

FSB Questionnaire for FMIs	
Part I: Legal entity and general contract/service information	
0. Please provide:	
a) The date of the most recent version of the answers to this questionnaire	
	23/06/2023
b) An overview of the changes made since the previous version	
	<p>A new version of our Clearing Rule Book (the CRB) was issued on January 18, 2023 which has prompted a review of the references to the CRB in the responses to this Questionnaire as well as parts of its content. There were also changes made to our website which subsequently changed the website links included in these answers.</p> <p>In November 2022, European Central Counterparty N.V. was re-named Cboe Clear Europe N.V. and as of May 1, 2023, its registered address is Gustav Mahlerplein 77, 1082 MS Amsterdam, the Netherlands.</p>
1. Please provide the following details:	
a) Full Legal Name	
	Cboe Clear Europe N.V. (Cboe Clear Europe)
b) Legal Entity Identification Number (LEI)	
	LEI No. 724500937F740MHCX307.
c) Jurisdiction of incorporation and registered number in the relevant corporate registry	
	Cboe Clear Europe is incorporated in the Netherlands with a Dutch Commercial register (KVK) number 34268194.
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.	
	<p>Cboe Clear Europe is authorized as a Central Counterparty (CCP) under the 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 (EMIR) to operate in the European Union. The regulatory authorities are:</p> <ul style="list-style-type: none"> - The Dutch Central Bank (DNB) – also acts as the CCP Resolution Authority; - The Netherlands Authority for the Financial Markets (AFM) – Conduct supervision (articles 36 to 39 of EMIR).
e) The ownership arrangement of the legal entity (e.g. is it majority owned by its users?)	
	Cboe Clear Europe is wholly owned by Cboe Worldwide Holdings Limited (UK), a 100% subsidiary of Cboe Global Markets Inc (USA).
2. Please provide the following information:	
a) Hyperlink to the published FMI disclosure template under the Disclosure Framework for Financial Market Infrastructures.	

<p>https://clear.cboe.com/europe/resources/documentation/public_disclosures/</p>
<p>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).</p>
<p>Cboe Clear Europe offers clearing services for cash equities (and equity-like financial instruments, including ETFs and depositary receipts), equity derivatives (index-equity futures and options).</p> <p>According to the Art. 4.1.2 of Cboe Clear Clearing Rulebook (the CRB) the following entities are eligible to become a Clearing Participant: :</p> <p>(a) Credit Institutions, banks, and Investment Firms established or authorised in a jurisdiction that is not considered by the European Commission and Council as having strategic deficiencies in its national anti-money laundering and counter financing of terrorism regime that poses significant threats to the financial system of the European Union;</p> <p>(b) legal entities established or authorised in a jurisdiction that is not considered by the European Commission and Council as having strategic deficiencies in its national anti-money laundering and counter financing of terrorism regime that poses significant threats to the financial system of the European Union, whose members or shareholders have unlimited joint and several liability for their debts and obligations, provided that such members or shareholders are institutions or firms mentioned under (a) above; and</p> <p>(c) legal entities established or authorised in a jurisdiction that is not considered by the European Commission and Council as having strategic deficiencies in its national anti-money laundering and counter financing of terrorism regime that poses significant threats to the financial system of the European Union, whose principal or sole object is the clearing of financial instruments.</p> <p>In order to be recognized as a Clearing Participant, an applicant must satisfy the following conditions(CRB Art. 4.2.2):</p> <p>(a) be validly incorporated;</p> <p>(b) accept the Clearing Rules by executing the Clearing Participant Agreement;</p> <p>(c) meet the financial requirements as set out in Article 4.4 of the CRB, and as specified by Cboe Clear Europe from time to time, and also meet any further requirements as to liquidity and/or solvency as may be set by Cboe Clear Europe;</p> <p>(d) provide a list with the persons competent to take decisions;</p> <p>(e) submit details of the relevant Settlement Addresses;</p> <p>(f) where it is incorporated outside the EEA, satisfy Cboe Clear Europe, by providing a legal opinion from a local counsel, that its domestic law system will not inhibit the ability of Cboe Clear Europe to act effectively under these Clearing Rules. Cboe Clear Europe can request the Clearing Participant to update such legal opinion. Cboe Clear Europe can request the same legal opinion from any Applicant which is incorporated inside the EEA;</p> <p>(g) satisfy the IT requirements as set by Cboe Clear Europe (including but not limited to adhering to any IT security protocols and have the requisite controls, systems and procedures to maintain an adequate level of (cyber) security and prevent cyber incidents from impacting their networked counterparts); and</p> <p>(h) satisfy other requirements as may be imposed by Cboe Clear Europe.</p> <p>Financial requirements.</p> <p>CRB Art 4.4.1 Requirements for the clearing of trades are: :</p>

