, please:

- i. reference relevant regulatory or rulebook/contractual provisions whenever possible;
- ii. clearly distinguish in each answer whether the response relates to direct or indirect participants or both;
- iii. clarify in each answer whether your answer applies to all types of services that your FMI provides (please consider separate questionnaire responses in case services are very different);
- iv. consider, to the extent relevant, all roles that banks may fulfil in the FMI’s ecosystem (intermediary, nostro agent, liquidity provider etc.);
- v. provide precise cross-references to answers provided in preceding parts of the questionnaire and/or in hyperlinked public documentation if this is useful to avoid the risk of competing published texts; and
- vi. provide any additional clarifications and explanations when answering the questions.

There may be questions or answers that could be more specifically targeted to different types of FMIs (e.g. CSDs, CCPs); supplemental explanations can be provided in these cases as well.

3. Publication of the responses to the questionnaire

For greater transparency and to optimise the efficiency of the information flow from an FMI to its participants, FSB member authorities prefer for the responses to this questionnaire to be made publicly available. FMIs are encouraged to discuss the process for publication with their supervisors and overseers as part of their regular engagement.

Where FMIs identify any answers that cannot be made public for reasons of confidentiality, they are nevertheless encouraged to share them (i) with direct and indirect participants upon request; and/or (ii) with authorities.

Where FMIs choose not to publish their responses due to confidentiality concerns, FSB encourages publication by FMIs of the set of responses that is not subject to such concerns, or, at a minimum, non-binding 'presumptive path' summaries of their presumptive reaction to a FMI participant (i) experiencing distress (which may result in the member being suspended or placed into default by the FMI), or (ii) entering into resolution (to understand the differences in treatment of a firm in resolution).

FMIs will be encouraged to review and update their questionnaire responses annually as well as upon material changes to their rulebooks or contractual agreements.

4. Definitions for the purposes of the questionnaire

A Financial Market Infrastructure (“**FMI**”) is, as defined by the Key Attributes⁹, “a multilateral system among participating financial institutions, including the operator of the system, used for the purposes of recording, clearing, or settling payments, securities, derivatives, or other financial transactions”. As used in this questionnaire, an FMI includes payment systems, central securities depositories (CSD), securities settlement systems (SSS), and central counterparties (CCP). It does not extend to trade repositories or to trading platforms.

The “**bridge institution**” tool aims to set up a bank that can be disposed (thus preserving the critical functions of the failing bank) and to separate it from the rest. It can be applied to maintain the bank’s critical functions, while searching for a third party purchaser. The tool allows for the transfer of i) instruments of ownership issued by one or more institutions under resolution or ii) all or any assets, rights or liabilities of one or more institutions under resolution to a bridge institution. A temporary bridge institution (also known as a bridge bank) is created and critical functions will be maintained until a sale to a private purchaser can be concluded. Any residual part of the bank that has not been sold is then subject to ordinary insolvency proceedings.

⁹ See FSB *Key Attributes of Effective Resolution Regimes*, 2014 (October)

“Critical functions” are activities performed by a firm for third parties where failure would lead to the disruption of services that are vital for the functioning of the real economy and for financial stability due to the size or market share of the financial institution or group, its external and internal interconnectedness, and complexity and cross-border activities.

“Critical FMI services” are clearing, payment, securities settlement and custody activities, functions or services, the discontinuation of which could lead to the collapse of (or present a serious impediment to the performance of) one or more of the firm’s critical functions. They include related activities, functions or services whose on-going performance is necessary to enable the continuation of the clearing, payment, securities settlement or custody activities, functions or services. Critical FMI services are identified in the course of the resolution planning for a firm and may be provided to a firm either by an FMI, or through an FMI intermediary.

“Critical services” or **“critical shared services”**. This is an activity, function or service performed by either an internal unit, a separate legal entity within the group or an external provider, performed for one or more business units or legal entities of the group, the failure of which would lead to the collapse of (or present a serious impediment to the performance of) critical functions.

An **“FMI intermediary”** is an entity that provides clearing, payment, securities settlement and/or custody services to other firms in order to facilitate those firms’ direct or indirect access to an FMI.

The terms **“FMI service user,” “client,” “firm,” “bank,” “participant,” or “member”** are used interchangeably in this document to mean a legal entity that is an institution or a group that has access to critical FMI services.

A **“group”** means a parent undertaking and its subsidiaries.

