

OPERATIONAL GUIDANCE FOR FMI CONTINGENCY PLANS



**Single
Resolution Board**

Disclaimer: This publication sets out the main factors that banks are expected to consider when developing their FMI contingency plans, in order to maximise the likelihood of maintaining access to FMI services ahead of, during and after resolution. In a crisis, depending on the specific situation and in line with the applicable legal framework, the SRB reserves the right to deviate from actions and expectations described in this publication.

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The document has been developed by the SRB, in close collaboration with the National Resolution Authorities (NRAs).

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SINGLE RESOLUTION BOARD

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ABBREVIATIONS

BRRD	Bank Recovery and Resolution Directive
CCP	Central counterparty
CSD	Central securities depository
CPMI	Committee on Payments and Market Infrastructures
CSDR	CSD regulation
EC	European Commission
ECB	European Central Bank
EfB	SRB's ‘Expectations for Banks’
EMIR	European Market Infrastructures Regulation
EU	European Union
FMI	Financial market infrastructure
FSB	Financial Stability Board
FMIR	FMI report
ICSD	International central securities depository
IOSCO	International Organization of Securities Commissions
IRT	Internal resolution team
MIS	Management information system
NRA	National resolution authority
RA	Resolution authority
SRB	Single Resolution Board
SRM	Single Resolution Mechanism
SRMR	Single Resolution Mechanism Regulation
SSS	Securities settlement system
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TR	Trade repository
TV	Trading Venue

1 PURPOSE AND OBJECTIVES

Banks¹ are expected to prepare FMI contingency plans supporting continued access to critical and/or essential FMI services ahead of and during resolution. Principle 4.6 of the *Expectations for Banks (EfB)* establishes the expectation that ‘Banks have developed an FMI contingency plan outlining the measures that they have implemented to support continued access to FMI services or a smooth transfer or wind-down of activities. This includes (i) measures to maximise the likelihood that they would continue meeting the requirements for continued access ahead of and during resolution as well as (ii) other measures supporting resolution action.’

This document provides additional operational guidance for banks when preparing FMI contingency plans and thereby clarifies the minimum standards against which internal resolution teams (IRTs)² will assess FMI contingency plans submitted by banks. Such contingency plans enable IRTs to evaluate whether the risk of losing access to a critical and/or essential FMI service provider may represent an impediment to resolvability. Indeed, when performing the resolvability assessment, the SRB needs to consider ‘the extent to which there are contingency plans and measures in place to ensure continuity in access to payment and settlement systems’.³

Each bank is expected to develop an FMI contingency plan in line with the recommendations published by the Financial Stability Board (FSB) in the *Guidance on Continuity of Access to FMIs for a Firm in Resolution*.⁴ The FMI contingency plan is an operational playbook, approved by the bank’s senior management, allowing the bank to present its FMI relationships to resolution authorities (RAs) and to work out the measures it may take to enhance the likelihood of preserving access to payment, clearing, settlement and custody services ahead of and during resolution.

This document sets out the expectations with regard to the minimum content of FMI contingency plans prepared by banks. Such plans are expected to contain information, inter alia, on the potential:

- ▶ actions each provider of critical FMI services may take ahead of and during resolution, and any resulting additional financial and non-financial requirements;
- ▶ ability of the bank to continue meeting the financial and non-financial requirements of FMI service providers for uninterrupted access ahead of and during resolution, and mitigating the actions the bank may take to support continuity of access;

¹ The SRB is the resolution authority for: the entities and groups directly supervised by the European Central Bank (ECB); and other cross-border groups, i.e. groups that have entities established in more than one participating Member State, hereinafter referred to as “banks”.

² Teams of experts from the SRB and the relevant NRAs that work together and prepare resolution plans for banks within the Banking Union, under the remit of the SRB.

³ Annex Section C (7) BRRD. By extension, this should be understood as covering all FMI service providers, i.e. payment, clearing and settlement systems, as well as FMI intermediaries providing similar services, including by way of indirect access to such systems, such as correspondent or custodian banks.

⁴ ‘Firms should be required to prepare contingency plans detailing how they would maintain access to critical FMI services. These contingency plans – together with other relevant information supplied by firms – should assist resolution authorities in developing their resolution plans.’ (FSB, July 2017).

- ▶ consequences of termination, suspension, or degraded access on the bank's critical functions and core business lines;
- ▶ further mitigating actions the bank could take in case access to critical FMI services were terminated, suspended or degraded.

FMI contingency plans are also expected to include information on the portability of client positions at central counterparties (CCPs), if applicable. The analysis of the portability of such positions is required under the relevant regulatory framework.⁵ Portability relates to the transfer of client positions and assets in the case of the default of a clearing member to another clearing member designated by the client, upon the client's request and without the need for the consent of the defaulting clearing member.⁶ By extension, it also refers to the capability to transfer client positions and assets at CCPs or central securities depositories (CSDs) upon a resolution event. The conclusion on the assessment of portability, in addition to informing the SRB's analysis of the credibility of normal insolvency proceedings, which is a key component of the public interest assessment,⁷ also contributes to the determination of the preferred resolution strategy and the assessment of resolvability.

