

# The responses of the four CHATS in Hong Kong to the FSB's Questionnaire: Continuity of Access to FMI for firms in resolution

February, 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

February 2024

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

The February 2024 version is the first version.

1. Please provide the following details:

a) Full Legal Name

Hong Kong Interbank Clearing Limited (HKICL) is the system operator (SO) of four payment systems in Hong Kong. All the four payment systems are important financial market infrastructures (FMIs) in Hong Kong. They are:

- (i) Hong Kong Dollar Clearing House Automated Transfer System (CHATS);
- (ii) US Dollar CHATS;
- (iii) Euro CHATS; and
- (iv) Renminbi (RMB) CHATS,

and their respective settlement institutions (SIs) are:

- (i) The Hong Kong Monetary Authority (HKMA);
- (ii) The Hongkong and Shanghai Banking Corporation Limited;
- (iii) Standard Chartered Bank (Hong Kong) Limited; and
- (iv) Bank of China (Hong Kong) Limited.

For the purpose of this FSB's questionnaire or survey, the above four payment systems are collectively known as "four CHATS". The responses of the four CHATS are grouped in a single survey because they share the same SO and some common participants, which are mostly banks in Hong Kong. So their responses to the survey are highly similar.

b) Legal Entity Identification Number (LEI)

N/A

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

Hong Kong Special Administrative Region (HKSAR) and the Business Registration Number is 18751564.

- 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. The four CHATS are designated clearing and settlement systems under the PSSVFO. The MA is the overseer of the four CHATS under the PSSVFO.

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

HKICL, as the SO of the four CHATS, is jointly and equally owned by the Hong Kong Monetary Authority (HKMA)<sup>1</sup> and the Hong Kong Association of Banks (HKAB).

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.

2. Please provide the following information:

- a) Hyperlink to the published FMI disclosure template under the Disclosure Framework for Financial Market Infrastructures.<sup>2</sup>

The respective disclosure framework of the four CHATS can be found on HKICL's website:

[https://www.hkicl.com.hk/eng/about\\_us/disclosure\\_frameworks.php](https://www.hkicl.com.hk/eng/about_us/disclosure_frameworks.php)

The disclosure framework also contains detailed description of the system and how the system meets principle-by-principle the requirements in the Principles for Financial Market Infrastructures (PFMI). The four CHATS, while sharing the same SO, have their own respective SI, details of which are set out in the respective Disclosure Framework.

- 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).

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<sup>1</sup> The office of the Monetary Authority (MA) is known as the Hong Kong Monetary Authority (HKMA), and the Monetary Authority is the Chief Executive of the HKMA.

<sup>2</sup> See CPMI-IOSCO, *Principles for financial market infrastructures: Disclosure framework and Assessment methodology*, 2012 (December).

HKICL is the SO of the four CHATS, which are the interbank payment systems in Hong Kong for settling HKD, USD, Euro and RMB transactions on a real-time gross basis respectively. Apart from settling large-value interbank payments, the systems also provide clearing and settlement of small-value retail payments on a multilateral netting basis through bulk settlement runs (except for Euro CHATS), and settlement of payment versus payment (PvP) and delivery versus payment (DvP) transactions via links within the local CHATS systems and with the CMU (debt securities settlement system) and CCASS (equities settlement system) in Hong Kong.

To further enhance the efficiency of retail payment services, the Faster Payment System (FPS) which supports HKD or RMB payments was launched in 2018 as an extension of the relevant HKD / RMB CHATS to enable the public to make instant retail fund transfers and payments across different banks or stored value facilities (SVFs) on a round-the-clock basis.

The access and participation criteria of the four CHATS are set out under Principles 18 and 19 of their Disclosure Framework respectively.

[https://www.hkicl.com.hk/eng/about\\_us/disclosure\\_frameworks.php](https://www.hkicl.com.hk/eng/about_us/disclosure_frameworks.php)

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

Please see Principle 19 of the Disclosure Framework of respective CHATS regarding tiered participation arrangements.

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)?