An **“institution”** refers to a ‘credit institution’ or an ‘investment firm’.

A **“provider of critical FMI services”** is an FMI or FMI intermediary that provides critical FMI services.

“Resolution” refers to the exercise of resolution powers or tools by any resolution authority in relation to a firm (including in relation to a parent company and/or any of its affiliates) pursuant to the resolution regime in the firm’s jurisdiction.

Part I: Legal entity and general contract/service information:

1. Please provide the following details:
 - a) Full Legal Name
 - b) Legal Entity Identification Number (LEI)
 - c) Jurisdiction of incorporation and registered number in the relevant corporate registry
 - d) Supervisory, resolution or other relevant regulatory authority responsible for overseeing the activities of your organisation in (i) the relevant jurisdiction(s) of incorporation, and (ii) if different from the jurisdiction of incorporation, the relevant jurisdiction(s) of operation. Where an FMI is overseen by more than one regulatory authority, please also indicate which is the principal/ home regulator of the FMI and the relevant function(s) regulated by the respective authorities.
 - e) The ownership arrangement of the legal entity (e.g. is it majority owned by its users?)
2. Please provide the following information:
 - a) Hyperlink to the published FMI disclosure template under the Disclosure Framework for Financial Market Infrastructures.¹⁰
 - b) a list or description of services provided, including a summary of the key ongoing access requirements that you require of members for each service (including operational, financial, and capital requirements).
3. Do your members/ clients access your services directly or through an intermediary?
4. Do your members/ clients need a specific software or IT programme to receive your services? If the answer is 'yes', is such software/ IT programme your proprietary product or a specific third party product (please also consider whether specific plug-ins that you require clients to run only run in combination with certain software, e.g. Microsoft products)?
5. If your contracts are all governed by one governing law, please specify which governing law this is. If there are different governing laws, please specify the main governing laws applicable and explain whether this is dependent on the location of the services provided or as negotiated with the members/ client, or any other reason.
6. Are there any other service providers or FMIs (for example, CSDs, payment systems or other infrastructure) that a member / client would need to have access to in order to receive your services? Please provide the names of those types of service providers and their regulatory status, where applicable.

¹⁰ See BIS-IOSCO, *Principles for financial market infrastructures: Disclosure framework and Assessment methodology*, 2012 (December).

7. Does your operating framework recognise the continued operations of FMI participants once they enter into resolution (e.g. as under the Bank of England's Resolvability Assessment Framework, or the Single Resolution Board's Expectations for Banks)?

Part II: Rulebook / Contractual provisions regarding termination¹¹

8. Discretionary termination rights.
- a) Rule Book / Participation agreement provisions: which provisions give rise to a right to terminate a service user's access? Are the FMI's termination provisions disclosed publicly? If so, please provide any link(s) to that information.
 - b) Are these provisions based solely on objective criteria, or can the FMI exercise judgement when triggering termination?
 - c) Does the FMI use 'forward looking' indicators that may trigger termination, and if so, which ones?
 - d) Do the FMI's provisions envisage that (i) financial stress on the participant's side (as defined in its provisions – please provide the definition of such stress) and/or (ii) a resolution event (recognised in the relevant jurisdiction) qualifies as a material change that may trigger termination?
 - e) During stress or resolution of the member, are actions by other FMIs taken into account as possible indicators or triggers for termination?
 - f) Are there any other relevant provisions regarding termination? If so, please explain why they are necessary for the FMI to enable rights for termination.
9. Suspension or restriction of membership.
- a) Does your framework allow for suspension or restriction of a participant's membership rather than termination? If yes, what exactly does this imply (for instance, limiting the right to enter new transactions in the system)? Please explain any differences to termination.
 - b) Is there a specific timeline for a suspension period before it leads to termination of membership, and are there circumstances where suspension may be lifted without a termination of membership?
10. Critical FMI service rules, contractual arrangements, or procedures should reflect any legal restrictions on termination and suspension of access because of an FMI service user entering into resolution (FSB 2017 Guidance, 1.1).

¹¹ If your FMI also has the option to suspend rather than terminate membership, please specify for each answer whether and how it would differ for suspension. Please also note Question 4, which asks about the details of suspension in your FMI's provisions.