<p>Direct Clearing Participant must at all times maintain such capital that is the higher of (CRB Art. 4.4.1):</p> <ul style="list-style-type: none"> (a) EUR 7,5 million Capital; or (b) 20% of 30-day average Aggregate Margin requirement; or (c) 20% of 250-day average Aggregate Margin requirement. <p>General Clearing Participant must at all times maintain such capital that is the higher of (CRB Art. 4.4.2):</p> <ul style="list-style-type: none"> (a) EUR 25 million Capital; or (b) 20% of 30-day average Aggregate Margin requirement; or (c) 20% of 250-day average Aggregate Margin requirement.
<p>3. Do your members/clients access your services directly or through an intermediary?</p> <p>Clearing Participants access Cboe Clear Europe services directly. Client clearing is also available.</p> <p>Pursuant to CRB Art. 4.1.3, a Clearing Participant can operate as a: (a) Direct Clearing Participant; or (b) General Clearing Participant where</p> <p>“Direct Clearing Participant” is a Clearing Participant authorised to clear Trades which have been dealt for its own account or have been concluded for the account of its Clients;</p> <p>“General Clearing Participant” is a Clearing Participant authorised to clear Trades which have been dealt for its own account or have been concluded for the account of Clients or for Trading Participants.</p>
<p>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)?</p> <p>Cboe Clear Europe does not require the use of proprietary (i.e. Cboe Clear Europe developed or distributed) software but does require specific use or configuration of widely used services or protocols.</p> <p>The requirements for Clearing Participant will vary depending on the Cboe Clear Europe services being consumed. For real time update services or interactive services such as post trade amendments, Clearing Participants are expected to set up communication links to Cboe Clear Europe typically through BT Radianz or via VPN (virtual private network over the internet) and use FIX or FIXML. To receive reports, Clearing Participants will need to be able to connect to SFTP (secure File Transfer Protocol) services or receive emails with reporting being provided in standard formats such as CSV and PDF.</p>
<p>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.</p> <p>The Clearing Rules (CRB and Regulations) and Clearing Participant Agreements are governed by Dutch law. (CRB Art. 2.11).</p>
<p>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.</p> <p>Where a Clearing Participant activates clearing in specific markets, it is mandatory for them to have the ability to settle permitted instruments at the relevant CSD - the Clearing Participant or their client must be a member of the relevant CSD or use the services of a custodian. The list of CSDs in which Clearing Participants or their clients need direct or indirect access can be found using the below link:</p>

