

Respuesta de BME Clearing al Cuestionario del FSB sobre la continuidad del acceso a las infraestructuras del mercado Financiero por parte de las entidades en resolución.

BME Clearing response to FSB Questionnaire on Continuity of Access to FMIs for Firms in Resolution.

September 12, 2020

Content

BME Clearing response to FSB Questionnaire on Continuity of Access to FMIs for Firms in Resolution	3
Part I: Legal entity and general contract/service information	3
Part II: Rulebook/Contractual provisions regarding termination	10
Part III: Prior to resolution, during signs of distress at the participant	22
Part IV: During and after resolution	32
Part V: Arrangements and operational processes to facilitate continued access in resolution	44

BME Clearing response to FSB Questionnaire on Continuity of Access to FMIs for Firms in Resolution

Part I: Legal entity and general contract/service information

1. Please provide the following details:

a) Full Legal Name

BME Clearing, S.A.U. (hereinafter BME Clearing)

b) Legal Entity Identification Number (LEI)

5299009QA8BBE2O0B349

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

Spain is the jurisdiction of incorporation.

BME Clearing is registered in the Madrid Mercantile Register, with VAT number A-78973864.

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.

Comisión Nacional del Mercado de Valores (CNMV), is the National Competent Authority for the authorization and supervision of BME Clearing

EMIR College of supervisors and Banco de España participate in certain aspects of the oversight of the CCP.

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

The sole shareholder of BME Clearing is Bolsas y Mercados Españoles, Sociedad Holding de Mercados y Sistemas Financieros S.A. (BME). The sole shareholder of BME is SIX Group AG, a Swiss unlisted limited company based in Zurich, Hardturmstrasse 201, 8005 Zurich.

2. Please provide the following information:

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

https://www.bmeclearing.es/docs/docsSubidos/CPMI-IOSCO/CPMI-IOSCO_Self-Assessment_2015v2.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).**

BME Clearing will perform Registration, Central Counterparty, Clearing and Settlement services under the terms stipulated in the Rule Book and its supplementing regulations.

As a Central Counterparty, BME Clearing performs interposition functions in its own name in relation to the obligations resulting from the Trades registered in its Central Register, in accordance with the Rule Book and its supplementing regulations.

BME Clearing acts as the CCP for the Trades on the Financial Instruments and other assets listed below:

- In the Equity Segment:
 - Purchases and sales of Equity securities (Market Trades and OTC Trades)
- In the Fixed Income Segment (Market Trades and OTC Trades):
 - Spot and term purchases and sales of Fixed Income securities.
 - Purchases and sales with repurchase agreements (repos) of Fixed Income securities.
- In the Financial Derivatives Segment (Market Trades):
 - Purchases and sales of Futures Contracts.
 - Purchases and sales of Option Contracts.
- In the Energy Segment:
 - Purchases and sales of MIBEL Electricity Futures Contracts (Market Trades). MIBEL Electricity Futures. MIBEL Electricity Swaps.
 - Purchases and sales of Gas Futures Contracts (Market Trades and OTC Market Trades). Natural Gas Futures, and Liquefied Natural Gas Futures.
 - Natural Gas and Liquefied Natural Gas Spot Contracts (Market Trades and OTC Trades).

- Natural Gas and Liquefied Natural Gas Loan Contracts (OTC Trades) and
 - Natural Gas and Liquefied Natural Gas Deposit Contracts (OTC Trades).
-
- In the Interest Rate Derivatives Segment (IRS) (OTC Trades):
 - Interest rate swaps
 - Purchases and sales of interest rate forwards.

Access and participation requirements:

Pursuant to Article 109.1 of the Spanish Securities Market Act (Consolidated text approved by Royal Legislative Decree 4/2015, 23 October, hereinafter SMA), membership of a CCP shall be limited to the entities referred to in paragraphs a) to d) and f) of Article 69.2 of the SMA, the Banco de España and other entities, whether resident or non-resident, that perform analogous activities in the terms and with the limitations set out in enhancing legislation and in the entity's own internal regulation. The latter may become Members of BME Clearing following approval by the CNMV (Article 109.1 of the SMA and Article 3.2 of BME Clearing's Rule Book).

Chapter 2 of BME Clearing's Rule Book, under the title "Members", regulates comprehensively the different classes of Members admitted in the CCP.

Article 3.1 of BME Clearing's Rule Book, prescribes that the entities referred to in paragraphs a) to d) and f) of Article 69.2 of the SMA are eligible to become Members of BME Clearing, as long as they comply with the requirements set down in the Rule Book, the General Conditions of each Segment and the corresponding Circulars, which shall not be discriminatory, and shall be transparent and objective in order to guarantee open and equal access to BME Clearing. Members may act in the CCP with the scope corresponding to each category and under the terms established in the Rule Book and its enabling provisions.

The entities which may become Members of the CCP are as follows:

- Investment service companies that are authorised to execute client orders or trade for their own account;
- Spanish credit institutions;
- Investment service companies and credit institutions authorised in other Member States of the European Union that are authorised to execute client orders or trade for their own account;
- Investment service companies and credit institutions authorised in a country that is not a Member State of the European Union, provided that they comply with certain requirements; and
- Those firms that, in BME Clearing's opinion, having regard to the special functions that as could be performed by them as participants in BME Clearing:
 - are appropriate;
 - have a sufficient level of aptitude and competence in clearing and settlement;

- have established, where applicable, adequate organizational measures, and
- have sufficient resources for the function they have to carry out, taking into account the various financial mechanisms which may have been established by BME Clearing to cover the risks arising from their activity in the CCP and to ensure the correct Position Settlement.

According to the Rule Book (Article 3.4), the General Conditions may set forth specific terms in relation with Members' activities, depending on the Segment to which they refer. Membership applications shall be approved by the Board of Directors of BME Clearing (Article 3.3 of the Rule Book).

Article 3.5 of BME Clearing's Rule Book establishes that Members must have and maintain the necessary technical and human resources required to operate in BME Clearing, which will be determined and revised for each class of Member by BME Clearing through the corresponding Circulars. These obligations aim to ensure that Members' resources and operational capacity are sufficient to perform the obligations deriving from BME Clearing membership. On an annual basis, BME Clearing shall review Members' compliance with the requirements that must be fulfilled and resources needed to operate in BME Clearing.

BME Clearing's EMIR Risk Committee shall advise the Board of Directors when establishing the criteria for accepting CCP Clearing Members, as set forth in the EMIR Risk Committee Regulations defined in BME Clearing's Board of Directors Regulations.

Members capital requirements are as follows, per segment and type of member:

	Financial Derivatives and Energy Derivatives	Cash Equity	Fixed Income (Repo)	Interest Rate Derivatives
Individual Clearing Members	€ 3,500,000	€ 3,500,000	€ 40,000,000	€ 40,000,000
General Clearing Members	€ 25,000,000	€ 25,000,000 (up to 4 NCMs)	€ 125,000,000	Not applicable

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

Members have direct access to the services of the CCP (according to their different categories). Clients have access to the services of the CCP through the members of the CCP.

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, they need specific software proprietary to BME Clearing.

Members of Financial Derivatives and Energy segments and FX products require a BME proprietary software called Meffstation.

This software is windows based, and it's remotely updated when required, no system plugins are needed for running it. This application enables a standard terminal with multiple clearing features, that let members manage their daily operations for these segments. Please find the description in the following link: <https://www.meff.es/ing/Technology/MEFF-Station>

Also, for these segments, there's also another proprietary and windows based software called MEFFServer, it's an application that provides real time and historical database tables information, as well as transfer files. Therefore, the way it connects to obtain these data, must be configured by the user. Please find the description in the following link:

https://www.bmeclearing.es/docs/docsSubidos/ING/TECNOLOG%C3%8DA/ServerUsr_eng_Clearing.pdf

For the IRS segment there's another proprietary windows-based application called SwaMI that can be optionally installed and helps members with margin requirement simulations for this segment.

All information at CCP and segment level can be downloaded at EOD by using SFTP service, therefore, members require third party sftp clients in order to retrieve this information by this way.