- a) In what way do your rules, contractual arrangements and procedures reflect this?
 - b) Do such arrangements include the effect of parent or affiliates entering resolution?
 - c) Do you have any plans to amend or otherwise change, or have you recently changed your rules, contractual arrangements or procedures to address legal restrictions on termination of access in the event that an FMI service user enters resolution? If so, please provide details of the proposed/applied changes.
11. Triggers, procedure and consequences of termination of FMI participation.
- a) Triggers: in which situations would termination be considered? Is participation/membership generally terminated in case of financial stress? Are these criteria clearly outlined in the rulebook or other contractual documentation (please include the relevant references)?
 - b) Please explain the management and monitoring around the termination process - steps and timelines of the escalation and decision-making, as well as of the implementation of termination. (Please provide concrete examples, if any, of participation/membership terminations and flag, where relevant, any changes made to the termination process since).
 - c) What are the consequences of termination on the participant/member's ability to access the FMI's services? Would the firm be able to complete the processing of any outstanding transactions (e.g. not accepted for clearing or settlement, or in process but not complete) it has in the FMI's systems, or are these cancelled or liquidated?
 - d) Would the decision to terminate participation/ membership be notified ex ante (i.e. before it takes effect) to the competent authorities of (i) the direct participant and/or of (ii) the FMI? Would this decision be communicated ex ante to the participant itself? On both aspects, how long in advance of actual termination would such notifications occur?
 - e) What impact would a participant/member's termination have on their parent/subsidiaries' direct membership in the FMI?
 - f) Does the FMI have cross-default provisions in its rule set? Could it put a member in default because of an affiliate's insolvency or of an indirect participant/client's default or do the rules explicitly prevent or exclude such automatic termination (as long as other obligations are being met)?
 - g) What assistance would the FMI provide with the porting (within the FMI) of the participant's direct and/or indirect positions/outstanding transactions to a parent/subsidiary membership, third party successor or bridge entity?
 - h) Please discuss any other points related to termination.
12. FMIs should retain the ability, as specified in rules or contractual arrangements, to terminate, suspend or restrict participation or continued provision of services where the

firm fails to meet obligations or where safe and orderly FMI operations could be compromised (FSB 2017 Guidance, 1.1).

- a) Under what conditions, if any, could safe and orderly FMI operations be at risk from maintaining participation of a service user in resolution?
 - b) Which indicators, if any, can a participant use to anticipate that such a scenario may occur?
13. Are there any further aspects or issues to mention in relation to the provisions for termination or suspension of membership? If possible, please provide concrete examples of specific factors that were considered in the past when assessing whether to exercise judgement to terminate or suspend a participant's access. Please elaborate.

Part III: Prior to resolution, during signs of distress at the participant

The questions in this section assume a situation of stress, in which one of the FMI's (direct) participants/members, or an affiliate company, exhibits signs of distress. Please distinguish in case there are differences between situations of idiosyncratic vs. market stress.

To avoid duplication, respondents may cross-reference other answers when appropriate.

14. What management and monitoring process(es) does the FMI have in place to identify a situation of stress of a (direct) FMI participant or its affiliate?
15. Which indicators does the FMI consider as part of its management and monitoring in order to determine whether its participants/members face difficulties due to idiosyncratic and/or market stress (outside of entry into resolution)?
16. What risk mitigation actions could the FMI take under its rules / internal procedures vis-à-vis the participant or member? Which of those potential actions are likely, i.e. to be expected by the firm? How would risk mitigation vary in the event of mild, moderate, and severe stress situations at a participant/member? Could actions be taken even though the participant/member meets its obligations?
17. What self-reporting requirements are placed on the member/participant in a situation of stress (e.g. additional reporting, increased reporting frequency; evidence of operational and financial capacity)? Please provide any templates or overviews of required data points, where available.
18. Please explain the methodology used to calibrate additional membership requirements (including operational, financial and capital requirements) for a member/client in financial stress outside of resolution.
19. Please describe for each of the below risk mitigation actions, in as far as they form part of the FMI's set of potential risk mitigation actions: (i) whether these actions are discretionary

or pre-determined, e.g., would the FMI follow a required set of actions, which may be described in its rule book; (ii) in which way, if at all, the FMI could deviate from the predetermined procedure so as to either disregard a mandated risk mitigation action or adopt a non-standard action?