https://clear.cboe.com/europe/services/equities/markets/
<p>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)?</p>
<p>A resolution action as defined in Directive 2014/59 of the European Parliament and of the Council of 15 May 2014, on a framework for the recovery and resolution of credit institutions and investment firms shall, in itself, not constitute a breach (CRB Art. 11.1.4).</p>
<p>Part II: Rulebook/Contractual provisions regarding termination</p>
<p>8. Discretionary termination rights.</p>
<p>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.</p>
<p>CRB Art. 4.12 and clause 12 of the Clearing Participant Agreement (the CPA) contain the provisions for suspension and termination of membership. The CRB and CPA are publicly available on Cboe Clear Europe’s website under the links below:</p> <p>CRB Clearing Participant Agreement</p>
<p>b) Are these provisions based solely on objective criteria, or can the FMI exercise judgement when triggering termination?</p>
<p>Cboe Clear Europe reserves the right to (i) act reasonably and proportionately in its sole discretion, qualify a Breach as one triggering a Notice of Default, provided the Breach has not or not fully been remedied at the time of the Notice of Default (CRB Art. 11.1.1 and 11.3.1) or (ii) qualify a Breach as leading to the imposition of a disciplinary measure or sanction (CRB Art. 11.1.1).</p> <p>Under (i) above, immediately after serving the Notice of Default, Cboe Clear Europe shall take measures, including termination of its relationship with the Clearing Participant (CRB Art. 11.4.1). Under (ii) above, Cboe Clear Europe will take into account a number of objective criteria when determining the level of any measure or sanction (CRB Art. 11.2.2).</p>
<p>c) Does the FMI use ‘forward looking’ indicator that may trigger termination, and if so, which ones?</p>
<p>CRB Art. 4.12.1 allows Cboe Clear Europe to terminate its relationship with a Clearing Participant based on consideration of events that could, or are likely to, result in termination being triggered (which by implication assumes a forward-looking assessment).</p> <p>Forward-looking indicators that are used by Cboe Clear Europe may include credit ratings, ratings outlooks, and/or credit-default swap rates.</p>
<p>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?</p>

<p>CRB Art. 4.12 contains provisions on suspension and termination of membership that might be applied in case Cboe Clear Europe is of the opinion that any event could or is likely to result in a situation in which a Clearing Participant no longer satisfies the requirements set out in CRB, or is consistently in breach and failure with the Clearing Rules.</p> <p>According to CRB Art. 11.1.4, a resolution action as defined in Directive 2014/59 of the European Parliament and of the Council of 15 May 2014, on a framework for the recovery and resolution of credit institutions and investment firms, shall not, in itself, constitute a Breach.</p>
<p>e) During stress or resolution of the member, are actions by other FMIs taken into account as possible indicators or triggers for termination?</p>
<p>Yes, actions taken by FMIs are taken into account as the circumstances that have led to such actions may qualify as a breach under CRB 11.1.</p>
<p>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.</p>
<p>As mentioned above, the provisions regarding suspension and termination of membership are laid out in the CRB and CPA.</p>
<p>9. Suspension or restriction of membership.</p>
<p>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.</p>
<p>Cboe Clear Europe has the right to suspend its relationship with a Clearing Participant, and will subsequently inform the relevant Exchange(s) of the suspension (CRB Art. 4.12.1(a) and 4.12.4). During the suspension period, Cboe Clear Europe will refuse the registration of any new Trade Legs in the Clearing Participant’s name; however, Cboe Clear Europe may allow the registration of Trade Legs that reduce the size of the Open Positions at the CCP.</p>
<p>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?</p>
<p>No suspension period is required before termination. A suspension may be lifted without termination of the membership.</p>
<p>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).</p>
<p>a) In what way do your rules, contractual arrangements and procedures reflect this?</p>
<p>Cboe Clear Europe is not aware of any legal restrictions that prevent termination and/or suspension of access by a Clearing Participant that is entering into resolution.</p>
<p>b) Do such arrangements include the effect of parent or affiliates entering resolution?</p>
<p>N/A</p>
<p>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</p>