For Equity, Fixed Income and Power, there's a web service called BME PC, since it's web based, it requires third party compatible Web browser such as Chrome or Windows Explorer. BME PC provides a live feed of session information (risk, trading, settlements...) and includes a risk simulator and registration platform for Fixed Income Segment.

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.

BME Clearing, as central counterparty, and its relationship with participants are governed by the legislation applicable in Spain, both Spanish legislation and European Union legislation.

The main legislation applicable to BME Clearing is as follows:

- Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories and enhancing delegated regulations and technical standards.
- Royal Legislative Decree 4/2015, of 23 de October, approving the Consolidated Text of the Securities Market Act.
- Law 41/1999 of 12 November on payment and securities settlement systems, which transposes into Spanish law Directive 98/26/EC of 19 May 1998 of the European Parliament and of the Council on settlement finality in payment and securities settlement systems.
- Royal Decree-Law 5/2005 of 11 March 2005 on urgent reforms to foster productivity and improve public contracting, which transposes into Spanish law Directive 2002/47/EC of 6 June 2002 of the European Parliament and of the Council on financial collateral arrangements.

Hence, the relevant jurisdiction is the Spanish jurisdiction, whose laws are exclusively applicable, except for what is indicated here below:

In addition to sovereign public debt of Spain, BME CLEARING offers the possibility of posting collateral in the form of sovereign public debt of Germany, France, United Kingdom, The Netherlands, Belgium, Austria, Portugal, Italy and the United States, by using IBERCLEAR (except Belgium, UK and US debt), and ICSDs Clearstream Banking Luxembourg (CBL) and/or Euroclear Bank (EUROCLEAR). Legal, material and procedural aspects relating to the posting of such collateral in the ICSDs are subject to the law of Luxembourg and the law of Belgium, as the case may be.

The regulatory framework applicable to BME Clearing described above provides a grounded, clear and effective legal basis with a high degree of legal certainty that is mandatory and enforceable for CCP Members, Clients and users.

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.

Yes, members need to have access to:

- Sociedad de Sistemas de Registro, Compensación y Liquidación de Valores, S.A.U. (Iberclear) for the settlement of the Trades cleared in the Equity and the Fixed Income Segment. Members need to participate in Iberclear or to reach an agreement with a participant entity in Iberclear. Settlement of securities takes place in Iberclear, as settlement system, in the technical platform T2S
- The Spanish Stock Exchanges, for the delivery of the underlying shares in the Financial Derivatives Segment, for those products that are settled by delivery of shares. Members need to participate as trading members of the Stock Exchange or to reach an agreement with a trading member.
- Target 2, for cash payments.

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)?

Participant access continuity to BME Clearing is guaranteed in a resolution scenario. Neither measures for early intervention nor resolution tools foreseen in the Regulation 806/2014 and BRRD qualify as an event for suspension or termination of access to BME Clearing.

In accordance with article 68 of BRRD (and 66 of Spanish Law 11/2015, 18 June, on recovery and resolution of credit institutions and investment firms) early intervention and resolution are not listed in article 38 of BME Clearing Rule Book as a cause of Default that could lead to the suspension or termination of the member access to the CCP.

Art. 66 of Spanish law 11/2015 reads as follows:

“The adoption of any early action or termination measure, as well as any event directly related to the application of such a measure, shall not in itself constitute an event of default nor shall it in itself enable any counterparty to declare the maturity, modification, suspension or early termination of transactions or contracts with the firm, to call for the realisation of a security over any property of the firm or the offsetting of any rights or obligations arising from the transaction or contract, or to affect the latter in any other way, the provisions of which shall be deemed not to have been implemented.

In particular, the application by the competent resolution authorities or supervisor of the measures and powers provided for in this Law shall not be considered bankruptcy proceedings

for the purposes of the provisions of Law 41/1999, of 12 November, on payment and securities settlement systems, nor for the purposes of the provisions of Section 3 of Chapter II of Royal Decree-Law 5/2005, of 11 March, on urgent reforms to boost productivity and improve public contracting.”

Part II: Rulebook/Contractual provisions regarding termination

As a prior consideration, it has to be highlighted that, as mentioned before, in accordance with article 68 of BRRD and 66 of Spanish Law 11/2015, 18 June on recovery and resolution of credit institutions and investment firms, early intervention or resolution cannot be considered as an event of Default. Hence, these circumstances cannot trigger termination rights, suspension or restriction of membership, or termination of membership by themselves, as long as the participant keeps on fulfilling its obligations towards BME Clearing.

Answers to the following question will therefore refer to termination due to declaration of Default.

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.

The termination of participant status is regulated in article 46 of BME Clearing Rule Book, included within Chapter 9 “Defaults”.

BME Clearing Rule Book is public and can be consulted on BME Clearing web page:

https://www.bmeclearing.es/docs/ing/normativa/circulares/2018/180522_-_Rule_Book_BME_CLEARING.pdf

According to this article 46 of the Rule Book, upon declaration of Default of a Member, Direct Clearing Client or Client, and having completed the default management measures, BME Clearing or the Member, as applicable, may terminate their agreement with the Defaulting Member, Direct Clearing Client or Client, which shall determine the loss of the condition of Member, Direct Clearing Client or Client, without prejudice to the obligation of the Member, Direct Clearing Client or Client to honour all pending financial obligations vis-à-vis BME Clearing, its General Clearing Member or Member, even after having lost the status of Member, Direct Clearing Client or Client.

The minimum content of the agreements between BME Clearing and its members is regulated under Chapter 2 of the Rule Book and includes as a contractual provision, BME CLEARING's power to terminate the agreement in the event of Default of the Member, which shall determine the loss of its Member status.

As mentioned, chapter 9 of the Rule Book regulates the Default. The causes of Default are listed in article 38:

- Failure to post or to maintain Margins in due time and form, or failure to pay in due time and form the cash amounts resulting from the corresponding Settlements or Position Settlements or any other amount owed by a Member, Direct Clearing Client or Client to BME CLEARING or to the Member through which they act in BME CLEARING.
- In the case of a Direct Clearing Client, when the Agent Member notifies BME CLEARING that the Direct Clearing Client has defaulted on its obligations to the Agent Member (even when these obligations arise from the conditions additional to the minimum content clauses laid down in this Rule Book).
- Failure to deliver the securities, financial instruments or assets, or cash resulting from the Position Settlement, when this could imply a risk for BME CLEARING or the Member.
- The initiation, or request for initiation made by a Member, Direct Clearing Client or Client, of bankruptcy or insolvency (whatever the name given thereto), in relation to the Client, Direct Clearing Client or Member, its Parent or another relevant company within its group, or the adoption by a judicial or administrative authority of a universal decision to wind up the Client or Member, its Parent or any other relevant company within its group.
- The existence of any circumstance in relation to the Member, Direct Clearing Client or Client, its Parent or any other relevant company within its group, which may generate a risk for the economic solvency of the Member or BME CLEARING, including among other Default by a Client, Direct Clearing Client or Member on its obligations in other markets, settlement systems or central counterparties.
- In the event of declaration of Default of its General Clearing Member and declaration of Default of its Agent Member, failure by the Non-Clearing Member or by the Direct Clearing Client, respectively, to comply with the requisites of the interim regime established in the Rule Book.
- Default by the Member in charge of processing the Default of a Non-Clearing Member or Client on the obligations provided hereunder in this respect.
- Breach, by the Member, by the Direct Clearing Client or by the Client, of the rules of conduct applicable to it pursuant to the Spanish SMA.
- Default by a Clearing Member on the obligation to hold an account or to designate a payment agent to hold an account in the payment system established by BME CLEARING for Cash Settlements.
- Any other Default by the Member, Direct Clearing Client or Client on its obligations, other than those mentioned in the preceding points, established in the BME CLEARING's Rule Book and developed through the corresponding Circulars, or in its agreement with BME CLEARING or with a Member that could imply a risk for BME CLEARING or the Member.