⁵ Article 10(7)(l) BRRD, Article 8(l) SRMR, Article 22(4)(c) DR 2016/1075

⁶ 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), in particular Article 48.

⁷ Please refer to the paper on: [Public Interest Assessment: SRB Approach](#), June 2019.

2 SCOPE OF APPLICATION AND PHASE-IN

The EfB will be subject to a gradual phase-in according to the general phase-in dates reported in Chapter 3 of the *EfB*. This also applies to the expectations with regard to access to FMI services, which are expected to be met by the end of 2023 (please refer to the table on p.8 for an indicative timeline for the phase-in).

While the operational guidance is necessarily general in nature, its application to each bank may be adapted to the particular specificities and business model, taking into account the proportionality principle, and based on a dialogue between each bank and its IRT. The guidance included in the following chapters is not exhaustive and may therefore be subject to further SRB communications related to resolvability requirements for banks. In this context, IRTs may request information and analysis on specific topics in addition to this guidance when it is relevant to progress in resolution planning and to improving the resolvability of the bank throughout the respective resolution planning cycle.

2.1 Scope

In line with the scope of the *EfB*, this operational guidance is aimed at banks within the SRB remit for which the strategy is resolution.

Banks are expected to prepare an FMI contingency plan that will eventually cover, at a minimum, all critical and/or essential FMI services needed by the entities in the (resolution) group, to ensure continuity ahead of, during and after resolution. Banks are not expected to include trading venues and/or trade repositories in their FMI contingency plans.

In order to identify and prioritise the key FMI service providers to be included in the FMI contingency plan, banks are expected to:

- ▶ first, identify all their FMI service providers, including intermediaries (these are reported in the FMI report (FMIR) submitted annually by banks to the SRB)⁸;
- ▶ second, establish the list of providers of critical and/or essential FMI services based on an objective approach. As outlined in the *EfB*, this approach is expected to take into account, among others, the potential impact of discontinued or degraded access on:
 - their critical functions and core business lines; as well as
 - to the extent feasible, on the business of key customers, for the relevant legal entities that act as intermediaries in delivering FMI services to other institutions; and

⁸ For the SRB resolution reports, please refer to <https://srb.europa.eu/en/content/reporting>.

- ▶ third, undertake a thorough analysis of the measures that these FMI service providers may take, in order to assess the risk of discontinued or degraded access.

When the parent of an institution or group within the Banking Union is located in a third country, the Banking Union institution or group is expected to develop a local FMI contingency plan that covers all critical and/or essential FMI services needed by the institution or group, irrespective of whether the FMI services are received through direct FMI memberships, group entities outside the Banking Union or third parties. Local FMI contingency plans should enhance the likelihood of maintaining access ahead of and during resolution, for example by including appropriate resolution-resilient clauses in contracts and establishing local capabilities for meeting financial or operational requirements.⁹

In the case of EU FMI service providers, the SRB recognises that to a certain extent the regulatory framework ensures the continuity of access to FMI services for a bank in resolution.¹⁰ Nevertheless, it remains the responsibility of the bank to take all necessary measures to ensure that it can fulfil its obligations vis-à-vis FMIs and FMI intermediaries ahead of, during and post resolution.

2.2 Indicative phase-in

As noted in Chapter 3 of the *EfB*, in 2020 banks are expected at a minimum to focus on five key FMI service providers, prioritising critical providers that may take risk management measures before and during resolution.¹¹ Critical FMI service providers are prioritised to ensure that the resolution objective of preserving the continuity of the bank's critical functions can be met. Nevertheless, some banks may decide to prioritise other FMI service providers, for example in cases where the FMI service providers that may take risk management measures provide services without which core business lines – whose continuity is necessary for the effective implementation of the resolution strategy – would be at risk.

The table below shows an indicative timetable for supporting the phase-in, in terms of the scope of FMI service providers covered. IRTs may bilaterally agree on alternative phase-in dates, taking into account bank-specific features and circumstances, as appropriate. In addition, the content and focus areas of the FMI contingency plans may be phased in, as outlined in the annex to this document.

⁹ Please refer also to the SRB position paper: [SRB expectations to ensure resolvability of banks in the context of Brexit](#), Nov. 2018.

¹⁰ Article 68 BRRD prevents FMIs and other service providers and counterparties from terminating contracts due to a resolution per se. Articles 38(12) and 40(10) BRRD establish expectations for FMIs to continue accepting the institution under resolution as a member or participant, under certain conditions. Article 64 BRRD endows resolution authorities with powers to support continuity.

¹¹ Such as suspension or termination of access, or heightened requirements, e.g. increased margin or pre-funding requirements. This is expected to be relevant for, at a minimum, CCPs, ICSDs and certain payment systems.