- i. Increasing membership contributions (e.g. default fund/loss sharing contributions), mandating pre-funding, restricting withdrawal of deposits;
- ii. Increasing initial/variation margin/collateral requirements, restricting collateral types, removing cross-margining facilities; increasing liquidity obligations;
- iii. Removing credit lines, reliance on parental guarantees or securities borrowing facilities;
- iv. Enforcing trading controls including position limits, restricting markets;
- v. Termination or suspension of participation/membership.

20. Please answer question 19 also for other risk mitigation actions, if any, that are not mentioned here and would likely be taken.

21. In a situation of idiosyncratic or market stress, in which one of the FMI's (direct) participants/members, or an affiliate company, exhibits signs of distress, communications and notifications may be necessary. Please distinguish in the below in case there are differences between a situation of idiosyncratic vs. market stress.

- a) What notifications or communications would the FMI undertake to the participant/member, their competent and/or resolution authority, the FMI's competent and/or resolution authority, the stressed firm's settlement agent, and other stakeholders, and when? Would any of these be based on an obligation for the FMI to notify?
- b) Do you have a specific communication plan for this, or does your approach leverage existing crisis communication mechanisms? In both cases, please describe the main features of the approach.
- c) Does the FMI need to get consent from the firm or inform the firm prior to a notification or communication?
- d) Do the communication/notification protocols require specific factors to be considered, for example legal implication, market impact, etc.?
- e) Are your communication protocols standardised across participants or do they take into account the specificities of firms' participation and roles in respect of the FMI?

22. Alleviating uncertainty for the FMI.

- a) Which actions could the firm or the relevant authorities take in order to alleviate uncertainty for the FMI, and reduce the risk that the FMI may take risk mitigation actions that may have an adverse financial impact on the firm?

- b) Which data / quantitative information and what qualitative information might you need to receive from the participant and/or RA in order to allow the participant to maintain access (please consider the three levels of access mentioned in footnote 3)? Please specify by when you would need each piece of information, if appropriate.
 - c) What other actions could be taken ex-ante to avoid a temporary interruption of services or the risk of some transactions remaining unexecuted?
 - d) Please discuss any other considerations.
23. Considering adverse financial impact of FMI risk mitigation actions on direct/indirect participants.
- a) Some actions, designed to protect the FMI, may precipitate the failure of the relevant participant/member or worsen its position at the time of resolution. How does the FMI consider this when deciding to protect itself?
 - b) Does the FMI take into account the impact on indirect participants of actions taken in response to a direct participant/member facing financial stress?
24. Possible differences in treatment of domestic and foreign FMI service users entering into resolution.
- a) Do you differentiate in your treatment of domestic and foreign FMI service users, and if so in what way?
 - b) Among foreign users, is there a distinction for users from certain jurisdictions? If so, what are those distinctions?
25. Safeguards in jurisdictional legal frameworks.
- a) How do you assess whether the resolution framework of the jurisdiction in which a firm resides provides adequate safeguards to the provider of critical FMI services?¹²
 - b) From which regulatory regimes (e.g. countries) do you accept service users?
26. Are there any further aspects or issues to mention in relation to interaction between the FMI and a participant in financial stress? Do you have any examples of past experiences where the FMI has utilised its powers in relation to a member undergoing stress? What actions were undertaken and what were the outcomes? Could this example be indicative of actions that may be taken in a future case?

¹² See FSB, *Principles for Cross-border Effectiveness of Resolution Actions* 2015 (November).

Part IV: During and after resolution

To avoid duplication, respondents may cross-reference other answers when appropriate.