According to Article 39 of the Rule Book, when any Member, Direct Clearing Client or Client incurs in any of the causes of Default provided in article 38, in relation to any or all of the Segments in which it participates, the following measures may be adopted:

- A) Temporary suspension of the Member, Direct Clearing Client or Client with respect to the capacities of the Member or Client to act in those Segments where Default has occurred or in Segments where such Default should be considered relevant.
- B) Declaration of Default of the Member, Direct Clearing Client or Client.
- C) Loss of the status of Member, Direct Clearing Client or Client. Refer to answer to question 11.b) below for further detail.

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

The causes of Default [and the measures to be adopted in the event of Default] are listed in the Rule Book and are defined considering objective criteria but allowing BME Clearing to exercise discretionary judgment.

As the main remit of BME Clearing as CCP, it has to mitigate counterparty risks by applying a solid risk management system that focuses on monitoring and measuring the exposures to participants by measuring credit, market and concentration risks in real time in order to monitor that participants continue to be able to meet their obligations. In the context of this risk management function, the CCP needs to count on certain discretionary power to trigger the declaration of Default of a member that would ultimately lead to termination of its membership status.

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

BME Clearing does not use specific indicators to trigger termination.

The solid risk management system allows real time monitoring and measuring of the exposures to participants by measuring credit, market and concentration risks.

d) Do the FMI's provisions envisage that (i) financial stress on the participant's side (as defined in its provisions – please provide the definition of such stress) and/or (ii) a resolution event (recognised in the relevant jurisdiction) qualifies as a material change that may trigger termination?

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

In response to questions d) and e) above, among the causes of Default, article 38 includes, the existence of any circumstance in relation to the Member, Direct Clearing Client or Client, its Parent or any other relevant company within its group, which may generate a risk for the economic solvency of the Member or BME CLEARING, including among other Default by a Client, Direct Clearing Client or Member on its obligations in other markets, settlement systems or central counterparties.

“Financial stress” is not defined in BME Clearing Rule Book, but refers to those “circumstances that generate a risk for the economic solvency of the member or of BME Clearing, including among other Default by a Client, Direct Clearing Client or Member on its obligations in other markets, settlement systems or central counterparties.”

The definition of this cause of Default is wide enough to allow the CCP the exercise of its discretionary judgment in the course of the real time monitoring of the risk stemming from the participant according to the CCP risk management system, in order to assess if the member is able and will continue to be able to fulfill its obligations according to BME Clearing Rule Book. The declaration of Default of the member in other market, settlement system or central counterparty would qualify as an indicator of the likelihood of no longer being able to comply with its obligations before the CCP and could trigger the declaration of Default of the member in BME Clearing.

As mentioned before, in accordance with article 68 of BRRD and 66 of Spanish Law 11/2015, 18 June, on recovery and resolution of credit institutions and investment firms, early intervention or resolution cannot be considered as an event of Default. Hence, in jurisdictions that are not subject to the EU regulatory framework, where the Default in other markets, settlement systems or central counterparties is declared only on the basis of the firm having entered into resolution, this fact could not be considered itself as a trigger for the declaration of Default in BME Clearing.

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.

No.

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.

According to articles 39.1.A), 40, 41.1 and 42 of BME Clearing's Rule Book, a Member or Client may be subject to temporary suspension, as a precautionary measure, from the moment when there are indications that the Member or Client incurs in any cause of Default. A declaration of Default may be issued at the time when it becomes known that a Member, Direct Clearing Client or Client incurs in any of the causes of Default stipulated in this Rule Book. Upon declaration of Default, BME Clearing may suspend the Defaulting Member, Direct Clearing Client or Client or maintain any precautionary suspension previously adopted.

The resolution to temporarily suspend Clearing Members corresponds to BME Clearing. General Clearing Members may agree to temporarily suspend their Non-Clearing Members, notifying BME Clearing of such decision. The agreement to temporarily suspend Clients corresponds to the Member through which such Client has opened Accounts.

Prior to resolving on such suspension, if the cause of Default should allow it, in BME Clearing's opinion in the event of suspension of Clearing Members, or in the relevant Member's opinion in the event of suspension of Non-Clearing Members, giving BME Clearing prior notice thereof, or in the case of Clients, and provided that there is no risk to BME Clearing or to its participants, the Member or Client may be granted twenty four (24) hours to remedy such Default. If such Default is not remedied within such period, the Member or Client may be temporarily suspended.

Suspension of the Member or Client shall involve BME Clearing or the Member, as applicable, establishing the relevant limitations to its actions in the CCP, in relation to those CCP Segments where Default has occurred or where such Default is relevant. The Member or Client obligations to post Margins, or to make payments corresponding to any applicable settlements will persist.

The Member must immediately give notice to BME Clearing of the temporary suspension of Non-Clearing Members and of Clients.

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?

No, there is not a specific timeline for a suspension period before it leads to termination. When suspension is adopted as a precautionary measure, the suspension might be lifted where the Default is not declared. If the precautionary suspension is followed by a declaration of Default, the default management procedure will apply, and it will lead to termination of membership.

10. Critical FMI service rules, contractual arrangements, or procedures should reflect any legal restrictions on termination and suspension of access because of an FMI service user entering into resolution (FSB 2017 Guidance, 1.1).

We refer to the prior consideration in section 9 above. Resolution cannot trigger termination or suspension of access to BME Clearing.

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

As stated above causes for suspension and termination of the participants status in BME Clearing are clearly identified and regulated under article 38 of BME Clearing Rule Book and outside of these cases there is no termination or suspension. In none of these cases recovery or resolution are contemplated.

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

No.

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 current Rule Book, version applicable since 22 May 2018, introduced an amendment undertaken in order to align with article 66 of Spanish Law 11/2015, on recovery and resolution of credit institutions and investment firms.

Previous wording of the cause of Default in article 38 .4 of the Rule Book, (formerly Article 30.3 of the Rule Book, in the version dated 18 September 2017) read as follows:

“The initiation of insolvency or administration proceedings (whatever the name given thereto, including, **when involving credit institutions or investment service companies, early intervention, restructuring and termination**), in relation to the Client or Member, its dominant company or another relevant company within its group, or the adoption by a judicial or administrative authority of a universal decision for the winding up or reorganization of the Client or Member or of a relevant entity within its group.”

The new wording has eliminated the reference to the “early intervention, restructuring and termination”.

No additional amendment is required.

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)?

Please refer to answer 8.a) above.

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.

The measures to be taken in the event of Default, as outlined in Article 39 and further developed in Article 42 of BME Clearing’s Rule Book, are aimed at containing losses, ensuring operations are not disrupted and that Non-Defaulting Clearing Members are not exposed to losses that they cannot anticipate or control:

- Temporary Suspension of the Defaulting Member.
- Immediately restrict the registration of new Trades of the Defaulting Member.
- Undertake any Trades for the purpose of reducing unhedged risks, until total coverage thereof.
- Close-out the Defaulting Member’s Positions.
- The transfer to another Member or closing out, as applicable, of the individual segregated Accounts (both, agency and principal to principal) the omnibus segregated accounts, together with the corresponding second-tier register accounts, where applicable, and of the indirect clearing omnibus segregated accounts and indirect clearing gross omnibus segregated accounts. In the event of close-out of accounts, the close-out netting regime established in the Rule Book will be applicable.
- BME Clearing may sell off, in whole or in part, the Defaulting Member Collateral of any kind posted in favour of BME Clearing.

- Obtain, on behalf and at the expense of the Defaulting Member, any kind of professional advice or assistance which BME Clearing may reasonably require in connection with the management of the Default, including a mandate to manage the closing of Positions to another firm.
- BME Clearing must inform the Defaulting Member of the measures adopted, as soon as possible; fully cooperate with the Competent Authorities; and co-operate, as long as there is reciprocity, in the exchange of information with any market, CCP (through the European Association of Clearing Houses, EACH), or settlement system in which the Defaulting Member should be acting, and co-operate with any Competent Authority, in connection with the measures adopted by BME Clearing with regard to the Defaulting Member.