Timeline ¹²	Scope (which FMI service providers)
2020	At least 5 key FMI service providers, prioritising critical providers that may take measures before or during resolution. ¹³
2021	Expand to cover also, at a minimum: <ul style="list-style-type: none"> ▶ other critical FMI service providers that may take measures before or during resolution, and ▶ at least 5 essential FMI service providers that may take measures before or during resolution (if different from the providers covered under the first bullet point).
2022	Expand to cover, at a minimum: <ul style="list-style-type: none"> ▶ all critical FMI service providers, and ▶ other essential FMI service providers that may take measures before or during resolution (if different from the providers covered under the first bullet point).
2023	Finalise FMI contingency plan to include, at a minimum, all critical and essential FMI service providers.

IRTs have communicated separately to banks the precise date on which they expect to receive the FMI contingency plan, and will continue to do so.

¹² At the latest by the end of the year, subject to a separate communication by the IRT.

¹³ Unless the bank has less than 5 critical FMIs or unless otherwise agreed with the IRT. Other factors related to the risk of discontinued or degraded access that may be taken into account in the prioritisation are: the importance of the FMI provider for the bank; whether it is located in a third country or operates under third-country law; whether it is an intermediary.

3 GENERAL GUIDANCE

3.1 Context

Banks fill in and submit the FMIR to the SRB on a yearly basis. This report covers some of the information required for the purposes of contingency planning with regard to FMI services. The FMI contingency plan is meant to complement the FMIR, and to provide information on assumptions and models that underpin the estimates of liquidity needs under stress reported in the FMIR and also, inter alia, on the measures banks may take to support continuity of access before and during resolution.

The SRB and the NRAs have discussed issues relevant to resolution with (mostly Banking Union) FMIs, such as membership requirements, potential heightened requirements in times of stress, or suspension and termination triggers. However, not all FMI service providers have been covered and, to date, the SRB and the NRAs have not systematically discussed with FMI intermediaries matters related to continuity of access to the payment, clearing, settlement or custody services that these FMI intermediaries provide to their clients. Bank-specific issues have not been talked about either.

In all cases, banks are expected to have a good understanding of the rule book and the contractual provisions to which they are subject, as well as of the measures that the relevant FMIs or FMI intermediaries are likely to take in a crisis situation. Banks are expected to provide all the necessary information in their FMI contingency plans to support continued access to FMI services.

3.2 Minimum content

The SRB expects the content of the FMI contingency plan to be tailored to the entity in question and to its specific relationships with FMI service providers globally.¹⁴ The FMI contingency plan is expected to be based on banks' understanding of FMI rule books and contracts with intermediaries, as well as on discussions between the banks and their FMI service providers, as appropriate. It is expected to contain at least the following information, in line with the FSB *Guidance on Continuity of Access to FMIs for a Firm in Resolution*¹⁵:

- ▶ How the provider of critical and essential FMI services would be expected to respond to the lead up to and entry into resolution of a given entity, its parent or affiliate, also taking into account whether the entity with access is meeting all its obligations or not.

¹⁴ A priori, a smaller, less complex institution operating at the national level, has a lower number of FMI relationships than a larger bank, which ensures proportionality.

¹⁵ FSB, *ibid.*

- ▶ How the entities within the group deemed to remain operational throughout resolution would expect to continue to meet the conditions for uninterrupted access to each of the critical and essential FMI services, including the additional operational or financial requirements that they could be expected to satisfy. Particular emphasis should be given to how the entities in the group would meet the expected financial requirements necessary to maintain continuity of access to critical and essential FMI services, in particular to services involving the extension of credit or liquidity. The bank needs to base this assessment on its use of and limits to any credit or liquidity facility provided by the FMI or FMI intermediary, as well as on its expected volume of activity before and during resolution, taking into account the foreseen resolution strategy.
- ▶ The technology, as well as the operational and organisational arrangements, including human resources, that would need to be deployed to operationalise the contingency plans ahead of and during resolution.
- ▶ The information that the critical and essential FMI service provider has indicated would be necessary for its risk-management decision-making, the communication plan for delivering this information and the potential constraints or risks in providing this promptly.
- ▶ The consequences of any termination, suspension or other degradation in the entity's access to FMI services on its ability to perform critical functions, and the measures that the bank could take to mitigate the impact of a termination or suspension, how rapidly they could be implemented and the expected outcome of those measures.

Banks are encouraged to include any additional information they deem relevant for maintaining access to critical and essential FMI services. Furthermore, the guidance provided in this chapter does not prevent RAs from asking for additional information at any point in time, if this is necessary for the resolution planning process or for enhancing their preparedness to resolve the bank.

3.3 Other considerations

In drafting the FMI contingency plan, the bank is expected to:

- ▶ Document the processes for preparing and submitting the FMIR and FMI contingency plans, including: data gathering, consolidation of data, quality checks, updates and approval by the appropriate level of management.
- ▶ Ensure that the content of the FMI contingency plan is aligned with and takes into account the information submitted in the FMIR.
- ▶ Detail the approach followed by the bank to determine, among its complete set of FMI service providers as reported in the FMIR, which are the critical and essential FMI service providers to be covered in the FMI contingency plan.
- ▶ Be as specific as possible when outlining the mitigation measures that the bank might take in response to the risk management measures that may be taken by FMI service providers.
- ▶ List any assumptions made in respect of the determination of liquidity needs or collateral requirements of FMI service providers prior to and during resolution.