As the four CHATS are running on SWIFTNet platform, participants of CHATS will have to connect to the SWIFT network to initiate or receive payment instructions, and access eMBT/iMBT provided by HKICL for performing administrative functions to respective payment instructions.

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 laws of the HKSAR of the People's Republic of China.

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 a CHATS member wants to make use of the securities held in the Central Moneymarkets Unit (CMU, a debt securities settlement system in Hong Kong, also a designated clearing and settlement system under the PSSVFO) as collaterals to obtain intraday and overnight

repo facilities provided by the respective SI of the CHATS, the member should have access to the CMU.

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 Part V of the Clearing House Rules of each of the four CHATS to the effect that the Rules regarding suspension of clearing facilities are subject to the provisions of section 89 of the Financial Institutions (Resolution) Ordinance (Cap. 628 of the Laws of Hong Kong) (FIRO). Accordingly, nothing in those Rules shall be construed to require or entitle HKICL (or the Monetary Authority) to suspend clearing facilities to a member (i.e. referring to participants of respective CHATS in this survey) or to trigger any default event provision by reason solely of:

- (a) the taking of any crisis prevention measure\*\* in relation to the member or a group company of the member;
- (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 these Rules in relation to the member pursuant to section 89 of the FIRO,

provided the substantive obligations (including payment and delivery obligations) applicable to the member under these Rules 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 termination<sup>3</sup>

### 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.

Part V (Refusal and Suspension of Clearing Facilities) of the HKD/USD/Euro/RMB CHATS Clearing House Rules, which are disclosed publicly, stipulates the conditions for refusal or suspension of clearing facilities to a participant or a member of the four CHATS.

The Clearing House Rules is available to the public on HKICL's website:  
[https://www.hkicl.com.hk/eng/information\\_centre/redacted\\_version\\_of\\_clearing\\_house\\_rules.php](https://www.hkicl.com.hk/eng/information_centre/redacted_version_of_clearing_house_rules.php)

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

The provisions set out in Part V (Refusal and Suspension of Clearing Facilities) of the respective Clearing House Rule are based on objective criteria. The SO and SIs of the four CHATS have no discretion once the objective criteria, on which the provisions are based, are met. Any decision on termination will be done in consultation with and after seeking written approval from the HKMA.

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

No. The SO and SIs of the four CHATS 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 the member of the four CHATS, 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 members in terms of

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<sup>3</sup> 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.

affecting their ability to meet their obligations under the Clearing House Rules of the four CHATS, then the SO and SIs of the four CHATS might consider taking appropriate actions on the members. It should be noted that any determination on actions to be taken on the member will be done in consultation with, and with prior consent of, the HKMA.

- 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 under the Clearing House Rules regarding termination. Any decision on termination will be done in consultation with the HKMA and seeking written approval from the HKMA is required.

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 V of the Clearing House Rules of the four CHATS allows for either termination or suspension of Clearing Facilities, based on the written approval/consent from the HKMA. 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. In both cases, written approval from the HKMA is needed.

- 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 Rules of the four CHATS were amended in November 2018 to reflect our response to Q7. We will keep in view any further necessary changes to the Rules, in consultation with the HKMA.

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 respective Clearing House Rules of the four CHATS. 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?

Once the clearing facilities are refused or suspended, the member will not be able to initiate or receive any CHATS instructions, and hence no payments will be settled in relation to the member concerned and the bulk clearing items related to the member concerned will be unwound from any bulk settlement runs.

- 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 membership with the relevant CHATS in Hong Kong.

- 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 Clearing House Rules does 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 the four CHATS are real time payment systems.

- 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 CHATS 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 payment and delivery obligations applicable to the participant.

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

See response to Q12a. As long as the participant in resolution continues to meet the payment and delivery obligations applicable to the participant, the termination or suspension of CHATS participation is unlikely in a resolution scenario.

The participant in resolution should be able to make and receive payments during the operating hours of the four CHATS, in particular in various bulk settlement runs, which involve the calculation of net amount to be made or received from other banks in the same run.