<p>event that an FMI service user enters resolution? If so, please provide details of the proposed/applied changes.</p>
<p>No.</p>
<p>11. Triggers, procedure and consequences of termination of FMI participation.</p>
<p>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)?</p>
<p>Please refer to the response to question 8.</p>
<p>b) Please explain the management and monitoring around the termination process - steps and timelines of the escalation and decision-making, as well as of the implementation of termination. (Please provide concrete examples, if any, of participation/membership terminations and flag, where relevant, any changes made to the termination process since).</p>
<p>Please refer to the clause 12 of the CPA. Termination of a Clearing Participant due to its default is governed by the Cboe Clear Europe Default handling procedure at this link</p>
<p>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?</p>
<p>Refer to response to question 7, clause 12 of the CPA and the Cboe Clear Europe Default Handling procedure</p>
<p>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?</p>
<p>The CCP does not notify the competent authorities of the terminated Clearing Participant. Cboe Clear Europe notifies its competent authorities of its intention to send a Notice of Default to a Clearing Participant ex ante.</p>
<p>e) What impact would a participant/member's termination have on their parent/subsidiaries' direct membership in the FMI?</p>
<p>The termination or suspension of the membership of a Clearing Participant does not necessarily have an impact on the direct membership of an affiliate of the relevant Clearing Participant, as long as that affiliate meets its obligations under the Clearing Rules and there is no reason to believe that the affiliate will be unable to meet its obligations under the Clearing Rules.</p>
<p>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)?</p>
<p>Cboe Clear Europe's Clearing Rules do not include any cross-default provisions.</p>
<p>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?</p>
<p>We refer to the Cboe Clear Regulation Portability available at this link</p>

https://clear.cboe.com/europe/resources/documentation/	
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 continue 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 service user in resolution?	
A Clearing Participant could fail to meet margin and liquidity requirements which are designed to protect Cboe Clear Europe against Clearing Participant default. We refer to CRB Art. 6 on margin requirements and risk supervision.	
b) Which indicators, if any, can a participant use to anticipate that such a scenario may occur?	
A Clearing Participant's own failure to meet a margin call within the stipulated time would be a key indicator that such a scenario may occur.	
13. Are there any further aspects or issues to mention in relation to the provisions for termination or suspension of membership? If possible, please provide concrete examples of specific factors that were considered in the past when assessing whether to exercise judgement to terminate or suspend a participant's access. Please elaborate.	
N/A	
Part III: Prior to resolution, during signs of distress at the participant.	
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?	
As a CCP, Cboe Clear Europe undertakes risk monitoring activities daily, and intra-day to identify any situations of Clearing Participant stress.	
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)?	
Indicators include credit ratings, ratings outlooks, credit-default-swap rates, prevailing market conditions and news, and conformance with Clearing Rules provisions in relation to delivery of margin collateral to the CCP.	
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?	
Please refer to the CRB Art.11.1.1 and 11.2.1 .	

<p>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.</p>
<p>A Clearing Participant must notify Cboe Clear Europe in advance in writing of every change in the data supplied in its application for recognition and of any facts and circumstances concerning the Clearing Participant which may materially affect the exercise of its duties or the orderly conduct of its activities as a Clearing Participant. Such developments include, but are not limited to:</p> <ul style="list-style-type: none"> (a) those which could or are likely to result in the Clearing Participant no longer being able to comply with its obligations under the Clearing Rules; (b) any significant change in its financial situation, in particular where shareholders' equity has decreased by more than ten per cent (10%) compared with the amounts previously reported or if shareholders' equity falls below the amount specified in article 4.4 of the CRB; (c) any other change which has or could have a significant impact on their financial position, reliability or operations; (d) any change in their legal status or structure, including change of address, office or object under their constitutional documents; (e) changes in the power of control (shareholders) over their business with respect to the appointment and dismissal of their personnel, changes in the composition of their management or executive bodies, in their accounting system or organisation, in the holders of a ten per cent (10%) or more participating interest in their business, in the participating interests they hold or the joint ventures or alliances they have entered into; and (f) any event occurring between the reporting dates set out in article 4.5.1 of the CRB that would significantly reduce the Clearing Participants' interim balance sheet or shareholders equity. (the CRB Art. 4.3.1) <p>The obligation to notify becomes effective at the time the Clearing Participant anticipates or becomes aware of the events, or, if earlier, at the time at which the Clearing Participant ought reasonably to have anticipated or become so aware (the CRB Art. 4.3.2)</p>
<p>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.</p>
<p>There is no set methodology.</p>
<p>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?</p>
<p>i. Increasing membership contributions (e.g. default fund/loss sharing contributions), mandating pre-funding, restricting withdrawal of deposits;</p>
<p>Discretionary.</p>
<p>ii. Increasing initial/variation margin/collateral requirements, restricting collateral types, removing cross-margining facilities; increasing liquidity obligations;</p>
<p>Discretionary.</p>