The bank is expected to review the FMI contingency plan at least once a year and to update as necessary, in agreement with the IRT, any sections that may not reflect current business relationships with FMI service providers.

Annex I provides more details with regard to the expected content of FMI contingency plans. An outline of these minimum standards is given to ease the preparation of FMI contingency plans for banks that are undertaking this exercise for the first time. The FMI contingency plan is owned by the bank. This means that the SRB expects banks to endeavour to prepare operational documents that will be able to provide support in the event of resolution. Banks that have already prepared such plans are expected to ensure that their content is in line with the SRB's expectations; they do not need to follow the proposed outline exactly as set out here.

ANNEX I: FMI CONTINGENCY PLAN: DETAILED EXPECTATIONS¹⁶

PART I: GENERIC AND AGGREGATE INFORMATION

1 Governance, communication and capabilities

1.1 Resolution planning governance

Describe the governance arrangements in place to support the preparation of the FMIR and FMI contingency plan and other actions for enhancing resolution preparedness in relation to access to FMI services, including the governing bodies responsible for approving the content of the plan.

Please refer to the SRB's expectations with regard to resolution planning governance arrangements concerning access to FMIs¹⁷ (Box 1).

¹⁶ Certain elements of the FSB Guidance are not reflected in this annex. They are not expected to come in until after 2020, unless otherwise communicated by the IRT, and will be phased in in accordance with future developments in SRB policies, in particular in the area of liquidity.

¹⁷ As published in the consultation document on *EfB*, Principle 4.11 Governance and communication.

BOX 1: RESOLUTION PLANNING GOVERNANCE

Banks have appropriate and effective governance arrangements in place to support continuity of access to FMI services. These arrangements ensure adequate preparedness during the resolution planning phase.

In business-as-usual (during the resolution planning phase), banks are expected to have established appropriate and effective governance arrangements to ensure compliance with the expectations related to access to FMIs outlined in the *EfB*. These arrangements should encompass the preparation of the FMI contingency plans and of the FMIR. In that respect, banks are expected to document in their FMI contingency plans the processes for preparing and submitting FMIR and FMI contingency plans, including: data gathering, consolidation of data, quality checks, updates and approval by the appropriate level of management. They should also encompass the day-to-day monitoring and managing of risks related to their relationships with FMI service providers, including escalation processes, triggers and timelines.

Detail the approach followed by the bank to determine among its complete set of FMI service providers as reported in the FMIR which are the critical (and essential) FMI service providers to be covered in the FMI contingency plan.

Please refer to the EfB, Principle 4.4 Identifying, mapping and assessing dependencies on FMI service providers.

1.2 Resolution governance, communication and coordination

Describe the **governance framework** for monitoring and managing the risks related to the bank's relationship with FMI service providers, including escalation processes, triggers and timelines. This may be part of the bank's overall business continuity plan, in which case the bank may cross-refer to the relevant section of that plan, provided the IRT has also received it.

Please refer to the SRB's expectations with regard to resolution governance arrangements concerning access to FMIs (Box 2).¹⁸

¹⁸ Please refer to the footnote corresponding to Box 1.

BOX 2: RESOLUTION GOVERNANCE

Banks have appropriate and effective governance arrangements in place to support continuity of access to FMI services. These arrangements [...] ensure that key organisational areas are mobilised swiftly ahead of and during resolution, and have access to adequate information and resources to execute the resolution strategy.

Banks are also expected to have established appropriate and effective governance arrangements that will be activated in the event of a crisis and will remain operational if and when they fail. With a view to ensuring access to FMI services across group entities, all relevant areas of the business are expected to be involved: treasury, risk management, operations, and any other areas necessary for monitoring and meeting FMIs' and FMI intermediaries' expectations and for maintaining the relationship with FMI service providers. The involvement of the appropriate level of management should support effective and timely decision-making. Crisis governance arrangements should rely on readily available data and information, a clear overview of the key personnel necessary for maintaining continuity of access to FMI services (including crisis contact lists), and should be embedded in the overall crisis response structure and/or business continuity plan of the banks.

The following should be included either in the FMI contingency plan or in the bank's overall communication plan for resolution¹⁹ (in both cases, please cross-refer):

- ▶ A summary of key communication and coordination plans in place with FMI service providers to ensure continuity of access during resolution.
- ▶ A contact list with relevant information on the key personnel assigned to ensure continuity of access (including where this relates to communication and coordination with other relevant bodies of the group), as well as key contacts at corresponding FMIs and FMI intermediaries, distinguishing as necessary between business-as-usual and crisis contacts. The frequency and the conditions for updating this contact list should be described.
- ▶ Whether and to which extent assumptions and arrangements supporting continuity of access have been reviewed and/or validated by the bank's FMI service providers.
- ▶ Any barriers to communication and coordination, including possible actions to mitigate them.