27. When the FMI becomes aware of a participant entering a resolution process, which actions would the FMI be likely to take vis-à-vis the participant? Could actions be taken even though the participant/member meets its obligations?
28. Please explain the methodology used to calibrate additional membership requirements (including operational, financial and capital requirements) for a member/client in resolution. To what extent does the FMI take into account the resolution strategy and tools applied to a member to determine their financial and operational requirements? Does the FMI consider anything specific in its methodology in relation to ring-fenced or specifically safeguarded entities?
29. Please describe for each of the below risk mitigation actions, in as far as they form part of the FMI's set of risk mitigation actions upon a participant entering a resolution process (in addition to actions that would be taken prior to resolution): (i) whether these actions are discretionary or pre-determined, e.g., would the FMI follow a required set of actions, which may be described in its rule book; (ii) in which way, if at all, the FMI could deviate from the predetermined procedure so as to either disregard a mandated risk mitigation action or adopt a non-standard action; (iii) how/when the following risk mitigation actions would be communicated to the participant.
 - i. Temporary suspension of certain activities (and if so, which activities);
 - ii. Potential requirements to contribute additional margin or amounts to default or guarantee funds, secure additional liquidity commitments (including on an intra-day basis), or to pre-fund part or all of payment and settlement obligations;
 - iii. Potential changes to operational or information requirements, including those needed because certain services might not be available;
 - iv. Potential requirements that may apply in relation to a bridge institution or a third party purchaser to which functions have been transferred.
30. Please answer question 29 also for other risk mitigation actions, if any, that are not mentioned here and that would likely be taken.
31. In what way should a service user prepare for resolution-related risk mitigation measures by the FMI to maximise the likelihood of maintaining access? Does the FMI provide any documented guidance on this to its participants/members, and/or to their RAs?
32. What impact would a member/ participant's resolution have on any parent or subsidiary's direct membership at the FMI?
33. In a situation of idiosyncratic or market stress in which one of the FMI's (direct) participants/members, or an affiliate company, enters resolution, communications and

notifications may be necessary. Please distinguish in the below in case there are differences between a situation of idiosyncratic vs. market stress.

- a) What notifications or communications would the FMI undertake to the participant/member, their competent and/or resolution authority, the FMI's competent and/or resolution authority, the firm's settlement agent, and other stakeholders, and when? Would any of these be based on an obligation for the FMI to notify?
- b) Do you have a specific communications plan for this or does your approach leverage existing crisis communication mechanisms?
- c) Does the FMI need to get consent from the firm or inform the firm prior to a notification or communication?
- d) Do the communication/notification protocols require specific factors to be considered, for example legal implication, market impact, etc.?
- e) Are your communication protocols standardised across participants or do they take into account the specificities of firms' participation and roles in respect of the FMI?
- f) Would your members / clients be able to leverage any preparations your organisation has undertaken to access the necessary communication infrastructure to deliver the increased extent of communications that may be needed to respond to a resolution and any restructuring of a member/ client (such as increased call volumes to call centres)?
- g) What management and monitoring arrangements would apply for these crisis communications and notifications? Would you have a dedicated team or a point of contact for receiving and initiating all communications that relate to a member/ client entity in resolution or any related restructuring?

34. Alleviating uncertainty for the FMI. (As requested in Part II, if the responses to sub-questions a.-f. below have been documented in rulebook/contractual provisions or other documents, please reference.)

- a) What actions (such as communication) could the participant or authorities take in order to alleviate uncertainty for the FMI about the participant's situation, and thereby reduce the risk that the FMI may take risk mitigation actions that may have a further adverse financial impact on the participant?
- b) Assuming that the authorities and the affected member/ client may not be able to share relevant information before the commencement of the resolution process, would that represent a material issue that could determine how your organisation responds to the fact that a member/ client has been placed in resolution?
- c) Which data / quantitative information would the FMI need to receive from the participant and/or RA in order to allow the participant to maintain access (please consider the three levels of access mentioned in footnote 3)? Please specify by when you would need each piece of information, if appropriate, including when you would need to be informed prior to resolution measures.

- d) Which qualitative information would the FMI need to receive from the participant and/or RA in order to allow the participant to maintain access to the FMI? Please specify by when you would need each piece of information, if appropriate, including when you would need to be informed prior to resolution measures.
 - e) What other actions could be taken ex-ante to avoid a temporary interruption of services or the risk of some transactions remaining unexecuted?
 - f) Please discuss any other considerations.
35. Considering adverse financial impact of FMI risk mitigation actions on direct/indirect participants.
- a) Some actions, designed to protect the FMI, may worsen the position of the participant at the time of resolution and as a result may also affect other participants. How does the FMI consider this when deciding to protect itself?
 - b) Does the FMI take into account the impact on indirect participants of actions taken in response to a direct participant/member entering into resolution?
36. FMI rules and contractual arrangements should allow a bridge institution to maintain its predecessor's participation (membership) during a resolution process (FSB 2017 Guidance, 1.1). (As requested in Part II, if the responses to the sub-questions below have been documented in rulebook/contractual provisions or other documents, please reference.)
- a) Please explain how the FMI rules, contractual arrangements and/or procedures reflect this.
 - b) What would be the FMI's process to ensure that continuity of access can be maintained for the purchaser of a resolved entity or for a bridge institution?
 - c) Please share any timelines and any external dependencies for this process.
 - d) If the purchaser or bridge institution requires a new access, do you have a "fast-track" procedure to allow access for such a purchaser or bridge institution? How long is setting up access expected to take (with or without a "fast-track" procedure)? What would the FMI require in order to continue providing the service pending completion of the onboarding procedure (e.g. connectivity and BIC/SWIFT codes to remain unchanged)?
 - e) What type of information is needed in the context of a change-of-control assessment, i.e. to accept a purchaser or bridge institution as a participant/member? Please specify by when you would need each piece of information, if appropriate. How long would you then need to take an informed decision on access for the purchaser or bridge institution?
 - f) Does the FMI explicitly consider, in its rulebooks or internal procedures, the possibility of a RA requiring access for the purchaser or bridge institution even in case they do

