

The responses of CMU in Hong Kong to the FSB's Questionnaire: Continuity of Access to FMIs for firms in resolution

June, 2024

Part I: Legal entity and general contract/service information

0. Please provide:

a) The date of the most recent version of the answers to this questionnaire, and

June 2024

b) an overview of the changes made since the previous version

The June 2024 version is the first version.

1. Please provide the following details:

a) Full Legal Name

Hong Kong Monetary Authority (HKMA), as system operator of Central Moneymarkets Unit (CMU).

b) Legal Entity Identification Number (LEI)

Nil.

c) Jurisdiction of incorporation and registered number in the relevant corporate registry:

Hong Kong Special Administrative Region (HKSAR).

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.

The Payment Systems and Stored Value Facilities Ordinance (PSSVFO) empowers the Monetary Authority (MA) to designate and oversee clearing and settlement systems that are material to the monetary and financial stability of Hong Kong, and to the functioning of Hong Kong as an international financial centre. CMU is one of the designated clearing and settlement systems under the PSSVFO and subject to the oversight by the Financial Market Infrastructure Oversight (FMIO) team of the HKMA.

It should be noted that HKMA refers to an institution of which the MA is the chief executive while MA refers to a legal person under various Ordinances. For simplicity sake, HKMA is generally used in this questionnaire unless certain powers or obligations of the MA under various Ordinances are being referred to.

- e) The ownership arrangement of the legal entity (e.g. is it majority owned by its users?)

The HKMA is an integral part of the HKSAR Government.

2. Please provide the following information:

- a) Hyperlink to the published FMI disclosure template under the Disclosure Framework for Financial Market Infrastructures.¹

https://www.hkma.gov.hk/media/eng/doc/key-functions/financial-infrastructure/infrastructure/cmu_disclosure_framework.pdf

- 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).

The main scope of services provided by CMU is available at <https://www.hkma.gov.hk/eng/key-functions/international-financial-centre/financial-market-infrastructure/debt-securities-settlement-system/> and listed as follows:

- Automatic Repo Facility (both intraday and overnight) in Hong Kong dollar, US dollar, euro and renminbi
- Securities Lending Programme for debt securities issued by the private sector
- Market Making Arrangement for Exchange Fund Bills and Notes
- Issuance Programme for Exchange Fund Bills and Notes
- Arranger, custodian, agent and operator of notes issued by HKSAR Government
- Real time DvP for all CMU securities denominated in Hong Kong dollar, US dollar, euro and renminbi
- Cross-border DvP Settlement via regional central securities depositories (CSDs) and international central securities depositories (ICSDs)
- Other custodial services, such as paying agent, securities lodgement, allotment by tendering
- Corporate action service
- Bank-to-bank repo service
- Fund order routing and settlement service

The access and participation criteria of CMU are set out under Principle 18 of the Disclosure Framework.

https://www.hkma.gov.hk/media/eng/doc/key-functions/financial-infrastructure/infrastructure/cmu_disclosure_framework.pdf

3. Do your members/ clients access your services directly or through an intermediary?

¹ See BIS-IOSCO, *Principles for financial market infrastructures: Disclosure framework and Assessment methodology*, 2012 (December).

CMU participants directly access services provided by CMU.

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)?

Yes. CMU participants need to connect to the SWIFT network for access to the CMU system and install at least one of the following software:

(1) eCMT - a front-end browser software which connects to the CMU system through SWIFTNet, using SWIFT WebAccess provided by SWIFT. Microsoft windows operating system and SWIFT user certification are required.

(2) iCMT - a front-end browser software which connects to the CMU system through internet or Hong Kong Interbank Clearing Limited (HKICL)'s network namely ICLNet. Microsoft Windows and digital certificates issued by designated local/global certification authorities are required.

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.

The contracts and agreements are governed by the laws of the HKSAR of the People's Republic of China.

For business activities conducted overseas as part of CMU services collaborated with other service providers, the service agreements are also subject to the laws of the relevant overseas jurisdictions.

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.

If money settlement in relation to CMU securities is required, CMU member itself or through its corresponding settlement bank would need to have access to CHATS, the payment systems in Hong Kong, which are also designated clearing and settlement systems under the PSSVFO.

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)?