The closing of positions, close-out netting, transfer of accounts of the Defaulting Member and the settlement of costs, expenses and balances resulting from the Default are explained in Articles 43, 44 and 45 of the Rule Book. The management of transactions at different stages of processing is regulated by the Articles 42 to 45 of the Rule Book, and contains details on how Default shall be managed with a high level of thoroughness and legal certainty.

Together with the provisions In the Rule Book, BME Clearing has clear rules and procedures (Default management protocol) to be applied in the event of a Default, in order to safeguard the correct running of the CCP and to reduce the potential effects of the Default on the non-defaulting Members.

Key aspects of Default rules and procedures are publicly available to the general public:

<https://www.bmeclearing.es/ing/Risk-Management/Default-Management-Process>

https://www.bmeclearing.es/docs/docsSubidos/ING/GENERAL/Appendix_4_6_Art_49_EMIR_De_fault_Management_Protocol_06-07-2018.pdf

(Please provide concrete examples, if any, of participation/membership terminations and flag, where relevant, any changes made to the termination process since).

An example of participant termination in BME Clearing was the Default of Banco de Madrid.

Prior to the declaration of Default, issued on 17 March 2015, BME Clearing declared a temporary suspension the day before, after receiving confirmation of: (i) the suspension of Banco de Madrid in TARGET2, and (ii) the request to start a bankruptcy process.

BME Clearing CEO analyzed the facts and judged the situation. Given the impossibility of Banco de Madrid to comply with the pending settlements, the decision to declare the Default was made in accordance with Article 38.1 of BME Clearing Rule Book.

No amendments to the termination process were undertaken.

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?

Refer to answer to question 8.a) above.

According to article 46 of the Rule Book, upon declaration of Default and having completed the Default management measures, BME CLEARING may terminate its agreement with the Defaulting Member, which shall determine the loss of the condition of Member, without prejudice to the obligation of the Member to honour all pending financial obligations vis-à-vis BME CLEARING, its General Clearing Member, even after having lost its status.

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?

According to Article 41.7 and 8 of BME Clearing Rule Book, BME CLEARING shall issue a declaration of Default of the Clearing Member and of the Direct Clearing Client, and shall deliver a copy of this declaration to the Defaulting Clearing Member, to the Defaulting Direct Clearing Client, to the Non-Clearing Members of the Defaulting Clearing Member should it have any, and to the Comisión Nacional del Mercado de Valores, and, if applicable, the other Competent Authorities, in addition to the Markets and clearing and settlement systems with which BME CLEARING holds agreements.

Unless the Comisión Nacional del Mercado de Valores or, where appropriate, the Competent Authorities believe that such disclosure would imply a threat to financial stability or market confidence, or would seriously jeopardise the financial markets or cause disproportionate harm to the parties involved, BME CLEARING shall make public any declarations of Default of Members and Direct Clearing Clients.

Upon completion of the Default procedure the Member will be notified of the termination of its agreement.

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

Resolution of a participant has no impact neither in its own participation in the CCP, as long as it keeps on fulfilling its obligations, nor in the participation of its parent/subsidiaries membership in the CCP.

Likewise, termination of a participant, due to Default, might not have an impact on other group companies, as long as obligations are met. For clarity purposes, when the parent company and a branch, or different branches of the same parent company, participate in the CCP, provided that these are the same legal person (same LEI), the Default of any of them would imply the Default of the rest.

However, among the causes of Default, BME Clearing Rule Book contemplates the possibility to declare the Default in the event of (Article 38):

- The initiation, or request for initiation made by a Member, Direct Clearing Client or Client, of bankruptcy or insolvency (whatever the name given thereto), in relation to the Client, Direct Clearing Client or Member, its Parent or another relevant company within its group, or the adoption by a judicial or administrative authority of a universal decision to wind up the Client or Member, its Parent or any other relevant company within its group.
- The existence of any circumstance in relation to the Member, Direct Clearing Client or Client, its Parent or any other relevant company within its group, which may generate a risk for the economic solvency of the Member or BME CLEARING, including among other Default by a Client, Direct Clearing Client or Member on its obligations in other markets, settlement systems or central counterparties.

BME Clearing can declare the Default, but it is not obliged to do so, as long as the Member complies with its obligations.

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)?

No, there is no cross-default provisions in BME Clearing. No automatic Default is foreseen in those cases as long as all obligations are being met (save for the case of parent companies and branches which are the same legal person, as mentioned above). Refer to answer to question 11,e) above.

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?

Porting of positions is foreseen in business as usual and in the event of Default.

BME Clearing will assist the firm in the porting process from an operational and technical perspective.

Circular C-GEN-11/2018 develops Article 23.7 of the Rule Book and establishes the rules for trade transfers and position transfers, that are applied in a business as usual scenario. A Position

Transfer is the transfer of the position to another account or accounts distinct from the original account with the same Member or among different Members. It does not generate a position, and at most the open position at the time of the transfer request may be transferred.

Position transfer will be registered during the following session after the reception of the request and, exceptionally, on the day of receipt. Futures will be registered at the closing price of the previous session, options at zero price and the rest of the products at the registering price of the trade.

The request must be made by e-mail to BME CLEARING by the Member holding the accounts together with, where applicable, the request by the Client, and this request must also be made by the Member receiving the position.

In the case of Default, Article 43 of the Rule Book specifies the procedures to follow to close out positions and transfer client accounts in the event of Default, differentiating between Clearing Member and Non Clearing Member Default and incorporating specific rules for the indirect clearing client accounts,. Additionally, the Default Management Protocol contains the protocol dictating what action and measures to take, under articles 38 and subsequent of the Rule Book, in the event of a Member Default.

If the Defaulting Clearing Member holds Individual Segregated Accounts (Article 43.I.B) of the Rule Book), Omnibus Segregated Accounts (Article 43.I.C of the Rule Book), Indirect Clearing Omnibus Segregated Account (Article 43.I.D) of the Rule Book) and Indirect Clearing Gross Omnibus Segregated Account (Article 43.I.E) of the Rule Book) the Rule Book establishes the mechanisms for transferring or close-out netting Positions and collateral – in accordance with the provisions of EMIR and enhancing regulation. BME Clearing, at the request of each client, will try to transfer the client accounts to other clearing or non-clearing members, designated by each client, after previously informing the CNMV. To perform such transfer, agreement between the Member or Members to which the accounts shall be transferred and the customers whose accounts are to be transferred is required. The collateral corresponding to these accounts will also be transferred.

In the event that the Defaulting Member is a Non Clearing Member, the Rule Book also establishes the mechanisms for transferring or close-out netting Positions and collateral of the clients held in the different accounts that the Non Clearing Member can manage: Individual Segregated Accounts (Agency model) (Article 43.II.B) of the Rule Book), Indirect Clearing Omnibus Segregated Account (Article 43.II.C) of the Rule Book) and Indirect Clearing Gross Omnibus Segregated Account (Article 43.II.D) of the Rule Book). After reporting the situation to the CNMV, BME Clearing will transfer these accounts to the General Clearing Member who shall be obliged to accept them.

h) Please discuss any other points related to termination.

N/A

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?

Please, refer to answer to question 8,a) above, related to the causes of Default.

As long as the firm in resolution keeps on fulfilling its obligations towards the CCP it will maintain its participation in the CCP.

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

Participants need to anticipate their ability for ongoing compliance with all their obligations with BME Clearing. There are no specific indicators set out in BME Clearing regulation or procedures. Refer to answer to question 14 and below.

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.

N/A

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

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

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

14. What management and monitoring process(es) does the FMI have in place to identify a situation of stress of a (direct) FMI participant or its affiliate?