<p>iii. Removing credit lines, reliance on parental guarantees or securities borrowing facilities;</p>
<p>Discretionary.</p>
<p>iv. Enforcing trading controls including position limits, restricting markets;</p>
<p>Discretionary.</p>
<p>v. Termination or suspension of participation/membership.</p>
<p>Discretionary.</p>
<p>20. Please answer question 19 also for other risk mitigation actions, if any, that are not mentioned here and would likely be taken.</p>
<p>N/A.</p>
<p>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.</p>
<p>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?</p>
<p>Clearing Participants may receive notifications or communications from Cboe Clear Europe to remind of their obligations under the Clearing Rules, and in particular in relation to the specific provision(s) as applicable.</p>
<p>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.</p>
<p>Refer to the response to the previous question. In a Default scenario, Cboe Clear Europe Default Handling Procedure includes communication protocols.</p>
<p>c) Does the FMI need to get consent from the firm or inform the firm prior to notification or communication?</p>
<p>No.</p>
<p>d) Do the communication/notification protocols require specific factors to be considered, for example legal implication, market impact, etc.?</p>
<p>Not specifically, although communications are generally against a backdrop that takes into account legal implications and potential market impact.</p>
<p>e) Are your communication protocols standardized across participants or do they take into account the specificities of firms’ participation and roles in respect of the FMI?</p>
<p>Communication protocols are standardized across participants.</p>
<p>22. Alleviating uncertainty for the FMI.</p>

<p>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?</p>
<p>In times of market stress or uncertainty, Clearing Participants and resolution authorities should communicate frequently with the CCP to alleviate uncertainty regarding the Clearing Participant’s financial position. Additionally, Clearing Participants should ensure that margin calls continue to be met as required, and where possible lodge excess collateral.</p>
<p>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.</p>
<p>The current balance sheet information, supported by the credible evidence. This information would be required before commencement of the next day’s trading.</p>
<p>c) What other actions could be taken ex-ante to avoid a temporary interruption of services or the risk of some transactions remaining unexecuted?</p>
<p>Where possible, excess collateral can be lodged to provide additional risk buffers and to avoid temporary interruption of services.</p>
<p>d) Please discuss any other considerations.</p>
<p>There are none .</p>
<p>23. Considering adverse financial impact of FMI risk mitigation actions on direct/indirect participants.</p>
<p>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?</p>
<p>The CCP considers an appropriate course of action based on its position as a systemically important FMI, alongside the objective of protecting itself and the financial well-being of Clearing Participants in the clearing system.</p>
<p>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?</p>
<p>Please refer to the response to question 23(a).</p>
<p>24. Possible differences in treatment of domestic and foreign FMI service users entering resolution.</p>
<p>a) Do you differentiate in your treatment of domestic and foreign FMI service users, and if so in what way?</p>
<p>No.</p>
<p>b) Among foreign users, is there a distinction for users from certain jurisdictions? If so, what are those distinctions?</p>

There is no distinction.
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?
This assessment is part of the initial due diligence procedure that is conducted prior to onboarding.
b) From which regulatory regimes (e.g. countries) do you accept service users?
EEA, UK and Switzerland. Acceptance of other jurisdictions is subject to legal review on the enforceability of the Clearing Rules and other agreements.
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 utilized 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 resolutions
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?
There are no actions Cboe Clear Europe may take that are specifically linked to a resolution scenario. Actions that could be taken have been discussed in the responses to questions 8 and 9 above.
28. Please explain the methodology used to calibrate additional membership requirements (including operational, financial and capital requirements) for a member/client in resolution. To what extent does the FMI take into account the resolution strategy and tolls applied to a member to determine their financial and operational requirements? Does the FMI consider anything specific in its methodology in relation to ring-fenced or specifically safeguarded entities?
There is no set methodology.
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);
There are no predetermined risk mitigating actions in case of a participant entering a resolution process. Actions that could be taken have been discussed in the responses to questions 8 and 9 above.