not meet the membership or participation criteria (for instance where a credit rating is required)?

- g) Please discuss any other, e.g. practical, considerations around continuity of FMI access of a bridge institution or of a purchaser.
37. FMIs should consider the operational, technological, financial and legal implications arising from the transfer of functions or positions to a successor (either a bridge institution or a third-party purchaser). (FSB 2017 Guidance, 1.4)
- a) What preparations are necessary in your circumstances for such a transfer to be successful? What changes would be necessary for such a transfer to be successful? Please consider any preparations and changes by the FMI as well as by FMI members/service providers/others.
38. Portability/Transferability of underlying client positions, for example to facilitate a bridge or partial transfer resolution strategy.
- a) For CCPs: Which kind of segregated accounts are offered to (underlying) clients to facilitate the portability/transferability of client positions and securities collateral? Do you envisage that there may be material barriers to the effective and timely transfer of client positions following a decision to transfer the activities of the member in resolution to another member? If so, please explain.
- b) For ICSDs: Do you offer segregated accounts to (underlying) clients? Do you envisage that there may be material barriers to the effective and timely transfer of client securities and cash to another custodian following a decision to transfer the activities of the participant in resolution to another participant? If so, please explain.
39. Are there any further aspects or issues to mention in relation to interaction between the FMI and the participant during or after resolution of the participant?

Part V: Arrangements and operational processes to facilitate continued access in resolution

40. The FMI should consider establishing management, monitoring and operational rules and procedures that facilitate the ability of FMI management to make prompt decisions in response to a service user's resolution (including a period when the FMI is closed for business). (FSB 2017 Guidance, 1.4)
- a) What is the process that the FMI typically follows to identify, escalate, and come to a final decision on issues related to (i) the financial condition of a member, (ii) the performance or lack of performance by a member of its obligations under the FMI's rulebook, and/or (iii) the continuing membership of a member?
- b) What positions, committees, or decision-making bodies in the FMI's organisation have a role in each phase of the identification, escalation, and final decision-making process?

- c) What procedures are in place to facilitate prompt decision making at any time? What, if any, are the limitations?
 - d) What would be the likely range of decisions undertaken after receiving notice of a service user entering into resolution? What market communications or notifications to the regulator would be undertaken?
41. In line with the Key Attributes,¹³ FMIs should regularly test the effectiveness of their relevant rules, contractual arrangements and procedures in responding to a resolution scenario of a participant.
- a) How do you test these contingency arrangements? How do you take participants in resolution into account in those contingency arrangements?
 - b) How do your rules facilitate the transfer of positions of a client of a service user in resolution to another service user of the FMI, as applicable?
42. How do you test members' readiness of arrangements for meeting increased information and communication requests (beyond those required in BAU) that will be needed prior to and during resolution? Which disclosures do you require from members in this regard?
43. Please describe any simulation exercises the FMI has held with relevance to continuity of access. Please share examples of scenarios covered and whether such scenarios have been inspired by actual crisis events, and clarify the points below:
- a) Key Objectives/ how it correlates to a real life scenario;
 - b) Frequency;
 - c) Involvement of (large) FMI participants and whether any FMI participants have performed a simulation on their side in parallel;
 - d) Involvement of authorities: competent authorities of the FMI, competent authorities of participants, and RAs; and
 - e) Lessons Learned.
44. Are there any further aspects or issues to mention in relation to arrangements and operational processes to facilitate continued access in resolution?

¹³ See FSB, *Key Attributes of Effective Resolution Regimes for Financial Institutions*, 2014 (October), Appendix II-Annex I, part II, section 2.2, p. 73.