Please refer to the SRB's expectations with regard to communication planning concerning access to FMIs (Box 3).²⁰

¹⁹ Please refer to EFB, chapter 2.6 Communication.

²⁰ Please refer to the footnote corresponding to Box 1.

BOX 3: COMMUNICATION PLANNING

Banks have an up-to-date list of contacts for each critical and essential FMI and FMI intermediary and a communication plan for providing timely information to these FMI service providers in the event of resolution.

Banks are expected to maintain relevant contact details for each FMI service they are using. They are expected to share these contact details with the SRB in the FMIR, the FMI contingency plans and/or in their communication plan for resolution purposes.

Banks are expected to have a communication plan in place, based on pre-established communication protocols and taking into account the specificities of the FMIs and intermediaries they are using. For example, different timelines may be relevant for different FMIs, and it is likely that the information CCPs would need to receive would differ from the information requested by payment systems. This should be aligned with and may be included in banks' overall communication plan for resolutions.

Banks are expected to consider how and when they would communicate to their own clients, including other banks for which they may act as intermediaries, any measures they might take ahead of and during resolution that may impact such clients (such as reducing intraday credit lines provided to clients).

When references are made to other internal framework documents such as the communication plan or the overall business continuity plan, those references should be developed sufficiently so that the FMI Contingency Plan can be used as a standalone operational playbook.

1.3 MIS capabilities

Explain in the contingency plan whether the bank's management information systems (MIS) support the preparation of the FMIR and of the FMI contingency plan²¹ by maintaining:

- ▶ Detailed, up-to-date information on the list of providers of critical and essential FMI services, and mapping to the legal entities receiving the services, core business lines and critical functions.
- ▶ Detailed granular information on proprietary and client exposures/positions²² and delivery obligations on a daily basis and, if this is not the case, how and within what timeframe the bank plans to develop such capabilities.

Describe whether the bank maintains a record of, and is able to provide, information prior to or upon entry into resolution with regard to:

- ▶ The collateral pledged by the bank, distinguishing collateral that supports proprietary and client activities, by: type, aggregate values, which FMIs and FMI intermediaries the collateral is pledged to and the jurisdiction in which the security interest of the collateral is enforceable against the firm. Banks should also seek to be able to map the above information to their material and/or relevant legal entities.

²¹ Please refer to *EFB*, (relevant sections of) chapters 2.3, 2.4 and 2.5 for the SRB's expectations related to the banks' MIS capabilities supporting access to FMIs.

²² Exposures to and from FMI service providers, such as (intraday) lines of credit, positions vis-à-vis FMIs and corresponding margin and contributions to default funds.

- ▶ A list of the types of collateral accepted by FMIs and FMI intermediaries and the expected haircuts on various types of collateral,²³ identifying the relevant types of collateral that would support the particular activities of the bank.
- ▶ A list of material upcoming settlement and delivery obligations, by value and type of asset, for a specified upcoming period to and/or via FMIs and FMI intermediaries.

If it does:

- ▶ List the components of the MIS that contribute to the preparation of the FMIR and FMI contingency plan and that contain the information listed above, and map them to the critical systems identified in template Z 10.01 of Commission Implementing Regulation 2018/1624.
- ▶ Explain how long it takes to generate such information and how frequently it is updated (taking into account the need to support real-time/intraday monitoring).
- ▶ Provide a snapshot of the information contained in these components.

Describe the liquidity needs analyses that the bank performs, including any additional collateral requirements, related to the use of FMI services (including on an intraday basis) for all FMI service providers and for each provider individually, which contribute to the bank's preparedness for a potential resolution, and:

- ▶ how frequently the bank performs such analyses;
- ▶ whether these analyses are aligned with and/or included in other liquidity monitoring and stress-testing activities.

Please refer to the EFB, in particular Principle 5.1 MIS capabilities to provide information necessary for the preparation and update of resolution plans.

2 Overview of critical and essential FMI services providers

The sections below are designed to provide an overview of FMI service providers, aggregating information on all providers considered in the current version of the FMI contingency plan, in accordance with the specific items below.

2.1 FMI service providers covered by the FMI contingency plan

Detail the **approach followed by the bank** to determine, among its complete set of FMI service providers as reported in the FMIR, which are the critical and essential FMI service providers to be covered in the FMI contingency plan.

Specify the **FMI service providers covered** by the present version of the FMI contingency plan.

Please refer to the EFB, Principle 4.4 Identifying, mapping and assessing dependencies on FMI service providers, Chapter 3. Phase-in of the EFB and section 2 of the present document, for guidance on how

²³ Where this information is public, the bank may indicate where it can be found.

to determine which FMI service providers are within the scope, and how to prioritise among FMI service providers.

2.2 Liquidity overview

Based on the **aggregate information on liquidity**²⁴, confirm the maximum liquidity and/or collateral that may be required to ensure continuity of access to FMIs, FMI intermediaries, and other related service providers necessary for continued access to FMI services, at aggregated level in EUR and at the level of currencies relevant to the bank's participation in FMIs. Explain how the bank's liquidity management strategy would support continued access to FMI services.