Yes, it is stipulated in the CMU Membership Agreement (Agreement) and the CMU Reference Manual (Manual) that they are subject to the provisions of section 89 of the Financial Institutions (Resolution) Ordinance ("FIRO") (Cap. 628 of the Laws of Hong Kong). Accordingly, nothing in the Agreement and the Manual shall be construed to require or entitle the MA to suspend the CMU member's membership of the CMU service or to trigger any default event provision (as defined in section 86 of the FIRO) under the Agreement and the Manual in relation to the CMU participant by reason solely of:

(a) the taking of any crisis prevention measure** in relation to the CMU participant or a group company of the CMU participant;

(b) the occurrence of an event directly linked to the taking of any crisis prevention measure referred to in paragraph (a); or

(c) the occurrence of any other event that does not of itself trigger a default event provision under this Manual in relation to the CMU participant pursuant to section 89 of the FIRO;

provided the substantive obligations (including payment and delivery obligations and provision of collateral) applicable to the CMU participant under the Agreement and the Manual continue to be performed.

**Crisis prevention measure means the exercise by a resolution authority of any power under Part 3, 5 or 13 or Division 2 of Part 4 of the FIRO, including application of a stabilization option in resolving an institution.

Part II: Rulebook / Contractual provisions regarding termination²

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.

Relevant provisions are stipulated in the Agreement and the Manual. Part I clause 3.5 of the Manual, which is disclosed publicly, stipulates the conditions for suspension or termination of CMU membership by the MA.

The Manual is available to the public on CMU website:

<https://www.cmu.org.hk/en/reference-materials>

- b) Are these provisions based solely on objective criteria, or can the FMI exercise judgement when triggering termination?

The provisions are based on objective criteria. The HKMA reserves the right to suspend or terminate the membership of a CMU member.

- c) Does the FMI use 'forward looking' indicators that may trigger termination, and if so, which ones?

No. The HKMA will not use "forward looking" indicators to form any judgement on whether a participant will be in default in the near future.

- 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?

See responses to Q7, Q8a to c above.

- e) During stress or resolution of the member, are actions by other FMIs taken into account as possible indicators or triggers for termination?

During stress or resolution of CMU participants, actions by other FMIs are not directly taken into account as possible indicators or triggers for termination. However, if those actions by other FMIs adversely impact the CMU participants in terms of affecting their ability to meet their obligations under the Manual, then the HKMA might consider taking appropriate actions on the CMU participants.

² 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.

- 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.

There are no other relevant provisions regarding 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.

Yes, Part I clause 3.5 of the Manual allows termination or suspension of CMU membership. Re-entry to the system after termination of membership will be treated as new application, whilst re-activation of suspended service will be treated as existing member.

- 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?

There is no specific timeline for a suspension period before it leads to either termination of membership or uplifting of the suspension. It is for a period to be determined by the HKMA reflecting circumstances on a case by case basis. It is generally anticipated in most cases suspension could be lifted as long as the underlying issues that resulted in suspension are fully addressed. At the end of the suspension period, if applicable, it can be determined whether to lift the suspension or terminate participation of member, depending on the circumstances of the case.

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).

- a) In what way do your rules, contractual arrangements and procedures reflect this?

See response to Q7.

- b) Do such arrangements include the effect of parent or affiliates entering resolution?

The arrangements include the taking of any crisis prevention measure in relation to a group company of the member. Please see response to Q7.

- 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.

The Agreement entered with all CMU members and the Manual were restated in November 2019 to take into account of the provisions of FIRO.

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)?

See response to Q8.

- 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).

See response to Q8. The termination, if any, is governed under the relevant clauses in the Agreement and the Manual. Termination of membership, if any, will be handled on a case by case basis depending on the circumstances of the case and with engagement of the relevant authorities as appropriate.

- 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?

Upon termination or suspension of a membership of the CMU Service, the manner of withdrawing instruments from the CMU Service and of settling any other matters concerning the CMU member's membership of the CMU Service or the termination or suspension of that membership shall be as for the time being prescribed in Part I clause 3.5 of the Manual and, subject to this, termination or suspension of membership of the CMU Service shall not affect any obligations accrued at or continuing after the date of the termination or suspension or arising in consequence of it.

Once terminated, new instructions from the participant are not accepted by the system and any unsettled transactions of the participant will be cancelled by the system.

- 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?

Termination of membership, if any, will be handled on a case by case basis depending on the circumstances of the case and with engagement of the relevant authorities as appropriate. Generally speaking, the affected participant will be informed as early as practicable. It will not be possible to advise on how long in advance of actual termination would such notifications occur for it varies based on individual circumstances.

- e) What impact would a participant/member's termination have on their parent/subsidiaries' direct membership in the FMI?

A participant/member's termination is restricted to its own membership in CMU.

- 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)?