There are some specific requirements to Clearing Members, which are set forth in the Admission of Clearing Members in BME CLEARING General Circular. These are a starting point of all the monitoring processes that the CCP will carry out from that moment onwards, which at the same time will serve the CCP to see whether a Clearing Member may be in a situation of stress. These processes are described here below:

- Assessment of the Shareholder's Equity of each Member of the CCP: Members are under the obligation to provide information to BME CLEARING about the amount of their shareholders' equity and any change to it at least on an annual basis. The CCP will take into account the latest audited Financial Statements in order to compute the Capital of each Clearing Member for Risk Limits purposes. Additionally, for those investment firms under the control of the CNMV (BME Clearing's National Competent Authority), a quarterly Capital figure is recorded, according to the quarterly financial report disclosed by the CNMV.
- Monitoring of the Market Capitalization of those Clearing Members which at the same time are Issuers of stocks traded on an Exchange (e.g. Banco Santander, BBVA, Société Générale, etc.). For these Clearing Members, the Market Capitalization of their stocks will be computed. In case the resulting amount falls below their Shareholder's Equity amount, the former will be taken into account for Risk Limits purposes.
- Assessment of the Solvency Level of each Clearing Member: a real time monitoring process is carried out to compute the solvency level granted by the CCP to every Clearing Member, based on external ratings information and internal criteria, if needed. If a Member is aware of any deterioration of its solvency, the Member is obliged to notify this to BME CLEARING immediately.

As explained above, the risk management system used by the CCP focuses on monitoring and measuring the exposures to participants by measuring credit, market and concentration risks in real time. The efficiency of the risk-management system and any changes made thereto are verified daily (back tests), weekly and monthly by the Executive Risk Committee.

Finally, in accordance with the provisions in BME Clearing Rule Book (Chapter 2) related to the rights and obligations of the Members and the minimum content of the agreement to be signed between BME Clearing and its members, the Members must:

- Communicate sufficiently in advance and in writing to BME Clearing any material change in their articles of association, its nature or legal structure or financial condition and, especially, circumstances affecting the requirements to be the class of Member in question.
- Communicate immediately to BME Clearing the information required by it, concerning themselves or their Clients, if required by the Competent Authorities, or in the general interest of BME Clearing, to enable BME Clearing to evaluate compliance with this Rule Book, its supplementing regulations and other applicable regulations, and to determine, control and manage significant risk concentrations related with their activities as Members and with the provision of services to Clients.
- To communicate to BME Clearing the existence of any sign or information that, in the Member's opinion, may result in failure to comply with the regulations provided in the Securities Market Law and other applicable legislation, providing the relevant data supporting such signs or information.

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)?

Based on the processes mentioned in previous answer to question 14, whenever there is a sudden worsening of either the Shareholder's Equity amount of a Member, or its creditworthiness level, this would represent a trigger event for a market stress situation with regards to the Member.

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?

At the point where the CCP has identified a Clearing Member being in a stress situation, the first action to take is the removal of the Solvency Level granted by the CCP to the Clearing Member regarding the Risk Limits in place. This means that any intra-day risk amount faced by the Clearing Member will have to be pre-funded, irrespective of the stress situation being either mild, or moderate or severe.

A second impact of the above situation is that for certain segments of the CCP (e.g. the IRS segment or the FX products cleared in the Financial Derivatives segment), the Clearing Member would require larger Initial Margin figures due to the application of a Solvency Multiplier, which is a multiplication factor to be applied to the Initial Margin amounts of all margin

accounts of the affected Clearing Member. This solvency multiplier is applied to those Clearing Members having the lowest solvency levels.

All the above actions taken would be done even though the Clearing Member continues meeting its obligations as a Clearing Member.

BME Clearing describes the range of risk management tools available – during business-as-usual and market stress events – in its publicly available Rule Book as well as in the membership agreements, as well as other public disclosure. This ensures that clearing members are able to evaluate their potential risk and liability as well as their ability to respond to potential exceptional actions by the CCP under a variety of circumstances. Changes to the rules or liabilities are disclosed to members and typically require a period of consultation to ensure clearing members and participants have a full understanding of their obligations at all times.

In addition to this existing and available documentation, clearing members typically perform regular due diligence on their CCPs, and CCPs make themselves available for such reviews.

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.

According to the Calculation of shareholders' equity and solvency General Circular (see link below), Members are under the obligation to provide information to BME CLEARING about the amount of their shareholders' equity and any change to it. Likewise, if a Member is aware of any deterioration of its solvency (e.g. any downgrade in the credit rating granted by any of the credit rating Agencies), the Member is obliged to notify this to BME CLEARING immediately.

No specific templates are used for the above notifications.

https://www.bmeclearing.es/docs/ing/normativa/circulares/2020/C-GEN-2020_05_Calculation_of_Shareholders_Equity_and_Solvency.pdf

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.

In the case a Member/Client of the CCP is in financial stress, BME CLEARING would require an urgent update on the information stated in the Admission of Clearing Members in BME CLEARING General Circular (see link below), that the Clearing Member must send immediately to the CCP.

https://www.bmeclearing.es/docs/ing/normativa/circulares/2018/C-GEN-2018_15_Admission_of_Clearing_Members_in_BME_CLEARING.pdf

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?

BME Clearing Rule Book does not contain specific risk mitigations actions for the event of resolution of its participants. All the measures described herein refer to the business as usual risk management procedure that will remain valid for the event of resolution.

The risk management procedures set out in the CCPs regulations should be considered as a sound and effective framework to address the eventual resolution of participants, without requiring a specific new and separate regulation.

BME Clearing cannot know in advance of a resolution event how the clearing member will be impacted or how markets will react. The variety and breadth of such events makes it impractical for CCPs to define an exact response for every potential stress event. Defining the exact process in advance would be difficult and such firm definitions would be inappropriate for the active and flexible risk management required to manage such an event.

i. Increasing membership contributions (e.g. default fund/loss sharing contributions), mandating pre-funding, restricting withdrawal of deposits;

As commented in the answer to question 16 above, the CCP will require all necessary pre-funded margins to the affected Clearing Member, provided that its solvency level has been downgraded to a level below investment grade. According to the Risk Limits Circular, the solvency limit would fall to zero and therefore any intra-day risk amount faced by the affected Clearing Member will have to be covered with pre-funded margins.

Moreover, the same Clearing Member will be required larger initial margin amounts due to the Credit Risk Multiplier that could be applied by the CCP (again, see answer to question 16) In case the Clearing Member has no rating granted by any of the main rating Agencies, the decision to apply all of the above will be discretionary, depending on the particular situation of the Member in stress.

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

See answer to previous point i) above. Additionally, some excess collateral could be required by the CCP to the affected Member, as a discretionary measure, if the CCP deems it necessary.

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

No Solvency Limit would be granted to the affected Clearing Member. See answer to previous point i) above.

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

A Clearing Member being in a stress situation will continue having access to the registration of trades unless it is declared in default by the CCP. However, more attention will be put by the Risk Management team in order to closely monitor its intra-day risk at all times during any business day.

v. Termination or suspension of participation/membership.

We refer to the prior consideration in section 9 above. No termination or suspension of participation is foreseen beyond the cases described in Article 38 of BME Clearing Rule Book. Resolution does not trigger termination or suspension.

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

No other risk mitigation actions would be taken apart from all the above.

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.

BME Clearing Rule Book does not contain specific actions for the event of signs of distress of its participants.

The notifications and communications set out in the Rule Book, as further developed in the Default Management Protocol refer to the event of Default (and not to distress)

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?

As stated above, in accordance with BME Clearing Rulebook and the Agreement signed by the BME Clearing and its Members, the latter must inform BME Clearing of any modification or circumstance which may affect its participant status or due compliance with its obligations.

Certainty and information are relevant for the CCP to monitor and manage any risk that resolution or any other situation may pose in the system. When needed, the CCP will request information from the participant and will be in communication with the competent authority. As a supervised FMI, in accordance with the Spanish Securities Market Act BME Clearing will answer any requirement of information from its competent authorities.

The notifications and communications set out in the Rule Book, as further developed in the Default Management Protocol refer to the event of Default (and not to resolution). As long as the firm in resolution complies with its obligations no Default procedure will be triggered, and these communications referred to here below won't apply.

BME CLEARING shall report the **start of actions** relative to an eventual declaration of Default of any Member, Direct Clearing Client or Client considered to be significant due to the Position held in BME CLEARING, to the Comisión Nacional del Mercado de Valores, the relevant Competent Authorities, in addition to the Markets and clearing and settlements systems with which BME CLEARING holds agreements (Article 39.3 of the Rule Book).