Explain whether this information is included in the bank's general Contingency Funding Plan and cross-refer to the relevant section(s).

Please refer to the Efb, Principle 3.1 Estimation of liquidity and funding needs in resolution and 5.1 MIS capabilities to provide information necessary for the preparation and update of resolution plans.

2.3 Contingency strategy overview

Based on the individual FMI contingency strategy sections (3.4 below), provide an overview of what the bank's overall contingency strategy may look like in respect of its critical and essential FMI participations and memberships, and its use of intermediaries for payment, clearing, settlement and custody services. This should adequately reflect any possible conflicts between individual strategies.

Please refer to the Efb, Principle 4.6 FMI contingency plan and measures, to ensure continuity in access to FMI services.

PART II: INFORMATION PER FMI SERVICE PROVIDER²⁵

3 Information on use of FMI services

The information below is expected to be phased in over time to cover each critical and essential FMI service provider (as per above section 2. Scope of application).

²⁴ Combining the information presented for individual FMI service providers in the FMIR, as per 3.3 Liquidity.

²⁵ The bank may include this information in an annex or in the main body of the FMI contingency plan, as convenient.

3.1 Membership and participation

3.1.1 IDENTIFICATION AND MAPPING

Banks report in the FMIR the FMIs in which they participate and the FMI intermediaries that they use, and provide a mapping to critical functions and core business lines.

Include, in the contingency plan, as appropriate, supplementary information on:

- ▶ The **jurisdiction** which the provider of FMI services comes under and the relevant jurisdiction in the case of a dispute, if different from the law governing the relationship.
- ▶ An assessment of whether contracts with FMI service providers can be considered **resolution-resilient**,²⁶ including whether contractual amendments have been made to recognise home²⁷/third-country²⁸ resolution regimes.
- ▶ **Legal entities in the group which act as intermediaries** delivering critical FMI services to other firms within and outside of the group. Intermediaries providing indirect access to FMIs are expected to map such services to the other banks receiving the services, at a minimum to banks established in the Banking Union.

Please also refer to the EfB, Principle 4.4 Identifying, mapping and assessing dependencies on FMI service providers.

3.1.2 MEMBERSHIP/PARTICIPATION CRITERIA, CONTRACTUAL CONDITIONS AND POTENTIAL HEIGHTENED REQUIREMENTS

Provide information on FMI **admission criteria/membership requirements** (operational, financial, capital and other).

Provide information on the **contractual conditions governing the bank's relationship with FMI intermediaries**, with a particular emphasis on FMI intermediaries' requirements for maintaining the service, and on suspension and termination clauses.

Explain whether the bank has (and, if not, whether and by when it intends to do so) engaged with FMI service providers to understand how they are likely to respond under stress and in a resolution procedure (such as with increased reporting and communication requirements, reduced credit lines, additional liquidity/collateral requirements, suspension and termination).

Include information on the **potential additional/heightened requirements** that may be imposed by the FMI service providers prior to and during resolution, including financial (such as partial or full pre-funding or increased margin²⁹), operational, information or communication requirements.

²⁶ Please refer to the EfB, Chapter 2.4 Operational Continuity, Principle 4.3 Actions to mitigate risks to operational continuity and improve preparedness for resolution. Please also refer to the 'Operational guidance on operational continuity in resolution'.

²⁷ For example, do contracts or rule books mention the relevant BRRD provisions? Do they refer to resolution or contain any information on how the service provider would treat a participant, member or user in resolution?

²⁸ For example, do contracts or rule books treat a participant, member or user in resolution under a third-country resolution regime similarly to one subject to the BRRD?

²⁹ Note that any quantification is expected under 3.3 Liquidity. This section focuses on contractual aspects.

Provide, for these FMI service providers, an overview of the **substantive³⁰ obligations of the contract, in particular financial and operational obligations, which the successor entity may have difficulties performing post-resolution**, if any.

List any other service providers necessary for maintaining access to FMIs and the related substantive obligations under their contracts with such providers. If such providers are used to support access to several FMIs (e.g. communication service providers such as SWIFT), you may cross-refer.

Please also refer to the EfB, Principle 4.5 Understanding the requirements for continued access.

3.1.3 IMPACT ANALYSIS OF ACTIONS BY FMI SERVICE PROVIDERS

Describe any **additional risk management measures that FMI service providers may take prior to and when terminating or suspending access**, should the above requirements not be met, and their consequences for the firm in resolution. Assess the impact on critical functions and core business lines. Where possible, discuss the likelihood of these actions and the circumstances in which they may be undertaken, and the timeframe in which the FMI service provider is likely to implement such actions (e.g. intraday or within a few days).

3.2 Services

Banks deliver information on services received from and offered to FMI service providers in the FMIR.