A participant may also refer to the part V of the Clearing House Rules (also publicly available on the website of HKICL) when considering indicators of scenarios where the HKMA or the SIs 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?

HKICL, as SO of the four CHATS, will not monitor the financial position of the participants of the CHATS.

The SIs of the four CHATS (see Disclosure Framework of the four CHATS), in their daily operation, will monitor the payment flows within the system and contact the participants, if needed, to ensure the direct participants can meet payment obligations for various bulk settlement runs. If applicable, the SIs will monitor the number of requests for intra-day funding and the utilization of repo facilities of individual participants.

Please see also Principle 4 (credit risk) and Principle 7 (liquidity risk) of the Disclosure Framework of the four CHATS, available on the HKICL's website, on how each CHATS measures, monitors and manages credit and liquidity risk of the system.

[https://www.hkicl.com.hk/eng/about\\_us/disclosure\\_frameworks.php](https://www.hkicl.com.hk/eng/about_us/disclosure_frameworks.php)

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?

The SIs and SO of respective CHATS will seek to maintain normal operation of the system as far as possible in times of signs of distress of a participant. The system does not guarantee settlement of payment instructions. Participants are advised to manage their liquidity position prudently and follow the throughput guideline. See also response to Q14, and how SO and SIs manage the credit or liquidity risk arising from participants as set out under the Disclosure Framework. The measures will be the same under all circumstances.

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.

Under the Clearing House Rules of the four CHATS, there is no self-reporting or additional requirement imposed on participants in a situation of financial stress of participants. Participants should continue to manage their liquidity position prudently and follow the throughput guideline in times of stress. See responses to Q14 and Q16.

However, in case of bankruptcy or winding up of participant, under section 31 of the PSSVFO (also included in the section “Compliance with the PSSVFO” in the Clearing House Rules), a member (or participant) of the four CHATS shall notify HKICL and the MA forthwith if there comes to its attention any of the following circumstances occurring in Hong Kong or any analogous circumstances occurring outside Hong Kong:

- (i) a member being unable to meet its obligations;
- (ii) the presentation of a petition for winding up of the member;
- (iii) the making of an order for winding up of the member;
- (iv) the passing of a resolution for winding up of the member;
- (v) the making of a directors’ voluntary winding up statement in respect of the member;
- (vi) subject to any confidentiality obligations binding on it, the taking of any crisis prevention measure in relation to the member of a group company of the member.

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;

N/A to the four CHATS as payment systems. Please see Principle 4 (Credit Risk) and Principle 5 (Collateral) of the Disclosure Framework for respective CHATS for details regarding how each CHATS manages their credit exposure to participants in general.

- ii. Increasing initial/variation margin/collateral requirements, restricting collateral types, removing cross-margining facilities; increasing liquidity obligations;

See above.

- iii. Removing credit lines, reliance on parental guarantees or securities borrowing facilities;

See above.

- iv. Enforcing trading controls including position limits, restricting markets;

See above.

- v. Termination or suspension of participation/membership.

See above.

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. Upon receiving the instruction or notice from HKMA in writing regarding termination & suspension of clearing facilities of a participant, HKICL shall as soon as practicable notify all members by a broadcast in the manner provided in the Operating Procedures of the relevant CHATS.

- 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.

HKICL, working with the SIs of the four CHATS, has established communication channels with CHATS members mainly via broadcast and circulars. In the event of general market stress with no specific member undergoing idiosyncratic stress, communication plans will be developed as appropriate on a case-by-case basis depending on the severity and situation of the stress event. In any case, the SO and SIs of the four CHATS will work closely with the HKMA during a time of stress.

- 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 Q21a&b above. The SO and SIs of the four CHATS will work closely with the HKMA during a time of stress, and factors relevant to the safety and efficiency of the operations of the four CHATS 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 Q21a&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?

The firm / participant of the CHATS should meet its obligations under the Clearing House Rules in order to maintain its continued participation in the CHATS. The four CHATS have established measures to manage the credit and liquidity risk of the system. If needed, the SO and SI of the four CHATS will work closely with the HKMA to manage relevant risk factors, seeking to ensure safety and efficiency of the four CHATS during a time of stress.