Unless expressly stated otherwise, the communications issued by BME CLEARING, Members, Direct Clearing Clients and Clients during the course of the measures adopted in the event of Default may be disclosed using any habitual communications channel (including telephone and e-mail) (Article 39. 6 of the Rule Book).

In case of **temporary suspension**, and according to Article 40.4 of the Rule Book, BME CLEARING shall notify the Clearing Members and Direct Clearing Clients of the temporary suspension decision and shall inform the Comisión Nacional del Mercado de Valores, the corresponding Competent Authorities, in addition to the Markets and clearing and settlement systems with which BME CLEARING holds agreements.

Members shall immediately notify BME CLEARING of the temporary suspension of its Non-Clearing Members and Clients considered to be significant due to the Position held in BME CLEARING. If the Non-Clearing Member has several General Clearing Members or if the Client has Accounts opened with other Members, BME CLEARING shall give notice of the temporary suspension of the Non-Clearing Member or the Client to the other Members, in order for them to take the corresponding measures to restrict their trading and activities.

BME CLEARING shall report the temporary suspension of any Member, Direct Clearing Client or Client that, due to the Position it holds in BME CLEARING, should be considered significant, to the Comisión Nacional del Mercado de Valores, the relevant Competent Authorities, in addition to the Markets, and clearing and settlement systems with which BME CLEARING holds agreements.

Article 41.7 to 41.10 of the Ruel Book establish that BME CLEARING shall **issue a declaration of Default** of the Clearing Member and of the Direct Clearing Client, and shall deliver a copy of this declaration to the Defaulting Clearing Member, to the defaulting Direct Clearing Client, to the Non-Clearing Members of the Defaulting Clearing Member should it have any, and to the Comisión Nacional del Mercado de Valores, and, if applicable, the other Competent Authorities, in addition to the Markets and clearing and settlement systems with which BME CLEARING holds agreements.

Unless the Comisión Nacional del Mercado de Valores or, where appropriate, the Competent Authorities believe that such disclosure would imply a threat to financial stability or market confidence, or would seriously jeopardize the financial markets or cause disproportionate harm to the parties involved, BME CLEARING shall make public any declarations of Default of Members and Direct Clearing Clients.

The Members shall issue a declaration of Default, with the minimum content established by Circular, which they shall deliver to the Non-Clearing Member or Defaulting Client. The Member shall submit to BME CLEARING a copy of the declaration of Default of any Member, or Client considered to be significant due to the Position held in BME CLEARING, which shall be forwarded to the Comisión Nacional del Mercado de Valores, and where appropriate to the relevant Competent Authorities, in addition to the Markets and clearing and settlement systems with which BME CLEARING holds agreements.

Members must keep BME CLEARING informed at all times of the measures adopted in relation to a Defaulting Non-Clearing Member, a Defaulting Client considered to be significant due to the position held in BME CLEARING or where the Default is of particular importance and significance.

The porting of client's positions, upon declaration of Default, is subject to prior notification to the CNMV and in all cases BME CLEARING shall inform the Clients and Members involved of the situation and of its intention to transfer the Accounts (Article 43 of the Rule Book).

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.

There is no specific communication plan for the scenario of resolution. Refer to answer to question 21.a) above.

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

No prior consent is required. Refer to answer to question 21. a) above.

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

Refer to answer to question 21. a) above. The Declaration of Default might not be published where it could represent a threat to financial stability or market confidence or would seriously jeopardize the financial markets or cause disproportionate harm to the parties involved.

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?

Refer to answer to question 21. a) above. There might be differences with regards to Members or Clients.

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?

FMI's concerned should be informed as soon as possible in order to prepare themselves from a risk and operational point of view. This communication should be done by the resolution authority, FMI's supervisor or directly by the participant. In this way it will be possible to establish a communication channel that allows to correctly handle the stress situation.

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.

Any information that provides certainty about the situation and the firm's ability to continue to meet its obligations will contribute to the management of the situation along the process.

Furthermore, information about the potential measures to be adopted by the resolution authority will contribute to prepare FMI operational assistance and to ensure a smooth implementation of the measures considering, not only the status as participant of the firm but also its impact as issuer when the firm has both status.

Confidentiality is ensured as such communications could be made to the Senior Management of the FMI.

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

Among others, please find below some other actions that will be required:

- Coordination between the resolution authority, the firm's supervisor and the FMI's supervisor.
- Coordination between the above authorities with the different FMI's impacted by the resolution: not only considering the participation of the firm in the FMI but also with those FMI that access to the FMI where the firm participates.
- To appoint a person in the firm as single point of contact.

d) Please discuss any other considerations.

N/A

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?

Risk management measures are not designed for the protection of the CCP itself, but rather to address, contain and mitigate counterparty risk and ultimately to contribute to financial stability in close coordination with and following the decision of the resolution authority. The CCP is prepared to exercise its discretion to apply its risk management measures as appropriate to address the risk of the individual firm whilst also considering the risk of contagion to other clearing members and the cleared ecosystem.

BME Clearing describes the range of risk management tools available – during business-as-usual and market stress events, which, as mentioned, are also applicable in a resolution event– in its publicly available Rule Book as well as in the membership agreements, as well as other public disclosure. This ensures that clearing members are able to evaluate their potential risk and liability as well as their ability to respond to potential exceptional actions by the CCP under a variety of circumstances.

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?

No specific actions are contemplated in this respect.

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?

The same rules apply to domestic and foreign participants.

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

Same rules apply to domestic and foreign participants.

25. Safeguards in jurisdictional legal frameworks.

a) How do you assess whether the resolution framework of the jurisdiction in which a firm resides provides adequate safeguards to the provider of critical FMI services?¹²

Access as a Member in BME Clearing is granted based on a comprehensive on-boarding procedure in accordance with EMIR. Only firms that comply with the requirements set out in Article 69 of the Securities Market Act are eligible to become members of the CCP.

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

Refer to section 2.b above. Firms can be incorporated in any jurisdiction as long as the requirements set out in Article 69 of the Securities Market Act are met.

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?

N/A

Part IV: During and after resolution

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

27. When the FMI becomes aware of a participant entering a resolution process, which actions would the FMI be likely to take vis-à-vis the participant? Could actions be taken even though the participant/member meets its obligations?

Refer to section 7 and to the prior consideration to Part II above. While obligations are met, no default actions are adopted.

In addition, on the basis that some information has been provided to BME Clearing during the pre-resolution phase, BME Clearing will activate or identify the team of people essential to be involved in the resolution processes for the monitoring of the operations and for the implementation of the measures approved by the resolution authority.

A special follow-up and monitoring of the operations and risk of the firm would be undertaken. The goal of the CCP would be to cooperate in achieving the objectives of the resolution without jeopardizing the safety of the overall CCP service.

Constant communication will be maintained with the person appointed by the firm as single point of contact.

28. Please explain the methodology used to calibrate additional membership requirements (including operational, financial and capital requirements) for a member/client in resolution.

Refer to answer to question 18 above. Resolution does not trigger specific additional requirements.

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?

Resolution strategy is not communicated by the resolution authorities to the FMI. No measures or tools can be applied in particular with regards to such unknown strategy.

Does the FMI consider anything specific in its methodology in relation to ring-fenced or specifically safeguarded entities?

N/A

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);

Refer to answer to questions 19 and 9 above.

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

Refer to answer to question 19 above.

Additional margin might be required, according to the Rule Book and enhancing regulations, if the specific conditions for such additional margin call are met.

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

For the time being, BME Clearing has not identified the need for specific or particular provisions or procedures for a resolution scenario. The scenario will be handled within the general framework in place and the resolution decision approved by the resolution competent authority. All services will be available, if obligations are met. Otherwise, the Default procedure will be triggered.

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

BME Clearing should apply its participation requirements. The purchaser or the bridge entity must comply with the requirements to become a participant entity in BME Clearing.

