

# Policy Statement

## Fees regime for non-UK CCP recognition

Responses to the Consultation on 'Fees for non-UK CCP applications for recognition 2018/19', fees rate for the 2019/20 fee year, and Statement of Policy

April 2019



**BANK OF ENGLAND**



## 1 Summary

In October 2018 the Bank of England ('the Bank') published a consultation paper (CP), 'Fees for non-UK CCP applications for recognition 2018/19', seeking views on a proposal to levy a fee for non-UK CCP recognition. Following the consultation and having considered the feedback received, the Bank has decided to introduce a fee.

The Bank has concluded that this is the fairest way to recover the costs associated with the recognition of non-UK CCPs, based on a calculation of the Bank's expected work effort and associated costs that we anticipate will be incurred in handling all aspects of a non-UK CCP recognition application. The introduction of a fee regime for non-UK CCP recognition also aligns with the Bank's approach for domestic FMIs, and with that of the Prudential Regulation Authority (PRA). The Bank intends to set the fee at £35,000. This Policy Statement (PS) provides feedback to the response to the October 2018 CP 'Fees for non-UK CCP applications for recognition 2018/19'. It also sets out the final policy of the fees regime for non-UK CCP recognition.

The Bank notes that the CP was published in the 2018/19 fee year and that this PS is published in the 2019/20 fee year. The Bank confirms that the fee consulted on (£35,000) is unchanged and will be the applicable recognition fee in the 2019/20 fee year, as it is for applications received during the 2018/19 fee year.

## 2 Introduction

In November 2018, legislation was made which will transfer ESMA's functions relating to the recognition of third-country CCPs under EMIR<sup>(1)</sup> to the Bank, when the UK leaves the EU.

This legislation provides the Bank with powers, before and after the UK's withdrawal from the EU, to receive, assess and make decisions in relation to recognition applications from non-UK CCPs. Any decisions determined by the Bank before exit day will only take effect from the date of the UK's withdrawal from the EU. This legislation gives the Bank the power to require non-UK CCPs to pay fees in connection with the discharge of these functions of the Bank.

Since the Bank's October 2018 CP, Part 8 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (the 2019 Regulations) has provided the Bank with a further fee raising power. The Bank may require third country central counterparties (as defined in section 285 of the Financial Services and Markets Act 2000) to pay fees to the Bank in connection with the discharge by the Bank of its qualifying functions (as defined in the 2019 Regulations). The Bank will be able to use this fee raising power in relation to

third country central counterparties that apply for recognition from the Bank to take effect after exit day.

### Feedback to the response to the Bank's October 2018 Consultation Paper 'Fees for non-UK CCP applications for recognition 2018/19'

The Bank's public consultation on fees for non-UK CCP applications for recognition ran from 25 October 2018 until 2 January 2019. The Bank received one response to the CP.

The response asked whether a different fee may be considered for non-UK CCPs that do not wish to offer clearing services in the UK, and only seek recognition so that subsidiaries of UK based entities can qualify for a lower capital charge. Whilst a non-UK CCP may not plan to use their recognition at this stage to provide clearing services in the UK, the amount of work required in reviewing an application — regardless of its intent — is the same for all applicant non-UK CCPs. We therefore consider a consistent fee level to be a fair and proportionate allocation of costs across all applications for recognition.

## 3 Final fees regime for non-UK CCP recognition

This statement of policy is issued by the Bank in respect of non-UK CCPs. It sets out the Bank's policy on the levying of fees for non-UK CCP recognition.

### Fee-levying powers

The Bank has statutory powers in the Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 and the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 to require non-UK CCPs (as specified in those Regulations) to pay fees in connection with the Bank's discharge of its functions relating to the recognition of non-UK CCPs.

### Recognition fees

The fee will be payable once the non-UK CCP has been recognised by the Bank. The fee is based on the Bank's expected work effort in handling all aspects of a non-UK CCP's application for recognition, reflecting the work it will need to undertake before the CCP is recognised to provide services in the UK. This includes a review of information submitted to the Bank by applicant non-UK CCPs, the establishment of co-operation arrangements with relevant competent authorities and any technical advice provided to HM Treasury by the Bank.

(1) Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on Over the Counter derivatives, central counterparties and trade repositories. This EU regulation will form part of UK domestic law on and after exit day by virtue of section 3 of the European Union (Withdrawal) Act 2018. The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 have now been made. These are available at [www.legislation.gov.uk/ukksi/2018/1184/contents/made](http://www.legislation.gov.uk/ukksi/2018/1184/contents/made).

### Process for paying recognition fees

The fee of £35,000 will be payable once the non-UK CCP has been recognised by the Bank. The Bank will inform the non-UK CCP of the outcome of the recognition process. Upon a successful recognition, the non-UK CCP will be invoiced for the amount due, on 30-day payment terms.

In the event that an application is unsuccessful or withdrawn, no fee will be levied. The recognition fee will be kept under review to determine whether it is set at an appropriate amount.

### Commencement of the regime

The fee regime is now in force. This applies to all applications for non-UK CCP recognition made to the Bank.

Non-UK CCPs should expect to receive invoices once they have been recognised by the Bank.