<p>ii. Potential requirements to contribute additional margin or amounts to default or guarantee funds, secure additional liquidity commitments (including on an intraday basis), or to pre-fund part or all of payment and settlement obligations.</p>
<p>There are no predetermined risk mitigating actions in case of a participant entering a resolution process. The regular requirements to contribute additional intra-day Margin, Clearing Fund Contributions, Settlement Prefunding Requirements and Settlement Exposure Add-On amounts, each subject to certain conditions as set out in Cboe Clear Europe’s Clearing Rules, apply.</p>
<p>iii. Potential changes to operational or information requirements, including those needed because certain services might not be available;</p>
<p>There are no predetermined risk mitigating actions in case of a Clearing Participant entering a resolution process. Actions that could be taken have been discussed in the responses to questions 8 and 9 of this questionnaire.</p>
<p>iv. Potential requirements that may apply in relation to a bridge institution or a third party purchaser to which functions have been transferred.</p>
<p>The requirements detailed in Cboe Clear Europe Clearing Rules shall apply.</p>
<p>30. Please answer question 29 also for other risk mitigation actions, if any, that are not mentioned here and that would likely be taken.</p>
<p>N/A.</p>
<p>31. In what way should a service user prepare for resolution-related risk mitigation measures by the FMI to maximize the likelihood of maintaining access? Does the FMI provide any documented guidance on this to its participants/members, and/or to their RAs?</p>
<p>N/A</p>
<p>32. What impact would a member/participant’s resolution have on any parent or subsidiary’s direct membership at the FMI?</p>
<p>As long as the parent or subsidiary meets its obligations towards Cboe Clear Europe, the Clearing Participant’s resolution should not have impact on them.</p>
<p>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.</p>
<p>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?</p>
<p>Please refer to the response to question 21(a).</p>
<p>b) Do you have a specific communications plan for this or does your approach leverage existing crisis communications mechanisms?</p>
<p>Please refer to the response to question 21(a).</p>

<p>c) Does the FMI need to get consent from the firm or inform the firm prior to a notification or communication?</p>
<p>No</p>
<p>d) Do the communication/notification protocols require specific factors to be considered, for example legal implication, market impact, etc.?</p>
<p>Please refer to the response to question 21(d).</p>
<p>e) Are your communication protocols standardized across participants or do they take into account the specificities of firms' participation and roles in respect of the FMI?</p>
<p>Please refer to the response to question 21(e).</p>
<p>f) Would your members/clients be able to leverage any preparations your organization 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)?</p>
<p>No.</p>
<p>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?</p>
<p>Yes, the Relationship Management Team.</p>
<p>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.)</p>
<p>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?</p>
<p>Please refer to the response to question 22.</p>
<p>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 organization responds to the fact that a member/client has been placed in resolution?</p>
<p>This will be determined on a case by case basis.</p>
<p>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.</p>
<p>Please refer to the response to question 22.</p>
<p>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</p>

<p>need each piece of information, if appropriate, including when you would need to be informed prior to resolution measures.</p>
<p>This will be determined on a case by case basis.</p>
<p>e) What other actions could be taken ex-ante to avoid a temporary interruption of services or the risk of some transactions remaining unexecuted?</p>
<p>Please refer to the response to question 22.</p>
<p>f) Please discuss any other considerations.</p>
<p>N/A</p>
<p>35. Considering adverse financial impact of FMI risk mitigation actions on direct/indirect participants.</p>
<p>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?</p>
<p>Please refer to the response to question 23.</p>
<p>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?</p>
<p>Please refer to the response to question 23.</p>
<p>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.)</p>
<p>a) Please explain how the FMI’s process to ensure that continuity of access can be maintained for the procedures reflect this.</p>
<p>A resolution action does not in itself constitute a Breach as per the CRB (as mentioned in the response to question 7). Therefore if the participant continues to meet its obligations under the Clearing Rules, the continuity of access can be maintained. Positions may be transferred to a third party provided that this party meets the relevant membership requirements.</p>
<p>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?</p>
<p>There is no issue for continuity of access in relation to a purchaser in respect of the obligations of the Clearing Participant.</p>
<p>c) Please share any timelines and any external dependencies for this process.</p>
<p>This will be determined on a case by case basis.</p>
<p>d) If the purchaser or bridge institution requires a new access, do you have a “fast-track” procedure to allow access for a such a purchaser or bridge institution? How long is setting up access expected</p>