- 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. The participant should continue to manage its liquidity position during a time of stress. 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?

Any action to be taken on a member which may affect the participation of the member in CHATS will be done in consultation with the HKMA.

- 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?

Yes, this would be part of the case-by-case assessment mentioned under the response to Q23a above.

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?

No. All participants are bound by the same set of Clearing House Rules, under which domestic and foreign FMI service users entering into resolution are treated equally.

- b) Among foreign users, is there a distinction for users from certain jurisdictions? If so, what are those distinctions?

See response to Q24a above.

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?<sup>4</sup>

All participants or members of CHATS (including foreign participating banks) should be fully aware that the laws of Hong Kong form the legal basis for the operations of the four CHATS in Hong Kong, and the settlement finality would be protected by laws of Hong Kong under the PSSVFO, meaning that payments, once settled in CHATS, would be final and irrevocable even if the sender has become insolvent.

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

There is no specific limitation of participation by jurisdiction as long as the HKMA and the SIs (if applicable) agree to the participation of the applicant. See also response to Q25a

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 four CHATS.

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<sup>4</sup> 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 CHATS as long as it continues to meet the payment and delivery obligations, and in such case no action would likely be taken by the CHATS 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?

The four CHATS have established measures to manage the credit and liquidity risk of the system. As indicated in question 18, the four CHATS do not foresee any additional membership requirements for a participant in resolution. As such, 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 payment and delivery 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;

N/A.

- 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 CHATS 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 part V of the Clearing House Rules (also publicly available on the website of HKICL) when considering indicators of scenarios where the HKMA or the SI 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 among HKMA, HKICL and SIs of CHATS as well as between the SO/SI of CHATS and the CHATS participants to handle situations of stress. As a general principle, SO and SIs of the four CHATS will work closely with the MA, as supervisory authority and resolution authority for banks and as overseer of the four CHATS respectively. Please see response to Q21(a) & (b) and Q40.

34. Alleviating uncertainty for the FMI. (As requested in Part II, if the responses to subquestions 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 HKICL and 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 SO and SI of the relevant CHATS as well as the HKMA. If in case the resolution involves a transfer of membership of the participant, the process would be challenging to the relevant CHATS 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 survey, the Clearing House Rules of the CHATS have made it clear how the SO and SI of respective CHATS 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 SO and SI of their relevant CHATS as well as 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?

The HKMA and the SO and SI of relevant CHATS will work closely together in case of resolution of participant. See response to Q23(a) & (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 response 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 SO and SI of the relevant CHATS would engage as appropriate with the HKMA and the purchaser of a resolved entity or a bridge institution to discuss the relevant requirements in the Clearing House Rules 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 the four CHATS are 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 CHATS.

- 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 SO and SIs of the relevant CHATS would engage as appropriate with the HKMA and the purchaser of a resolved entity or a bridge institution to discuss the relevant requirements in the Clearing House Rules 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.

No further point to add at the moment. As a general principle, the SO and the SIs of the relevant CHATS would engage as appropriate with the HKMA and the purchaser of a resolved entity or a bridge institution to discuss the relevant requirements in the Clearing House Rules and the feasibility for the continuity of access to be maintained.

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 SO and the SIs of the relevant CHATS, 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.

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.

N/A to CHATS as it is not a CCP nor a CSD.

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?

For Q40(a) to (b) above, see responses to questions in Part II. In general, the SO and SIs of the relevant CHATS will work closely with MA, as supervisory authority and resolution authority for banks and as overseer of FMIs respectively under such situation.

41. In line with the Key Attributes,<sup>5</sup> 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. Part V of the Clearing House Rules provides that a member in resolution will have continued access to the CHATS systems, provided that the member continues to meet its substantive obligations (including payment and delivery obligations). A member's access to the CHATS 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 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.

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

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<sup>5</sup> See FSB, *Key Attributes of Effective Resolution Regimes for Financial Institutions*, 2014 (October), Appendix II-Annex I, part II, section 2.2, p. 73.

Nil.