When the purchaser or the bridge entity does not comply the requirements for access to BME Clearing, the access to the FMI may be granted according to article 25 of the Spanish Law 11/2015, 18 June, on recovery and resolution of credit institutions and investment firms, for a period of time defined by FROB, not exceeding 24 months and renewable upon request of the purchaser or the bridge entity, as applicable.

Furthermore, in the case of the bridge entity and in accordance to article 27 of the said Law 11/2015, the bridge entity must obtain the authorization to carry out the regulated activities acquired from the firm under resolution and be under the supervised power of the corresponding supervisor. If at the beginning of its functioning the bridge entity does not comply such requirements, it might be authorized to carry out the activity when this is necessary to achieve the objectives of the resolution. This exemption requires the competent authority for the resolution to submit an application to the competent authority, who would state in the authorization the specific period of time during which the firm is exempted from meeting those requirements.

Authorities shall bear in mind that the access to the FMI of a purchaser or bridge entity that does not comply with the requirements to access the FMI, shall not pose a risk to the FMI or its participants or increase the risk in the infrastructure.

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

BME Clearing will apply the general risk management framework established in compliance with EMIR.

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?

Access will be maintained provided that obligations are met. There are no specific measures to be adopted in the event of resolution beyond the general risk management framework applicable in a business as usual scenario.

BME Clearing does not have a set of rules that specifically regulate the resolution scenario. The general rules and regulations and risk management framework applies. There is no need for a specific set of provisions with regards to resolution.

The relevant documents to be considered are the following:

- BME Clearing Legal framework and internal regulations: Rule Book, General Conditions, Circulars and Instructions.
- CPSS-IOSCO Principles for financial markets infrastructures: Disclosure Framework,
- BME Clearing answers to this questionnaire on Continuity of Access to FMIs for Firms in Resolution.
- BME Clearing Default Management Procedure

All documents are public and available to participant entities in BME Clearing web page.

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

Refer to answer to question 11 e) above.

In principle it will not produce any impact unless it results from the decision of the resolution competent authority.

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?

No specific notifications for the event of resolution but those related to the measures that might be adopted in compliance with the decisions of the resolution authority.

Refer to answer to question 21 a) above.

b) Do you have a specific communications plan for this or does your approach leverage existing crisis communication mechanisms?

There's no specific communication plan for the event of resolution.

Refer to answer to question 21 b) above

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

No.

Refer to answer to question 21 c) above

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

Refer to answer to question 21, d) above

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?

Refer to answer to question 21, e) above

BME Clearing does not count with specific protocols for the event of resolution. In the event of Default, there might be differences depending on the category of participant.

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)?

Communications, if any might be done either by email, telephone or by means of public notices available through the web page. No specific preparations are required.

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?

Not explicitly foreseen. BME Clearing Operations team and its Head, with the support of the General Management, if needed, would centralize all communications.

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?

Refer to answer to question 22 above.

Resolution authorities should offer guarantee of the fulfilment by the firm of its obligations towards BME Clearing.

The resolution authority of the clearing member should inform the CCP as the authority identifies that a firm is approaching resolution in order to establish communication with the CCP.

As the resolution authority will likely have more information about the firm, it will be critical that the CCP be given sufficient information and evidence to ascertain if the clearing member will be able to continue to meet its obligations to the CCP, whether through a guarantee from the resolution authority or via other means.

To ensure that all FMIs are able to address the resolution appropriately, the information sharing between the authorities should be expanded to include all critical FMIs. With the appropriate safeguards, given the confidential and sensitive nature of the information related to resolution of a FMI participant, the collaboration and exchange of the necessary information among resolution authorities, FMI supervisors and FMI, in the lead up to resolution and in the process of resolution, is of the utmost importance. This collaboration would imply a wider degree of visibility to FMI (again, with the appropriate safeguards) of the resolution strategies, the resolution plans and the contingency plans.

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?

The earlier the communication is made, the better for the FMI. Early information will allow the FMI to be prepared to face the resolution measures adopted by the resolution authority.

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 answer to question 22 b) above.

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 answer to question 22, b) above.

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

See answer to question 22, c) above.

f) Please discuss any other considerations.

N/A

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?

See answer to question 23, a) above.

The risk management framework and the risk mitigation measures to be adopted in resolution are the ordinary ones, set out in the Rules and Regulations of the CCP. By applying those measures the CCP does not protect itself, specifically, but the rest of the participants and ultimately contains risk contagion and contributes to financial stability.

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?

Refer to answer to question 23, b) above

No specific actions are to be taken in this respect.

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.)

Please refer to answer to question 29. iv) above.

a) Please explain how the FMI rules, contractual arrangements and/or procedures reflect this.

No specific provisions for resolution, neither with regards to bridge institution resolution tool.

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?

Please refer to answer to question 29. iv) above.

No specific procedure is set out in BME Clearing Rule Book. If the purchaser or the bridge institution is not yet a member in BME Clearing, the onboarding process foreseen in BME Clearing will apply.

BME Clearing will assist the firm to speed up the process and avoid a discontinuity of the service. The signature of the membership agreement and fulfillment of all other on-boarding requirements will apply.

In the event that the entity does not comply with the requirements to become a member, the authorization of the resolution competent authority will be needed in accordance with Spanish Law 11/2015.

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

Should the purchaser or the bridge institution need to comply with on-boarding requirements, a minimum of one or two weeks might be required to complete the process. If the legal exception set out in Law 11/2015, the timeline established in the authorization of the resolution authority is to be applied, but still minimum operational requirements should be met.

The time required depends very much on the complexity of the services provided by BME Clearing to the firm, the Segments where it operates, the type of Member (General Clearing Member, Individual Clearing Member, Direct Clearing Client, Non-Clearing Member), the connections required with participants in other FMI, the account structure, etc.

Other dependencies to be considered are:

- The necessary authorizations by the competent authorities
- Technical and operational configuration must be performed by the entity and BME Clearing
- Technical and operational configuration by trading venues and CSDs connected with the CCP.
- Technical and operational configuration by BME Clearing on Target 2, for cash payments.

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)?

There is no specific fast track process. See answer to question 36.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?

Refer to answer to question 36.c) above.

Depending on the circumstances, the following documents and information may be required:

- Decision of resolution by the Single Resolution Board and Resolution of the national competent authority implementing the resolution measures approved.
- If it is not included in the above decision of resolution, documents related to the execution of the purchase
- Authorizations required under article 25 and 27 of the Spanish Law 11/2015, 18 June.

Membership agreement and related documents fulfilled in accordance with BME Clearing internal rules and procedures.

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)?

BME Clearing does not have specific rules for the resolution scenario.

This possibility is stated by Spanish Law 11/2015, 18 June, on recovery and resolution of credit institutions and investment firms.

See answer to question 29 with the details.

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

N/A

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.

Once the successor fulfils all the requirements, the preparations will depend very much on the complexity of the services provided by BME Clearing to the firm, the Segments where it operates, the connections required with participants in other FMI, the account structure, etc. Refer to answer to question 11, g) and 36.c) above.

Each case should be considered and studied in order to facilitate a smooth transfer. From the technical perspective transfer should only be allowed after prior testing.

38. Portability/Transferability of underlying client positions, for example to facilitate a bridge or partial transfer resolution strategy.

Refer to answer to question 11, g) above.

It depends very much on the complexity of the services received by the firm in resolution, the segments where it operates, the number and variety of the clients and their account structure.

Both in business as usual and in default scenarios, agreement between the clients and the member receiving the client's positions is required.

In a resolution event the decision of the resolution authority could establish certain prescriptions in this respect, that would need to be observed.

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.

Account structure description is available on the web page.

<https://www.bmeclearing.es/ing/Risk-Management/Client-account-types>

Article 39 EMIR disclosure document, on segregation and portability is also public:

https://www.bmeclearing.es/docs/docsSubidos/BME_CLEARING_-_EMIR_-_Segregation_and_Portability_DISCLOSURE.pdf

The structure of BME Clearing's accounts enables Members to separate their assets and Positions (registered in their proprietary accounts) from those held on behalf of their clients (registered in client's accounts which might be individual segregated accounts or omnibus segregated accounts).