The Agreement and the Manual do not contain cross-default provisions.

- 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?

Not relevant as porting is not applicable to the operations of a CSD.

- h) Please discuss any other points related to termination.

Nil.

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?

The CMU operation would not be at risk from maintaining participation of a participant in resolution as long as the participant in resolution continues to meet the obligations applicable to the participant.

- b) Which indicators, if any, can a participant use to anticipate that such a scenario may occur?

As long as the participant in resolution continues to meet the obligations applicable to the participant, the termination or suspension of CMU membership is unlikely in a resolution scenario. A participant may also refer to the Agreement and the Manual when considering indicators of scenarios where the HKMA may suspend or terminate participation in a system.

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.

Nil.

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.

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?

The HKMA as the system operator of CMU in its daily operation, will monitor the transactions of participants. The HKMA as the system operator of CMU will not monitor the financial position of CMU participants.

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)?

See response to Q14.

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?

CMU only provides securities clearing, settlement and depository services as a Securities Settlement System (SSS) but not as a Central Counterparty (CCP). It does not guarantee settlement of securities transactions and hence is not exposed to any liquidity or credit risk of its participants.

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.

There is no self-reporting requirement imposed on participants in a situation of financial stress.

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.

There are no predefined additional participation requirements for a participant in financial stress.

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.

There are no predefined stress related risk mitigation actions.

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

Nil.

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?

See responses to Q8 and Q11d. If termination or suspension of CMU membership is required, the HKMA shall as soon as practicable notify CMU participants by circulars and announcements via email or the CMU website .

- 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.

The HKMA has established communication channels with CMU participants mainly through circulars and announcements via email or the CMU website. In the event of stress, communication plans may be developed as appropriate on a case-by-case basis depending on the severity and situation of the stress event.

- c) Does the FMI need to get consent from the firm or inform the firm prior to a notification or communication?

Currently there is no such requirement.

- d) Do the communication/notification protocols require specific factors to be considered, for example legal implication, market impact, etc.?

See responses to Q21 a & b above. Factors relevant to the safety and efficiency of the operations of CMU as well as the market conditions at the time will be taken into account as appropriate in the communication protocol.

- 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?

Communication protocols are standardised (see responses to Q21 a & b).

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?

A CMU participant should meet its obligations under the Agreement and the Manual in order to maintain its continued participation in CMU. See responses to Q16 & 19 above.

- 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.

There is no such information requirement under the current arrangement. See also response to Q14.

- c) What other actions could be taken ex-ante to avoid a temporary interruption of services or the risk of some transactions remaining unexecuted?

Other actions, if any, will be decided on a case-by-case basis.

- d) Please discuss any other considerations.

Nil.

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?

Any action to be taken on a member which may affect the participation of the member in CMU will be done on a case-by-case basis.

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?

All CMU participants are treated equally.

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?³

Members of CMU should be fully aware that the laws of Hong Kong form the legal basis for settlement finality regarding transactions settled in the CMU system, i.e. all transactions effected through the CMU system enjoy statutory backing for settlement finality under the PSSVFO.

- b) From which regulatory regimes (e.g. countries) do you accept service users?

There is no specific limitation of participation by jurisdiction.

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?

No such case since the inception of the CMU.

³ See FSB, *Principles for Cross-border Effectiveness of Resolution Actions* 2015 (November).

Part IV: During and after resolution

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?

As already explained in Part II of the survey, a participant in resolution can continue to be a member of CMU as long as it continues to meet the obligations, and in such case no action would likely be taken by the CMU vis-à-vis the participant. See also responses to Q7 and Q12.

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?

There is no predefined methodology to calibrate additional requirements for a participant in resolution.

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);

See responses to Q7, Q12 and Q27 as general background information. Temporary suspension of certain activities is unlikely in a resolution scenario as long as the member continues to meet its obligations.

- ii. Potential requirements to contribute additional margin or amounts to default or guarantee funds, secure additional liquidity commitments (including on an intraday basis), or to pre-fund part or all of payment and settlement obligations;

Nil.

- iii. Potential changes to operational or information requirements, including those needed because certain services might not be available;

Nil.

- iv. Potential requirements that may apply in relation to a bridge institution or a third party purchaser to which functions have been transferred.

Generally speaking, the purchaser or bridge institution will need to meet the relevant requirements as with other CMU service users.

- 30. Please answer question 29 also for other risk mitigation actions, if any, that are not mentioned here and that would likely be taken.

Nil.

- 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?