3.2.1 POSITIONS AND TRANSACTIONS

In the 'Key Metrics' section of the FMIR, banks report information on positions and the value of transactions through the reported FMIs. Complement this by providing, in the FMI contingency plan, information on relevant **time-critical obligations³¹** (type of obligation, average value and peak value) and the time frames in which these would need to be executed. Explain if additional time-critical obligations may arise in a stress situation (e.g. intraday margin calls).

3.2.2 OTHER SERVICES PROVIDED BY FMI SERVICE PROVIDERS

When the bank reports services in the FMIR³² other than payment, clearing, settlement and custody, such as securities lending or collateral management, include a description of the service in the FMI contingency plan, listing the conditions of use and how such conditions might change prior to or during resolution.

3.2.3 SERVICES PROVIDED TO FMI SERVICE PROVIDERS

Banks report a list of services provided to FMI service providers in the FMIR. Where appropriate (for services other than standard payment, clearing, settlement or custody services), the FMI contingency plan may contain a description of such services.

³⁰ In the sense of BRRD Article 68. This is expected to include payment and delivery obligations and the provision of collateral, but may also include the continued provision of price discovery services or the obligation to provide seconded experts to the FMI in the case of another bank's failure.

³¹ Instructions that need to be input into a system and/or executed before a designated time.

³² Note: all services received are reported in the same cell in the FMIR, without distinction between 'core' and 'ancillary' services.

3.3 Liquidity

In the 'Key Metrics' section of the FMIR, banks report information on credit lines, credit line use and estimated liquidity needs under stress. Provide, in the FMI contingency plan, information on the currency and form in which liquidity or collateral requirements would be expected to materialise (e.g. increased margin, additional default fund contributions, pre-funding, requests to provide collateral of higher quality such as government bonds with a minimum rating), as well as the **assumptions and models** underpinning the calculation of the estimated liquidity needs under stress, including any assumptions related to the expected volume of business activity.

Please also refer to the Efb, Principle 3.1 Estimation of liquidity and funding needs in resolution, and 4.5 Understanding the requirements for continued access.

3.4 Contingency strategy

3.4.1 CONTINGENCY STRATEGY

Identify which actions the bank may undertake prior to and during resolution, to mitigate the actions that FMI service providers may take prior to and during resolution. This may include, for example, an active management of exposures (such as by reducing intraday credit lines provided to the bank's clients or reducing business activity) and the pre-funding of obligations or credible ex-ante arrangements (see below). Please detail the steps, processes and teams involved, to ensure that the FMI contingency plan constitutes an operational playbook.

The focus should be on ensuring that the bank can continue to meet the substantive obligations under the relevant rule books and contracts, in particular by ensuring that payment and delivery obligations can continue to be met at all times. The FMI contingency plan should make clear which measures are already identified in the recovery plan or in the bank's Contingency Funding Plan.

Please also refer to the Efb, Principle 4.6 FMI contingency plan and measures, to ensure continuity in access to FMI services.

3.4.2 ALTERNATIVE ARRANGEMENTS

Identify possible **substitute service providers or other alternative arrangements** (such as the use of intermediaries instead of direct access to FMIs) and explain whether they are already in place or will be put in place as part of the bank's preparedness for resolution, including the expected timeline for establishing the relationship. For MPE banks, please consider arrangements with substitute providers outside of the Group. If accesses to other FMIs or FMI intermediaries are (planned to be) set up ex ante, assess how credible it is that such accesses would remain operational in the event of resolution.

3.4.3 PORTABILITY

For banks offering (to their clients, some of which may be other banks) indirect access to CCPs: assess the feasibility and challenges of **porting** should clients wish to do so ahead of or during resolution, or should resolution authorities decide to do so during resolution. Those banks report relevant data (on positions on client omnibus and segregated accounts) in the FMIR.

Provide details on whether the bank has the resources and systems in place to maintain up-to-date information that could be provided rapidly in resolution (please also see point 1.3 on MIS capabilities in this regard) to ensure that:

- ▶ Client positions at CCPs are transferred smoothly, including the list of:
 - individual clients for each omnibus account;
 - client positions; and
 - client margins and assets received as collateral.
- ▶ Client assets at CSDs are transferred smoothly, including the list of
 - clients for each omnibus account; and
 - individual client assets held at the CSD.

Please also refer to the EFB, Principle 4.6 FMI contingency plan and measures, to ensure continuity in access to FMI services.

3.4.4 IMPLEMENTATION OF CONTINGENCY STRATEGY

Include an implementation plan that specifies, inter alia, the infrastructure, processes and operational arrangements that have been put in place based on a thorough identification of key systems and staff, and the arrangements to ensure they remain available or can credibly be replaced in a crisis. The bank should also ensure that it can provide, in a timely manner, the information that the provider of critical FMI services has indicated would be essential.

3.4.5 EXPECTED OUTCOME

Contemplate the effect of the proposed measures on the bank's ability to continue performing critical functions and running core business lines, as well as the impact of these measures on clients.