A first classification of the accounts held in the Central Register managed by BME Clearing permits to distinguish:

- Proprietary accounts: where proprietary positions and collateral of the corresponding Member are registered individually.
- Client accounts: in which, according to the client's choice in relation to the type of client account, the trades and positions made on behalf of clients are registered, in addition to the margins and collateral posted. client accounts may be:
 - (ISA): kept on behalf of a sole client.
 - Omnibus Segregated Accounts (OSA): kept on behalf of multiple clients.
- Indirect Clearing accounts: in which trades, positions, margins and collateral held on behalf of indirect clients are recorded. Indirect Clearing Accounts might be:
 - Omnibus Segregated client Account- Indirect Clearing (Indirect Clearing OSA), held on behalf of multiple indirect clients (which have opted for this type of Account) of one or more direct clients.
 - Gross Omnibus Segregated client Account- Indirect Clearing (Indirect Clearing GOSA), held on behalf of multiple indirect clients (which have opted for this type of Account) of a sole direct client, and permitting the separated registration of the trades and positions of each of the indirect clients and the registration of collateral held on behalf of all these indirect clients are registered.

The Trade Register of BME Clearing, together with the Central Register managed by the CCP, is also composed of the Second-Tier Register Accounts, managed by those Clearing Members with the capacity to run a Second-Tier Register (Article 104.4 of the Securities Market Act and Articles 19 and 24 of BME Clearing's Rule Book) in the cases where the General Conditions for each CCP Segment require these accounts in relation with Omnibus Segregated Accounts in the Central Register.

According to article 110 of the Securities Market Act, once a member has been declared bankrupt, BME Clearing, after notification to the CNMV, shall arrange for the transfer of positions registered for clients, together with the collateral (portability).

BME Clearing internal regulations contain a detailed description of the account structure, the record keeping obligations, the segregation of assets and positions in the corresponding records, and the procedures applicable in the event of Default, including the porting of the assets and positions held by the Clearing Members for the account of the clients.

Regarding the effective and timely transfer of client positions to another member, the consent of both the clients and the new member is needed.

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?

N/A

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)

No specific procedures are required. The rules and regulations and risk management framework offer all the tools that are required to manage resolution.

The following answers do not refer to resolution, but to business as usual and Default scenarios

a) What is the process that the FMI typically follows to identify, escalate, and come to a final decision on issues related to (i) the financial condition of a member, (ii) the performance or lack of performance by a member of its obligations under the FMI's rulebook, and/or (iii) the continuing membership of a member?

Before granting a member access to the CCP, the onboarding process implies the performance of a legal, financial and operational assessment. Also, the functional and technical capability of the member is tested in order to prove that it has the ability to develop the normal activity within the CCP system.

Additionally, the risk management procedure of the CCP implies the ongoing monitoring of the member, focusing on different items:

- (i) Financial condition: Member capability to comply with settlements, which is monitored by BME Clearing Operations department. If the financial condition of the Member deteriorates below minimum conditions required to its Member category obligations, established in BME Clearing Rule Book, the situation would be escalated to the CCP General Management
- (ii) Performance: Related to the fulfilment of the settlements and the posting of margins derived from the positions of the Member in BME Clearing.
- (iii) Lack of performance: Default management.
- (iv) Membership continues until the moment the declaration of Default is issued, and membership is lost as a consequence of the Default process.
- Items (i) and (ii) also apply in a resolution event. The last two items, (iii) and (iv) are part of the Default process. They don't apply in a resolution scenario.

b) What positions, committees, or decision-making bodies in the FMI's organisation have a role in each phase of the identification, escalation, and final decision-making process?

When a deterioration of the financial condition of the Member or a lack of performance occurs, it is escalated to the CCP General Management. Operational departments, senior management, supervisors and ultimately the board of directors might be implied in the management of the resolution of a participant of the CCP.

Should there be indications of possible Default (lack of performance), the Default procedures would be triggered, and the Default Management Procedure would apply. When there are signs that the member might have incurred in a cause of Default, a precautionary measure of temporary suspension of the Member may be adopted, according to Article 39 of BME Clearing Rule Book, and finally BME Clearing CEO may decide to declare a Default, if the Member incurs in any of the causes of Default provided in Article 38 of BME Clearing Rule Book.

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

Agile decision-making procedures in business as usual (also applicable for a resolution event) and in a Default scenario (Default Management Procedure published in BME Clearing public website).

Any communication about a resolution will involve the Senior Management to facilitate prompt decision making. As mentioned above, the sharing of information in a pre-resolution phase with the FMI will contribute to facilitate the process and ensure the continuity of the access of the firm in resolution or its successor. It will also allow to define a communication plan with FMI that will grant a prompt decision making.

d) What would be the likely range of decisions undertaken after receiving notice of a service user entering into resolution? What market communications or notifications to the regulator would be undertaken?

Close monitoring. Coordination with other FMI, if required.

The regulators must notify the FMI. When the firm in resolution is established in other jurisdiction, we might need to keep BME Clearing National Competent Authority informed of the different measures to be adopted.

41. In line with the Key Attributes, 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?

BME Clearing runs fire drills on an annual basis, for each Segment, to test the Default management procedures with its Members.

There are no simulations in the event of a resolution of a Member, as far as it complies with its obligations with the CCP to posting margins and fulfilling the settlements arising from its positions.

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?

No specific rules for resolution.

Transfer of positions is allowed in business as usual and is foreseen in Default. Refer to answer to question 38 above.

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?

No specific test in this regard.

43. Please describe any simulation exercises the FMI has held with relevance to continuity of access. Please share examples of scenarios covered and whether such scenarios have been inspired by actual crisis events, and clarify the points below:

No specific simulation exercises are required for resolution.

a) Key Objectives/ how it correlates to a real life scenario;

N/A

b) Frequency;

N/A

c) Involvement of (large) FMI participants and whether any FMI participants have performed a simulation on their side in parallel;

N/A

d) Involvement of authorities: competent authorities of the FMI, competent authorities of participants, and RAs; and

N/A

e) Lessons Learned.

N/A

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

N/A

BME

Bolsas y Mercados Españoles
Plaza de la Lealtad, 1
Palacio de la Bolsa
28014 Madrid

www.bolsasymercados.es

This material has been prepared by Bolsas y Mercados Españoles, Sociedad Holding de Mercados y Sistemas Financieros S. A. (BME) and/or its subsidiaries (collectively, "BME", all of the foregoing entities belonging to the group headed by SIX Group Ltd., hereinafter "SIX Group") for the exclusive use of the persons to whom BME delivers this material. This material or any of its contents should not be construed as a binding agreement, recommendation, investment advice, solicitation, invitation or offer to buy or sell any financial information, products, solutions or services. Nor is this information a reflection of the firm positions (of its own or of third parties) of the participants in the Spanish Stock Market.

Neither BME nor SIX Group is under any obligation to update, revise or keep current the content of this material, and it is subject to change without notice at any time. No representation, warranty or undertaking - express or implied - is or will be given by BME or SIX Group as to the accuracy, completeness, adequacy, suitability or reliability of the content of this material. Neither BME nor SIX guarantee the legality, reliability, usefulness, truthfulness, accuracy, completeness and timeliness of the information provided by external sources, particularly in the data used throughout the report. Therefore, neither BME nor SIX shall be liable for any damages that users may suffer as a result of the unlawfulness, unreliability, inaccuracy, lack of truthfulness, incompleteness and/or non-timeliness of the contents.

As it reflects theoretical opinions, its content is merely informative and therefore should not be used for the valuation of portfolios or assets, nor serve as a basis for investment recommendations. The Contributing Entities, BME and the entities belonging to the SIX Group shall not be liable for any financial loss or decision made on the basis of the information contained in this material. In general, neither BME nor any of its subsidiaries, nor the Contributing Entities, their administrators, representatives, associates, controlled companies, directors, partners, employees or advisors assume any liability in relation to such information, nor for any unauthorized use thereof.

This material is the property of BME and may not be printed, copied, reproduced, published, transmitted, disclosed or distributed in any form without the prior written consent of BME.