See responses to Q27 & 29. A participant may also refer to the Agreement or the Manual (also publicly available on the CMU website) when considering indicators of scenarios where the HKMA may suspend or terminate participation in a system.

- 32. What impact would a member/ participant's resolution have on any parent or subsidiary's direct membership at the FMI?

See response to Q11(e).

- 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?

For Q33(a) to (g), there are established communication arrangements between the HKMA and CMU participants to handle situations of stress. Within the HKMA, the supervisory authority and resolution authority for banks, the overseer of CMU and the CMU operation team will work closely under such situations. Please see response to Q21(a) & (b) and Q40.

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?

See response to Part III of the questionnaire, in particular Q22.

- 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?

As a general principle, the participant in resolution should inform the HKMA as early as possible once it becomes subject to resolution, especially if the resolution is not initiated locally and may not be known to the HKMA. If in case the resolution involves a transfer of membership of the participant, the process would be challenging to the CMU concerned as legal, operational and technical issues would likely be involved, which need to be addressed to ensure a smooth transition to a new member.

- 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.

See response to Q22(a) and (b).

- 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.

See response to Q22(a) and (b).

- e) What other actions could be taken ex-ante to avoid a temporary interruption of services or the risk of some transactions remaining unexecuted?

As seen in the responses to Q7 and part II of the questionnaire, the Agreement and the Manual have made it clear how the HKMA will handle participant in resolution and participant in default. It is advised that the participant who is about to enter into resolution should inform the HKMA as early as practicable, so that necessary arrangements could be made before the participant is entering into resolution to ensure a smooth process and no interruption of services.

If applicable, a participant should undertake resolution planning during business as usual (BAU) times to put in place ex-ante capabilities and arrangements to maintain the continuity of access to critical FMI services in a resolution scenario.

- f) Please discuss any other considerations.

Nil.

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?

See response to Q23(a) and (b).

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.

See responses to Q7 and Q10.

- 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?

The HKMA would engage as appropriate with the purchaser of a resolved entity or a bridge institution to discuss the relevant requirements and the feasibility for the continuity of access to be maintained.

- c) Please share any timelines and any external dependencies for this process.

External dependencies would include the legal, operational and technical requirements involved in a transfer. As CMU is operating on SWIFT's messaging network, whether the bridge institution or purchaser is already a SWIFT user or possesses a SWIFT BIC is also relevant.

- 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)?

No specific "fast-track" procedure is currently available. See also responses to part (a) to (c) above.

- 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?

It is generally expected that information required to accept a purchaser or a bridge institution would normally include evidence of the purchaser /bridge institution meeting the relevant access criteria for CMU.

- 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)?

The HKMA would engage as appropriate with the purchaser of a resolved entity or a bridge institution to discuss the relevant requirements and the feasibility for the continuity of access to be maintained.

- g) Please discuss any other, e.g. practical, considerations around continuity of FMI access of a bridge institution or of a purchaser.

Nil.

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.

While each resolution case may vary depending on individual circumstances, it is generally envisaged that new contracts or contract novation between the HKMA, if applicable, and the new entity may be required; SWIFT BIC codes should be made available (if not already available); and operational arrangements including technical and personnel setup should be kept largely the same if the transfer is to be taken smoothly within a short time span, say overnight or at a weekend.

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.

Not applicable.

b) For CSDs: 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.

Yes, segregated accounts are available. No barrier is observed.

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?

Nil.

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 procedures are in place to facilitate prompt decision making at any time? What, if any, are the limitations?
 - b) 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?

See responses to questions in Part II. In general, within the HKMA, supervisory authority and resolution authority for banks, the overseer of CMU and the CMU operation team will work closely under such situation.

41. In line with the Key Attributes,⁴ 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?

See response to Q7. The Agreement and the Manual provide that a member in resolution will have continued access to the CMU systems, provided that the member continues to meet its substantive obligation. A member's access to the CMU systems is tested under regular contingency drills, while the need for developing specific tests for resolution scenarios will be kept in view in coordination with the resolution authority.

- 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?

See response to Q36.

42. How do you test members' readiness of arrangements for meeting increased information and communication requests (beyond those required in business as usual (BAU)) that will be needed prior to and during resolution? Which disclosures do you require from members in this regard?

There is no increased information and communication requests envisaged at this stage.

⁴ See FSB, *Key Attributes of Effective Resolution Regimes for Financial Institutions*, 2014 (October), Appendix II-Annex I, part II, section 2.2, p. 73.

43. Are there any further aspects or issues to mention in relation to arrangements and operational processes to facilitate continued access in resolution?

Nil.