<p>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)?</p>
<p>No, there is no fast-track procedure.</p>
<p>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?</p>
<p>Refer to the provisions of the CRB Art.4.</p>
<p>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)?</p>
<p>No.</p>
<p>g) Please discuss any other, e.g. practical, considerations around continuity of FMI access of a bridge institutions or of a purchaser.</p>
<p>N/A</p>
<p>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).</p>
<p>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 member/service providers/others.</p>
<p>The bridge institution or third party purchaser shall need to meet the conditions of the CRB Art.4.</p>
<p>38. Portability/Transferability of underlying client positions, for example to facilitate a bridge or partial transfer resolution strategy.</p>
<p>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.</p>
<p>Cboe Clear Europe offers (i) omnibus client accounts, and (ii) individual client segregated accounts. Reference is made to the CRB Art. 11.2, Regulation Portability and to the published Cboe Clear Europe disclosure under article 39(7) of EMIR and disclosure under article 38(6) of CSDR.</p> <p>To facilitate porting, Cboe Clear Europe requires the following:</p> <ul style="list-style-type: none"> (i) where multiple client positions are held in one omnibus client account, a pre-arrangement with a trustee acting on behalf of such clients, (ii) a pledge agreement with the Clearing Participant as pledgor and the trustee as pledgee (on behalf of the clients) and (iii) a legal opinion confirming the validity and enforceability of these arrangements, in order to protect the interests of the clients and Cboe Clear Europe. In the absence of any of the above requirements porting will not occur.

<p>Further a backup Clearing Participant needs to be appointed by the trustee (on behalf of the clients) and be willing to take over the positions.</p> <p>The time window for Cboe Clear Europe to ascertain whether all these conditions are met is a maximum of 4 hours.</p>
<p>b) For ICSDs: Do you offer segregated accounts to underlying clients? Do you envisage that there may be material barriers to the effective and timely transfer of client securities and cash to another custodian following a decision to transfer the activities of the participant in resolution to another participant? If so please explain.</p>
<p>N/A.</p>
<p>39. Are there any further aspects of issues to mention in relation to interaction between the FMI and the participant during or after resolution of the participant?</p>
<p>No.</p>
<p>Part V: Arrangements and operation processes to facilitate continued access in resolution</p>
<p>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).</p>
<p>a) What procedures are in place at the FMI to facilitate prompt decision making at any time? What, if any, are the limitations?</p>
<p>Cboe Clear Europe's Clearing Rules and internal risk management policies and procedures are designed to facilitate prompt decision making, including in case of a Clearing Participant entering into resolution or being declared in default.</p>
<p>b) What would be the likely range of decisions undertaken after receiving notice of a service user entering into resolution? What market communications or notifications to the regulator would be undertaken?</p>
<p>Please refer to the CRB Art.11 , in particular the CRB Art.11.2 which provides details on the measures that may be taken in case of a Breach that is not qualified as a trigger of Default.</p>
<p>41. In line with 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.</p>
<p>a) How do you test these contingency arrangements? How do you take participants in resolution into account in those contingency arrangements?</p>
<p>Resolution of Clearing Participant scenarios have so far not been simulated and tested.</p>
<p>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?</p>
<p>Please refer to the Cboe Clear Regulation Portability</p>
<p>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?</p>

At this stage, resolution-specific information requests for Clearing Participants have not been defined.
43. Are there any further aspects or issues to mention in relation to arrangements and operational processes to facilitate continued access in resolution?
None.