GLOSSARY

Central counterparty (CCP)	A legal person that interposes itself between the counterparties to the contracts traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer. ³³
Central securities depository (CSD)	A legal person that operates a securities settlement system (providing a 'settlement service') and provides at least one other core service. Core services are: the initial recording of securities in a book-entry system, or a 'notary service'; and providing and maintaining securities accounts at the top tier level, or a 'central maintenance service'. ³⁴
Clearing	The process of establishing positions, including the calculation of net obligations, and ensuring that financial instruments, cash, or both, are available to secure the exposures arising from those positions. ³⁵
Clearing member	An undertaking which participates in a CCP and which is responsible for discharging the financial obligations arising from that participation. ³⁶
Core business lines	Business lines and associated services that represent material sources of revenue, profit, or franchise value for an institution or for a group of which an institution forms part. ³⁷
Critical functions	Activities, services or operations, the discontinuance of which is likely in one or more Member States to lead to the disruption of services that are essential to the real economy or to disrupt financial stability due to the size, market share, external and internal interconnectedness, complexity or cross-border activities of an institution or group, with particular regard to the substitutability of those activities, services or operations. ³⁸
Critical services	Services which are necessary for one or more critical functions that are performed for group business units or entities and whose discontinuity would seriously impede or prevent the performance of those critical functions. ³⁹
Critical FMI services	Clearing, payment, securities settlement or custody activities, functions or services, provided by an FMI or by an FMI intermediary, the discontinuation of which could lead to the collapse of (or present a serious impediment to the performance of) one or more of the firm's critical functions. ⁴⁰
Essential services	Services associated with core business lines ⁴¹ , whose continuity is necessary for the effective implementation of the resolution strategy and any consequent restructuring.
Essential FMI services	Clearing, payment, securities settlement or custody services, provided by an FMI or by an FMI intermediary, which are necessary for the continuity of one or several core business lines (please refer to the definition of 'Essential services').
FMI	A multilateral system among participating institutions, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions. ⁴²
FMI service providers	FMIs and FMI intermediaries offering FMI services.
FMI services	Clearing, payment, securities settlement or custody activities, functions or services, offered by FMIs or FMI intermediaries.
FMI report	An SRB reporting requirement for banks to provide information on participation in or membership of FMIs. ⁴³
FMI intermediaries	FMI service providers other than FMIs. More often than not, these will be other institutions offering clearing, payment, securities settlement or custody activities, functions or services, including by way of facilitating indirect access to an FMI.
Payment system (or funds transfer system)	A formal arrangement based on a private contract or legislation, with multiple membership, common rules and standardised arrangements, for the transmission, clearing, netting and/or settlement of monetary obligations arising between its members. ⁴⁴

³³ Article 2(1) EMIR.

³⁴ Article 2(1)(1) and Annex Section A, Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (CSDR).

³⁵ Article 2(3) EMIR.

³⁶ Article 2(14) EMIR.

³⁷ Article 2 (1) (36) BRRD.

³⁸ Article 2 (1), (35) BRRD. The SRB's approach to Critical Functions can be found under <https://srb.europa.eu/en/content/critical-functions-srb-approach>.

³⁹ Commission Delegated Regulation (EU) 2016/778/EU.

⁴⁰ FSB, *ibid*. In line with the FSB definition, trade repository services are not considered to be potentially critical FMI services for the purpose of this document.

⁴¹ Article 7 DR 2016/778/EU.

⁴² CPMI-IOSCO, Principles for Financial Market Infrastructures, April 2012.

⁴³ SRB reporting requirements can be found under <https://srb.europa.eu/en/content/reporting>.

⁴⁴ ECB Glossary of terms related to payment, clearing and settlement systems, December 2009.

Portability	The transfer of client positions and assets at CCPs, following the default of a clearing member, to another clearing member designated by the client, upon the client's request and without the need for the consent of the defaulting clearing member. ⁴⁵ By extension, the capability to transfer client positions and assets at CCPs or CSDs upon a resolution event.
Preferred resolution strategy	Defined as in Article 2 (3) Delegated Regulation 2016/1075.
Resolution strategy	Defined as in Article 2 (2) Delegated Regulation 2016/1075.
Securities settlement system (SSS)	A system that allows the transfer of securities, either free of payment or against payment (delivery-versus-payment). ⁴⁶
Trade repository (TR)	A legal person that centrally collects and maintains the records of derivatives. ⁴⁷
Trading venue (TV)	A system operated by an investment firm or a market operator, which brings together buying or selling interests in financial instruments in the system, in a way that results in a contract. ⁴⁸ A trading venue is either a regulated market (a stock exchange), a Multilateral Trading Facility (MTF, i.e. a multilateral trading system operated by an investment firm or a market operator) or an Organised Trading Facility (OTF, i.e. a multilateral system which is not a regulated market or an MTF). ⁴⁹

⁴⁵ In accordance with Article 39 and 48 EMIR.

⁴⁶ ECB, *ibid*. Please also refer to Article 2(10) CSDR.

⁴⁷ Article 2(2) EMIR.

⁴⁸ Article 2(4) EMIR

⁴⁹ As defined in Directive 2014/65/EU of 15 May 2014 (MiFID II), Article 4(1)(24).

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